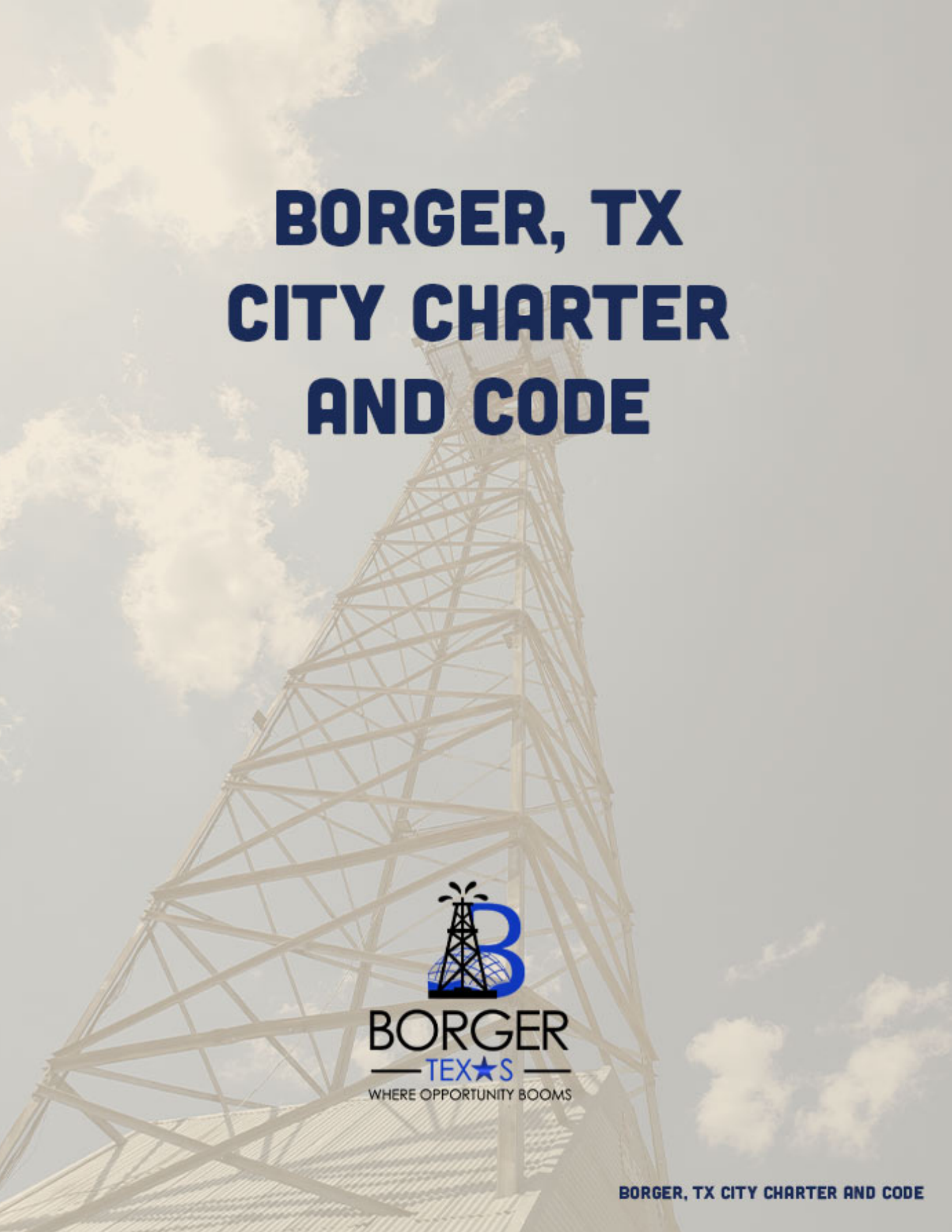
BORGER, TX CITY CHARTER AND CODE



BORGER
TEXAS
WHERE OPPORTUNITY BOOMS

BORGER, TX – CITY CHARTER AND CODE

Contents:

Home Rule Charter

City Code

HOME RULE CHARTER

Contents:

SECTION 1. NAME, BOUNDARIES AND POWERS OF CITY.

SECTION 2. OTHER POWERS.

SECTION 3. EXTENSION OF BOUNDARIES.

SECTION 4. [EXEMPTION FROM] EXECUTION [AND] GARNISHMENT.

SECTION 5. NOTICE [OF] CLAIM BEFORE SUIT.

SECTION 6. COUNCIL-MANAGER PLAN.

SECTION 7. ELECTION LAWS.

SECTION 8. VACANCIES.

SECTION 9. QUALIFICATIONS.

SECTION 10. ELECTIVE OFFICERS.

SECTION 11. ELECTION RESULTS.

SECTION 12. TERM OF ELECTIVE OFFICERS.

SECTIONS 13–18. RESERVED.

SECTION 19. RECALL ELECTIONS.

SECTION 20. PETITION FOR RECALL.

SECTION 21. RECALL PETITION SIGNATURES.

SECTION 22. TIME [FOR] FILING WITH CITY SECRETARY.

SECTION 23. ELECTION ON RECALL.

SECTION 24. RECALL BALLOT.

SECTION 25. RESULTS [OF] RECALL ELECTION.

SECTION 26. TIME [OF] SECOND RECALL.

SECTION 27. INITIATIVE[,] REFERENDUM AND RECALL.

SECTION 28. INITIATIVE [OR] REFERENDUM PETITION.

SECTION 29. FILING WITH CITY SECRETARY.

SECTION 30. SUBMIT TO COUNCIL.

SECTION 31. [WHEN CERTIFIED].

SECTION 32. TIME [FOR] CALLING ELECTION.
SECTION 33. FORM OF BALLOT.
SECTION 34. VOTE TO REPEAL ORDINANCE.
SECTION 35. WHEN TO FILE OBJECTIONS.
SECTION 36. [WHEN SUBMITTED TO VOTE.]
SECTION 37. REFERENDUM VOTE.
SECTION 38. CONFLICTING ORDINANCES.
SECTION 39. EMERGENCY MEASURE.
SECTION 40. RESERVED.
SECTION 41. ELECTION OF MAYOR.
SECTION 42. CITY MANAGER.
SECTION 43. DUTIES OF CITY MANAGER.
SECTION 44. CITY MANAGER-ADMINISTRATIVE–INDEPENDENCE OF.
SECTION 45. INVESTIGATIONS BY THE CITY MANAGER.
SECTION 46. BOND [OF] CITY MANAGER.
SECTION 47. OATH OF OFFICE.
SECTION 48. PAYING OUT MONEY.
SECTION 49. CONTRACTS BY CITY MANAGER.
SECTION 50. DUTIES OF COUNCIL.
SECTION 51. WHAT CONSTITUTES QUORUM.
SECTION 52. MEETINGS [OF] COUNCIL.
SECTION 53. [TIME OF] MEETINGS OF COUNCIL.
SECTION 54. REPORTS BY CITY MANAGER.
SECTION 55. APPOINTMENT OF AUDITOR.
SECTION 56. ORDINANCE ENACTMENT.
SECTION 57. EMERGENCY MEASURE.
SECTION 58. INVESTIGATION BY COUNCIL.
SECTION 59. CHANGING DEPARTMENTS AND SUBDIVISIONS THEREOF.
SECTION 60. PUBLICATION OF ORDINANCES.
SECTION 61. RECORDING OF ORDINANCES.
SECTION 62. NEPOTISM.
SECTION 63. SALARIES - ATTENDANCE - NECESSARY EXPENSES.
SECTION 64. MUNICIPAL COURT.
SECTION 65. SELECTION OF JUDGE OR RECORDER [MUNICIPAL COURT JUDGE].

SECTION 66. CLERK OF MUNICIPAL COURT.
SECTION 67. TRIAL BY JURY.
SECTION 68. PLEADING, PRACTICE AND PROCEDURE.
SECTION 69. SEAL OF MUNICIPAL COURT.
SECTION 70. COMMENCEMENT AND TRIAL OF CAUSES.
SECTION 71. RULES FOR COLLECTING FEES AND COSTS - PRACTICE.
SECTION 72. PAYMENT OF FEES AND COSTS.
SECTION 73. [MAXIMUM COSTS.]
SECTION 74. WITNESS FEES: ATTENDANCE OF WITNESSES.
SECTION 75. PUNISHMENT FOR CONTEMPT; BAIL.
SECTION 76. PROCESS: HOW SERVED.
SECTION 77. WRITS MAY BE EXECUTED ANYWHERE IN COUNTY.
SECTION 78. PEACE BOND: PROCEDURE CONCERNING.
SECTION 79. MISCELLANEOUS PROVISIONS.
SECTION 80. APPEALS: APPELLATE PROCEDURE.
SECTION 81. PRESENT MUNICIPAL COURT VALIDATED UNTIL ORGANIZATION HEREUNDER.
SECTION 82. CITY ATTORNEY: QUALIFICATIONS, SALARY, POWERS AND DUTY.
SECTION 83. ASSISTANT CITY ATTORNEY: HOW APPOINTED, QUALIFICATIONS, SALARY, POWERS AND DUTIES.
SECTION 84. CITY SECRETARY: QUALIFICATIONS, SALARY, POWERS AND DUTIES.
SECTION 85. TAX ASSESSOR AND COLLECTOR; SALARY, BOND, POWER AND DUTIES.
SECTION 86. RESERVED.
SECTION 87. DEPOSITORY.
SECTION 88. CHIEF OF POLICE; QUALIFICATIONS, SALARY, POWERS AND DUTIES, BOND.
SECTION 89. RIGHT OF EMINENT DOMAIN.
SECTION 90. OWNERSHIP OF PUBLIC UTILITIES.
SECTION 91. FUNDS FOR ACQUISITION OF ANY PUBLIC UTILITY: SECURITY FOR SAME, ETC.
SECTION 92. MANUFACTURE OR PURCHASE OF PUBLIC UTILITY PRODUCTS.
SECTION 93. RESERVED.
SECTION 94. RIGHT TO REGULATE CHARGES, ETC., OF HOLDER OF FRANCHISE OR PRIVILEGE.
SECTION 95. STREET POWERS.
SECTION 96. CONSTRUCTION OF SIDEWALKS AND CURBS.
SECTION 97. IMPROVEMENT OF SIDEWALKS AND CURBS.
SECTION 98. FRANCHISES FOR USE OF STREETS.

SECTION 99. PUBLIC WORKS IMPROVEMENTS.
SECTION 100. ALTERING STREETS, OBSTRUCTIONS, ENCROACHMENTS, ETC.
SECTION 101. PARKS, PLAYGROUNDS, ETC.
SECTION 102. CITIES, TOWNS AND VILLAGES: ASSESSMENTS FOR STREET WIDENING AND OPENING PAYABLE [IN] INSTALLMENTS.
SECTION 102-A. CITY ZONING LAW: AUTHORIZING CITIES AND INCORPORATED VILLAGES TO PASS ZONING REGULATIONS.
SECTION 103. TAXATION.
SECTION 104. LICENSE TAX.
SECTION 105. FRANCHISE TAX.
SECTION 106. REGULATE ASSESSMENTS.
SECTION 107. UNRENDERED PROPERTY.
SECTION 108. TIME [OF] TAX LEVY.
SECTION 109. COLLECTION [OF] TAX.
SECTION 110. DIFFERENT FUNDS.
SECTION 111. BOARD OF EQUALIZATION - QUALIFICATIONS OF MEMBERSHIP - HOW AND WHEN APPOINTED - POWERS AND DUTIES.
SECTION 112. BONDS.
SECTION 113. INTEREST AND SINKING FUNDS.
SECTION 114. SALE OF BONDS.
SECTION 115. REVENUE BONDS.
SECTION 116. EXECUTION AND REGISTRATION OF OBLIGATIONS.
SECTION 116-A. BOND REGISTER.
SECTION 117. CITY HEALTH OFFICER: QUALIFICATIONS, HOW APPOINTED.
SECTION 118. DUTIES.
SECTIONS 119, 120. RESERVED.
SECTION 121. RESERVED.
SECTION 122. RESERVED.
SECTION 123. PAYMENT OF CLAIMS.
SECTION 124. OIL OR GAS WELL DRILLING PROHIBITED.
SECTION 125. POLICEMEN.
SECTION 126. FIRE CHIEF; QUALIFICATIONS, SALARY, DUTIES.
SECTION 127. CITY ENGINEER: QUALIFICATIONS, SALARIES, DUTIES.
SECTION 128. AMENDMENTS TO CHARTER.

SECTION 129. OTHER POWERS OF CITY.
SECTION 130. UNCONSTITUTIONAL PARTS.
SECTION 131. WHEN CHARTER EFFECTIVE.
SECTION 132. WHEN EFFECTIVE FOR OFFICIAL ACTS.
SECTION 133. VOTE ON PROPOSED CHARTER; MANNER, ETC.
SECTION 134. ELECTION OF [FIRST COUNCIL MEMBERS].
SECTION 135. [SUBDIVISION REGULATION.]
SECTION 136. [APPOINTMENT OF BOARD OF CITY DEVELOPMENT.]
SECTION 137. [DISCHARGE OF DUTIES UPON REFUSAL OF INITIATIVE, REFERENDUM OR RECALL BY AUTHORITIES.]
SECTION 138. EMPLOYMENT.

SECTION 1. NAME, BOUNDARIES AND POWERS OF CITY.

The City of Borger, Hutchinson County, Texas, as the boundaries of said City are herein established, or may hereafter be established, shall be a body politic, incorporated under and known by the name and style of the "City of Borger", with such powers, rights and duties herein provided. The boundary and limits of said corporation shall be as follows:

> "BEGINNING at a point at the Southwest corner of Section Eighteen, Block "Y", M. & C. Survey, Hutchinson County, Texas, thence North along the West lines of Sections Eighteen, Nineteen and Twenty said block and survey to the Northwest corner of the southwest one quarter (1/4) of Section Twenty said block and survey;
>
> THENCE east through the center of Section Twenty of said block and survey crossing the East line of said Section Twenty and continuing to the center of Section Thirteen said block and survey;
>
> THENCE south to the southeast corner of the southwest quarter (SW 1/4) of same section Thirteen in said block and survey;
>
> THENCE west to the common corner of sections fourteen, nineteen, twenty, and thirteen in said block and survey;
>
> THENCE south along the east line of sections nineteen and eighteen said block and survey to the southeast corner of said section eighteen;
>
> THENCE west to the southwest corner of said section eighteen, in said block and survey to the point of beginning all being situated in the County of Hutchinson, State of Texas."

The City of Borger as such shall have perpetual succession; right of local self government; may use a corporate seal; may sue and be sued; may acquire property in fee simple or lesser interest or estate by purchase, gift, devise, appropriation, lease or lease with the privilege to purchase for any municipal purpose; may sell, lease, hold, manage and control such real, personal and mixed property, and make any and all rules and regulations by ordinance or resolution which may be required to carry out fully all the provisions of any conveyance, deed, or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may acquire, construct, own, lease and operate and regulate public utilities, and impound, manufacture and otherwise acquire all such commodities and things as may be necessary or desirable for use or distribution in the operation of public utilities, may assess, levy and collect taxes for general and special purposes on all the subjects or objects which the city may lawfully tax, including the right to assess the franchise of any public corporation using and occupying its streets or grounds separate from its tangible property; may borrow money on the faith and credit of the city by the issue or sale of bonds or notes of the city in the manner and of the amount permitted by the Constitution of the State; may appropriate the money of the city for all lawful purposes; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements; may levy and collect assessments for local improvements and create and cause to be created improvement district as now or shall be hereafter authorized by the laws of Texas, and may exercise all powers and shall have all rights in reference thereto that now or may hereafter be authorized and permitted by law; may license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade, as well as all things and matters pertaining to sanitation or health; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comforts, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may levy and collect from those who keep or permit to be kept or maintained within the city anything whatever which may be or become productive of filth, disagreeable to the senses, or dangerous to health, such taxes as may be deemed reasonably necessary to prevent or correct the evils caused thereby; may establish a municipal court and prescribe its jurisdiction; may regulate the construction, height, and the material used in all buildings, and the maintenance and occupancy thereof; may regulate and control the platting and laying out and the use, for whatever purposes, of the streets and other public places; may create, establish, abolish and organize offices and fix salaries and compensations of all officers and employees, may make and enforce local police, sanitary and other regulations; and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government, health and welfare of the city, and for the government of the functions thereof.

State law references–Powers of home-rule municipality, V.T.C.S. art. 1175; general powers of home-rule municipality, V.T.C.A., Local Government Code, sec. 51.071 et seq.

SECTION 2. OTHER POWERS.

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 shall have and may exercise all other powers which are now or which may hereafter be conferred on municipalities by the Constitution and laws of Texas. And it is hereby expressly provided that it shall have all the powers that are granted to cities of more than five thousand inhabitants by CHAPTER 13 Vernon's Annotated Civil Statutes of The State of Texas, Revision of 1925 and all Amendments thereto.

SECTION 3. EXTENSION OF BOUNDARIES.

The extension of city boundaries shall be made in the manner as prescribed by law. (Amended 1/23/45; Ordinance of 2/18/92, ratified 5/2/92)

State law references–Municipal boundaries and annexation, V.T.C.A, Local Government Code, ch. 41 et seq.; municipal annexation, V.T.C.A., Local Government Code, ch. 43; authority of home-rule municipality to annex area, V.T.C.A., Local Government Code, sec. 43.021.

SECTION 4. [EXEMPTION FROM] EXECUTION [AND] GARNISHMENT.

No public or other property of any character held or owned by the City shall be subject to seizure or sale under execution of any kind or nature, nor shall the City be subject to garnishment in any cause, nor shall it ever be required to answer any garnishment proceedings; and any judgment taken against it in such proceeding shall be void.

State law reference–Authority to provide that municipal funds not subject to garnishment, V.T.C.A., Local Government Code, sec. 101.023.

SECTION 5. NOTICE [OF] CLAIM BEFORE SUIT.

The City shall not be liable on account of any claim for damages to any person or property, unless the person asserting such claim, or some one for such person, shall give to the City written notice of such claim and of the facts upon which it is based, within thirty days from the time it is claimed that such damages were inflicted, and no suit shall be instituted or maintained on any such claim, until the expiration of ninety days from the time such notice shall have been given.

State law references–Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, ch. 101; notice procedures, V.T.C.A., Civil Practice and Remedies Code, sec. 101.101; liability for damages, V.T.C.A., Local Government Code, sec. 51.077.

SECTION 6. COUNCIL-MANAGER PLAN.

The form of government provided in this Charter shall be known as the "Council-Manager Plan" and shall consist of a Council of five persons who shall be elected at large in the manner hereinafter provided, one of whom shall by a majority vote of the Council be designated as Mayor, and of a City Manager who shall be employed by the Council and said Council and City Manager shall have and exercise the powers and discharge the duties hereinafter specified. (Ordinance 1969-2, art. II, 2/18/69, ratified 4/1/69)

Editor's note–Ordinance 1969-2, ratified April 1, 1969, changed the form of government from the Commission-Manager Plan to the Council-Manager Plan.

State law reference–Form of government, V.T.C.A., Local Government Code, sec. 26.021.

SECTION 7. ELECTION LAWS.

All elections held under the provisions of this Charter shall be in conformity with the then existing state election laws; however, ballots used for the election of Councilmembers shall be without party designation. (Ordinance 1969-2, art. III, 2/18/69, ratified 4/1/69)

State law reference–Provisions regarding elections generally, V.T.C.A., Election Code.

SECTION 8. VACANCIES.

Vacancies in the Office of Mayor and in the Council shall be filled by the Council for the remainder of the unexpired term except as herein otherwise provided but any vacancies resulting from a recall election shall be filled in the manner provided in such cases.

In the event as many as three members of the City Council shall resign within the time contained in three consecutive days, a municipal election shall be called by the remaining Councilmembers and shall be held within thirty days thereafter in the manner provided by this Charter for the holding of municipal elections for the purpose of filling the vacancies caused by such resignation.

State law reference–Special election to fill vacancy generally, V.T.C.A., Election Code, sec. 201.051 et seq.

SECTION 9. QUALIFICATIONS.

Each Councilmember shall be a resident citizen of the City of Borger, and have the qualifications of electors therein, and shall have resided in the City of Borger at least one year preceding their election. The Councilmembers and other officers and employees shall not hold any other public office of emolument and shall not be interested in the profits or emoluments of any contract, job, work or service for the municipality or interested in the sale to the city of any supplies, equipment, material or articles purchased; nor shall either of them be the owner of stock in any public utility or public service corporation within the city, nor in the employ of any owner of stock in any public utility or public service corporation. Any officer or employee of the city who shall cease to possess any of the qualifications herein required shall forfeit their office or position and any contract in which any officer or employee shall or may become interested, may be declared void by the Council. No officer or employee of the city shall accept any frank, free tickets, passes or service, or anything of value, directly or indirectly, from any person, firm or corporation, upon terms more favorable than are granted to the public, and any violation of this section shall be a misdemeanor, and on conviction thereof, such office or employment shall be forfeited. (Election of 4/7/84)

State law references–Eligibility for public office, V.T.C.A., Election Code, sec. 141.001 et seq.; age and residence requirements for home-rule city office, V.T.C.A., Election Code, sec. 141.003; candidates for city office, V.T.C.A., Election Code, ch. 143.

SECTION 10. ELECTIVE OFFICERS.

The elective officers of the city shall consist of five Councilmembers, each of whom shall be qualified electors and each shall have resided in the City of Borger for one year next preceding their election and in all elections held hereunder whether from the election of five or a less number of Councilmembers, the candidate or candidates receiving the greatest number of votes of the qualified voters of the city at large voting at said election shall be declared elected.

State law references–Eligibility for public office, V.T.C.A., Election Code, sec. 141.001 et seq.; age and residence requirements for home-rule city office, V.T.C.A., Election Code, sec. 141.003; candidates for city office, V.T.C.A., Election Code, ch. 143.

SECTION 11. ELECTION RESULTS.

The Council shall, on the first Monday after each regular and special election, or, if for any cause the same cannot be done on the first Monday, then as soon thereafter as practicable, canvass the returns, and declare the result of such elections.

State law reference–Canvassing elections, V.T.C.A., Election Code, ch. 67.

SECTION 12. TERM OF ELECTIVE OFFICERS.

(1) An election shall be held annually on the first Saturday in May for the election of City Councilmembers. At the election for Councilmembers to be held on April 1, 1969, the two (2) candidates receiving the greatest number of votes of qualified voters of said election shall be elected for a term of three (3) years; the two (2) candidates who receive the next greatest number of votes of the qualified voters shall be elected for a term of two (2) years. The candidate receiving the next greatest number of votes of the qualified voter shall be elected for a one year term.

(2) Following such initial election, each Councilmember thereafter elected shall be elected for a three-year term, however, any appointment of a Councilmember as authorized by the Charter shall be only until the next annual election. If a Councilmember is to be elected for an unexpired term, the Candidate seeking such position shall so designate in their application.

(3) If an election should be necessary under SECTION 8 hereof, the candidates in their application shall state the term remaining unexpired they desire to seek.

(Ordinance 1969-2, art. III, 2/18/69, ratified 4/1/69; election of 5/7/88)

State constitution reference–Term of office exceeding two years but not to exceed four years, vacancies, Texas Constitution, art. 11, sec. 11.

State law references–Date for election of officers, V.T.C.A., Local Government Code, sec. 26.042; election dates, V.T.C.A., Election Code, ch. 41; election by plurality, V.T.C.A., Election Code, sec. 2.001 et seq.

SECTIONS 13–18. RESERVED.

Editor's note–Sections 13 through 18 were repealed April 1, 1969, at an election held pursuant to Ordinance 1969-2, art. III, adopted February 18, 1969. The subject matter of the repealed sections is as follows: sec. 13, nomination of candidates; sec. 14, nominating petition; sec. 15, form of nominating petition; sec. 16, filing with clerk; sec. 17, form of ballot; sec. 18, rotation of names on ballot.

SECTION 19. RECALL ELECTIONS.

The Mayor and any and all of the Councilmembers may be removed from office by the electors. The procedure to effect such removal shall be as follows:

A petition demanding that the question of removing any such officer be submitted to the electors shall be filed with the City Secretary.

Each such petition shall outline in detail specific allegations of official misconduct, incompetency, willful violation of any municipal ordinance, conviction of a misdemeanor involving moral turpitude or felony while in office, or other reasons relating to the performance of official duties regarding the one (1) officer whose removal is sought.

Such petition for the recall of any or all of the Councilmembers or the Mayor shall be signed by a number of registered voters residing within the City equal to thirty (30) percent of the votes cast at the last regular municipal election; but in no event shall fewer than five hundred (500) signatures be required.

The signatures to such petitions need not be appended to any one paper.

(Election of 5/7/88)

SECTION 20. PETITION FOR RECALL.

Petition papers shall be procured from the City Secretary, who shall keep a sufficient number of such blank petitions on file for distribution as herein provided. Prior to the insurance [issuance] of such petition papers an affidavit shall be made by one or more qualified electors and filed with the City Secretary, stating the name and office of the officer or officers sought to be removed. The City Secretary upon issuing any such petition papers to an elector, shall enter in a record, to be kept in such office, the name of the elector to whom issued, the date of such issuance and the number of papers issued, and shall certify on such papers the name of the elector to whom issued and the date issued. No petition papers so issued shall be accepted as part of the petition unless it bears such certificate of the City Secretary and unless it be filed as provided herein.

SECTION 21. RECALL PETITION SIGNATURES.

Each signer of a recall petition shall sign their name in ink or indelible pencil and shall place thereon after their name, their place of residence by street and number, voter registration number, date of signing and their printed name. The provisions of Charter [Chapter] 141, Subchapter C, Texas Election Code, as amended, shall apply to any recall petition and to the signatures obtained in support thereof. (Election of 5/7/88)

SECTION 22. TIME [FOR] FILING WITH CITY SECRETARY.

All papers comprising a recall petition shall be assembled and filed with the City Secretary as one instrument within twenty (20) days after the filing with the City Secretary of the affidavit stating the name and office of the officer sought to be removed.

At the time of filing such recall petition, an individual or any group of individuals seeking the recall of any officer shall file with the City Secretary a cash or surety bond in an amount to be determined by the City Secretary sufficient to pay the expenses of such recall election. The costs of an unsuccessful recall election shall be paid from the bond.

(Election of 5/7/88)

SECTION 23. ELECTION ON RECALL.

The City Secretary shall inspect each petition presented seeking the recall of a City officer, in order to determine whether it contains the required number of valid signatures and complies with the other requirements of this charter and state law, within fifteen (15) business days after the filing of each such petition and bond. Upon verification that the petition presented contains the required number of valid signatures and conforms to the requirements of this charter and state law, the City Secretary shall at once notify the officer sought to be recalled, and shall submit the recall petition to the Council within thirty (30) days after its filing. If the official whose removal is sought does not resign within five (5) days after such notice, the Council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than forty-five (45) days nor more than seventy-five (75) days after the petition has been presented to the Council at the same time if any general election is held within such period; but is [if] no such election be held within such period, the Council shall call a special recall election to be held within the time aforesaid.

Before any such recall election for the removal of Mayor or Councilmembers shall be set, there shall be nominated candidates to fill the vacancy or vacancies. Such nominations shall be made by petition; petitions for each such candidate shall be signed by at least five (5) percent of the number of voters of the City of Borger voting at the last regular municipal election, and shall be filed with the City Secretary of the City of Borger not less than fifteen (15) days after the filing of the recall petition. The form and requirements for said petition and acceptance by candidates shall be the same as provided in this charter in the case of election of Mayor and Councilmembers.

(Election of 5/7/88)

SECTION 24. RECALL BALLOT.

The ballots at such recall elections shall conform to the following requirements:

With respect to each person whose removal is sought the question shall be submitted, "Shall (name of person) be removed from the office of (name of office) by recall?"

Immediately following each such question there shall be printed on the ballots the two propositions, in the order set forth:

For the removal of (name of person).

Against the removal of (name of person).

In voting said ballot the voters shall indicate their vote by placing an X in the square beside the statement indicating the way they wish to vote.

Under said questions shall be placed the names of candidates to fill the vacancy or vacancies. The name of the officer or officers whose removal is sought shall not appear on the ballot as a candidate or candidates to succeed themselves.

(Election of 5/7/88)

SECTION 25. RESULTS [OF] RECALL ELECTION.

Should a majority of the votes cast at a recall election be against the recall of the officer named on the ballot, such officer shall continue in office for the remainder of such officer's unexpired term, subject to recall as before. If a majority of the votes cast at a recall election shall be for the recall of the officer named on the ballot, the officer shall be deemed removed from office, and the replacement candidate receiving the highest number of votes shall replace the officer so removed for the remainder of his or her unexpired therm [term]. (Election of 5/7/88)

SECTION 26. TIME [OF] SECOND RECALL.

No recall petition shall be filed against the Mayor, or City Council Members within two (2) months after each takes their office, nor in case of an officer re-elected in a recall election, until two (2) months after that election.

SECTION 27. INITIATIVE[,] REFERENDUM AND RECALL.

Any proposed ordinance may be submitted to the Council by petition signed by at least thirty (30) percent of the number of voters of the City of Borger voting at the last regular municipal election. All petition papers circulated with respect to any proposed ordinance, shall be uniform in character and shall contain the proposed ordinance in full, and have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter named. (Election of 4/7/84)

SECTION 28. INITIATIVE [OR] REFERENDUM PETITION.

Each signer of a petition shall sign their name in ink or indelible pencil and shall place on the petition paper after their name, their place of residence by street and number. The signature to any such petition paper need not all be appended to one paper but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of affiant.

SECTION 29. FILING WITH CITY SECRETARY.

All papers comprising a petition shall be assembled and filed with the City Secretary as one instrument, and when so filed, the City Secretary shall submit the proposed ordinance to the Council within thirty (30) days from the date of its filing. (Election of 4/7/84)

SECTION 30. SUBMIT TO COUNCIL.

The Council shall at once proceed to consider it and shall take final action thereon within thirty (30) days from the date of submission. If the Council rejects the proposed ordinance, or passes it in a form different from that set forth in the petition, the committee may then require that it be submitted to a vote of the electors in its original form, or that it be submitted to a vote of the electors with any proposed change, addition, or amendment. (Election of 4/7/84)

SECTION 31. [WHEN CERTIFIED].

When an ordinance proposed by petition is to be submitted to a vote of the electors, the committee of the petitioners shall certify that fact and the proposed ordinance to the City Secretary within ten (10) days after the final action on such proposed ordinance by the Council.

SECTION 32. TIME [FOR] CALLING ELECTION.

Upon receipt of the certificate and certified copy of the proposed ordinance, the Secretary shall certify the fact to the Council at its next regular meeting. The proposed ordinance shall be submitted to vote of the electors at the next uniform election date as provided in Vernon's Ann. Civ. St., Art. 2.01(b) Election Code, however, if such uniform election date is less than forty-five (45) days subsequent to the receipt of the Secretary's certificate by the Council, then the election shall be held on the next uniform election date after the end of the forty-five (45) day period. (Election of 4/7/84)

State law references–Date for election of officers, V.T.C.A., Local Government Code, sec. 26.042; election dates, V.T.C.A., Election Code, ch. 41.

SECTION 33. FORM OF BALLOT.

The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on, and below it the two propositions, "For the Ordinance", and "Against the Ordinance", and in voting said ballot, the voters shall indicate their vote by placing an X in the square beside the statement indicating the way they wish to vote. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city. (Election of 4/7/84)

SECTION 34. VOTE TO REPEAL ORDINANCE.

Proposed ordinances for repealing any existing ordinance or ordinances, in whole or in part, may be submitted to the Council as provided in the preceding sections for initiating ordinances, and if rejected by the Council, then to a vote of the electors, as provided in SECTION 30. Initiated ordinances adopted by the electors shall be published and may be amended or repealed as in the case of other ordinances, providing that no ordinance initiated by the electors shall be amended or repealed sooner than three months after its enactment; nor shall any ordinance repealed by the electors be re-enacted sooner than three months after such repeal.

SECTION 35. WHEN TO FILE OBJECTIONS.

No ordinance passed or franchise granted by the Council shall go into effect sooner than ten (10) days after its final passage by the Council. If, at any time before becoming effective, thirty (30) percent of the number of voters of the City of Borger voting at the last regular municipal election shall file with the City Secretary objections to said ordinance or franchise, and a petition requesting that said ordinance or franchise be submitted to a vote of the electors for their approval or rejection, it shall not become operative until voted thereon. (Election of 4/7/84)

SECTION 36. [WHEN SUBMITTED TO VOTE.]

The City Secretary shall deliver such petition to the Council which shall proceed to reconsider the ordinance, or franchise, as the case may be. If, upon such reconsideration, the ordinance or franchise be not entirely repealed, the Council shall provide for submitting it to a vote of the electors, and in so doing the Council shall be governed by the provisions of SECTION 31, 32, and 33, hereof, respecting the time of submission and the manner of voting on ordinances proposed to the Council by petition. If, when submitted to a vote of the electors, any such ordinance be not approved by a majority of those voting thereon, it shall be deemed repealed.

SECTION 37. REFERENDUM VOTE.

Referendum petitions need not contain the text of the ordinances, the repeal of which is sought, hut [but] shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the Council. Ballots used in referendum elections shall conform in all respects to those provided for in SECTION 33 of this Charter.

SECTION 38. CONFLICTING ORDINANCES.

If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall prevail.

SECTION 39. EMERGENCY MEASURE.

Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such measure so repealed shall be deemed sufficient authority for payment in accordance with the ordinance, or any expense incurred previous to the time of filing petitions for a referendum vote thereon.

SECTION 40. RESERVED.

Editor's note–Section 40, pertaining to the officers of elections, was repealed April 1, 1969, at an election held pursuant to Ordinance 1969-2, art. III, adopted February 18, 1969.

SECTION 41. ELECTION OF MAYOR.

The Council shall, at its first meeting after their election and qualification, or as soon thereafter as possible, by ballot elect from their own membership one person, having in view their special qualifications for such position, who shall be Mayor, and who shall have the power and discharge the duties specified and required by this Charter. A majority vote of the entire Council shall be necessary to elect said Mayor. The Mayor shall hold his office at the will of the Council, a majority vote of the Council being necessary to remove, and be subject to recall by the electors as herein provided.

The Mayor shall be ex officio chairperson of the Council, and shall preside at their meetings. The Mayor shall be recognized as the Official head of the City for ceremonial purposes, and by the Courts for the purpose of serving civil process, and by the Governor for military purposes. During the absence or disability of the Mayor, the Mayor's duties shall be performed by another member appointed by the Council.

SECTION 42. CITY MANAGER.

The Council shall employ a City Manager who shall be the administrative head of the municipal government and shall be responsible for the efficient administration of all Departments. The City Manager shall be appointed with the sole view of fitness for the position and without regard to political or religious affiliations. The City Manager may or [may] not be a resident of the City of Borger, when appointed and the City Manager shall hold the office at the will of the Council; provided the Council may at any time discontinue the City Manager's employment.

SECTION 43. DUTIES OF CITY MANAGER.

The powers and duties of the City Manager shall be:

(a) To see that the law and ordinances are enforced.

(b) To appoint all appointive officers or employees of the City subject to the approval of the Board of Councilmembers, and, except as herein provided remove all or any appointed officers and employees in the service of the City; all appointments to be upon merit and fitness alone, all removals to be for good cause only to be judged by the City Manager subject to the right of appeal to the Council whose decisions shall be final. The members of the Board of Equalization excepted; such appointments to be made by the Council. (Election of 4/7/84)

(c) To exercise control over all Departments and Divisions created herein or that may be hereafter created by the Council.

(d) To attend all meetings of the Council with the right to take part in the discussion but having no vote.

(e) To recommend to the Council for adoption such measures as the City Manager may deem necessary or expedient.

(f) To keep the Council fully advised as to the financial conditions and needs of the City.

(g) To prepare and submit the annual budget on the basis of estimate made by the Officers of the various Departments.

(h) To require a monthly report on blanks to be prepared and furnished by the City Manager for that purpose from the officers of all departments reporting activities of the department for the preceding month. (Ordinance 1969-2, art. IV, 2/18/69, ratified 4/1/69)

(i) To perform such other duties as may be prescribed by this Charter or be required of the City Manager by ordinance or by the Council.

SECTION 44. CITY MANAGER-ADMINISTRATIVE–INDEPENDENCE OF.

It shall be unlawful for the City Council or any of its members to attempt to dictate the appointment of any person to office or employment by the City Manager, the Council having only the right to approve or disapprove the appointment made by the City Manager, and when disapproved by the Council the Manager shall make another appointment immediately, and submit the same to the Council for their approval or disapproval and shall submit appointments to the Council until some person is approved by the Council. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof, shall give orders to any of the subordinates of the City Manager, either publicly or privately.

SECTION 45. INVESTIGATIONS BY THE CITY MANAGER.

The City Manager may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined. Any person or persons appointed by the City Manager to examine the affairs of any Department or the conduct of any officer or employee shall have the power to require the attendance of witnesses and the production of books and papers and other evidence.

SECTION 46. BOND [OF] CITY MANAGER.

The City Manager shall give an official bond in the sum of twenty-five thousand dollars ($25,000.00) or a greater amount to be determined by the Council. Such bond shall be payable to the City of Borger and shall be conditioned for the faithful discharge of the duties of such City Manager, and for the faithful accounting for all monies, credits and things of value coming into the hands of such City Manager. Such bond shall be procured from some regularly accredited Surety Company, authorized to do business under the Laws of the State of Texas, and the Premium to such Surety Company shall be paid by the City of Borger. The City Manager shall have the right to require official bonds from other appointive offices of the City in such amounts and conditions as the Board of Councilmen may deem best for the efficiency of the public service.

All official bonds shall be approved by the Council and filed and recorded with the person exercising the duty of the City Secretary.

(Election of 4/7/84)

State law reference–Official bonds, V.T.C.A., Government Code, ch. 604.

SECTION 47. OATH OF OFFICE.

Every officer of the City, before entering upon the duties of their office, shall take and subscribe to the oath prescribed by the Constitution of the State of Texas for County Officials.

State constitution reference–Oath of office, Texas Constitution, art. 16, sec. 1.

SECTION 48. PAYING OUT MONEY.

No money shall be paid, nor warrant or voucher issued for any sum whatsoever, until after the City Council shall have approved a claim therefor, and ordered the payment thereof, and before any warrant or voucher shall be paid the same shall be signed by the City Secretary, attested with the seal of the City, and countersigned by the City Manager.

SECTION 49. CONTRACTS BY CITY MANAGER.

Contracts for all expenditures, purchases or contracts for supplies, materials, equipment, public printing, public improvements or public works shall be let on written, sealed, competitive bids in the manner prescribed by law. The City Council shall by ordinance establish procedures for the prompt payment of vouchers and expenditures made for such purposes. (Ordinance 1969-2, art. IV, 2/18/69, ratified 4/1/69; election of 4/7/84; Ordinance of 2/18/92, ratified 5/2/92)

State law reference–Purchasing and contracting authority of municipality,V.T.C.A., Local Government Code, chs. 252, 271.

SECTION 50. DUTIES OF COUNCIL.

The Council shall levy all taxes, apportion all funds of the City among the various departments[,] establish special funds for special purposes, order election, canvass the returns and declare the result, enact all ordinances of both civil and criminal nature, provide penalties for their violation, grant all franchises which they deem proper, and have general power over the City finances, subject to the conditions and limitations imposed by this Charter.

SECTION 51. WHAT CONSTITUTES QUORUM.

A majority of the members of the Council shall constitute a quorum for the transaction of any business except as in this Charter otherwise provided.

SECTION 52. MEETINGS [OF] COUNCIL.

All meetings of the Council shall be open to the public and its proceedings shall be recorded in the journal which shall be open to the inspection of all the citizens of the City. All votes on ordinances, franchises, resolutions and awarding contracts for any purpose shall be taken by “Yea” and “Nay” and entered upon the journal. At the request of any member, all votes upon any other question shall be likewise recorded.

State law reference–Open meetings, V.T.C.A., Government Code, ch. 551.

SECTION 53. [TIME OF] MEETINGS OF COUNCIL.

The regular meetings of the Council shall be held on the first and third Tuesday afternoons of each month, and special meetings shall be held when requested by the City Manager and two Councilmembers, or when requested by three Councilmembers. (Ordinance 1969-2, art. V, 2/18/69, ratified 4/1/69)

SECTION 54. REPORTS BY CITY MANAGER.

The City Manager shall monthly submit reports to the Council at a regular meeting of the work done in the various departments for the preceding month, which report shall briefly and concisely show the work done, the cost thereof, and the state of the various funds of the City. (Ordinance 1969-2, art. IV, 2/18/69, ratified 4/1/69)

SECTION 55. APPOINTMENT OF AUDITOR.

The Council shall as often as it deems advisable, and not less often than once each fiscal year, cause an audit to be made of the books of accounts of the city. The audit is to be performed by a Certified Public Accountant, licensed in the State of Texas. Such auditor shall furnish to the Council financial statements and reports as recommended by the Municipal Finance Officers Association and as requested by the Council. A condensed statement of such report of audit shall be published at least once each year. (Election of 4/7/84)

State law reference–Audit of municipal finances, V.T.C.A., Local Government Code, ch. 103.

SECTION 56. ORDINANCE ENACTMENT.

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 stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which monies are to be appropriated. The enacting clause of all ordinances passed by the Council shall be: "Be it ordained by the City Council of the City of Borger." The enacting clause of all ordinances submitted by the initiative shall be: "Be it ordained by the people of the City of Borger."

No ordinance, unless it be declared an emergency measure, shall be passed on the day on which it shall have been introduced.

When any proposed ordinance, resolution or other thing duly presented for the action of the City Council shall be finally acted upon and disposed of by the body before which it shall be pending, such action shall be binding as the final action of the city thereupon, until the same shall be amended or repealed in some legal manner authorized and provided by this Charter.

(Election of 4/7/84)

SECTION 57. EMERGENCY MEASURE.

All ordinances and resolutions shall be in effect from and after ten (10) days from the date of their passage by the Council except as otherwise provided in this Charter. The Council may, by an affirmative vote of all members present, pass emergency measures to take effect at the time indicated therein. An emergency measure shall consist only of ordinances or resolutions for the immediate preservation of the public peace, property, health, or safety, or providing for the usual daily operation of a municipal department, in which the emergency is set forth and defined in a preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no measure making a grant, renewal, or extension of a franchise or other special privilege, or regulating rate to be charged for its services by any public utility, shall ever be passed as an emergency measure. (Ordinance 1969-2, art. VI, 2/18/69, ratified 4/1/69)

SECTION 58. INVESTIGATION BY COUNCIL.

The Council may investigate the financial transactions of any office or department of the City Government and the official acts and conduct of any city official, and by similar investigations may secure information upon any matter. In conducting such investigations the Council, or any committee thereof may compel the attendance of witnesses and the production of books, papers and other evidence, and for that purpose may issue subpoenas or attachments which shall be signed by the Chairman of the Council, which may be served and executed by any officer authorized by law to serve subpoenas and other process. If any witnesses shall refuse to testify to any facts within their knowledge or to produce any papers or books in their possession, or under their control, relating to the matter under inquiry, before the Council, the Council shall have power to cause the witness to be punished as for contempt. No witness shall be excused from testifying to their knowledge of the matter under investigation in any such inquiry, but such testimony shall not be used against them in any criminal prosecution except for perjury committed upon such inquiry. The Chairman of the Council shall have power to administer all oaths to witnesses called to testify in such investigations.

SECTION 59. CHANGING DEPARTMENTS AND SUBDIVISIONS THEREOF.

The Council shall create and consolidate such appointive offices and may divide the administration of the City's affairs into such departments, as they may deem advisable, and may discontinue any such appointive office or department except the office of City Manager.

SECTION 60. PUBLICATION OF ORDINANCES.

A descriptive caption of all ordinances carrying a penalty shall be published once a week for two consecutive weeks in some newspaper published in the City of Borger, and no such ordinance shall become effective until ten days after the date of its last publication, provided that emergency measures shall take effect according to their terms. (Ordinance 1969-2, art. VI, 2/18/69, ratified 4/1/69)

State law reference–Publication of ordinances, V.T.C.A., Local Government Code, sec. 52.013

SECTION 61. RECORDING OF ORDINANCES.

Every ordinance, or resolution, upon its becoming effective shall be recorded in a permanently bound book kept for that purpose and shall be authenticated by the signature of the Mayor and the person exercising the duties of City Secretary.

SECTION 62. NEPOTISM.

No person related within the second degree by affinity or within the third degree by consanguinity, to the Mayor, or to either of the Councilmembers, or to the City Manager, shall be appointed to any office, position, clerkship or service of the City.

State law reference–Nepotism, V.T.C.A., Government Code, ch. 573.

SECTION 63. SALARIES - ATTENDANCE - NECESSARY EXPENSES.

The compensation of the Mayor and each Councilman shall be $25.00 per meeting attended, but not to exceed $50.00 per month; provided, further that the Mayor and Councilmen may be allowed their actual and necessary expenses incurred while on business out of the city on matters pertaining to the city affairs and then only upon the filing of an itemized account of the same with the Treasurer properly verified and allowed by the Council. (Ordinance 1969-2, art. V, 2/18/69, ratified 4/1/69)

State law reference–Compensation of officers in home-rule municipality, V.T.C.A., Local Government Code, sec. 141.004.

SECTION 64. MUNICIPAL COURT.

There is hereby created, established and adopted in said City, a court to be known as the Municipal Court in said City, which court shall have the jurisdiction and organization hereinafter prescribed.

Said court shall have jurisdiction within the territorial limits of said City in all criminal cases arising under the ordinances of said City now in force or hereafter to be passed and shall have jurisdiction concurrently with any Justice of the Peace, Hutchinson County, Texas, in all criminal cases arising under the laws of the State of Texas in which the punishment is by fine only, and arising within the territorial limits of said City. Fines shall be assessed in accordance with the Borger City Code and the laws of the State of Texas, but shall not exceed the maximum allowed by state law.

(Election of 5/7/88)

State law references–Municipal courts generally, V.T.C.A., Government Code, sec. 29.001 et seq.; jurisdiction of municipal courts, V.T.C.A., Government Code, sec. 29.003.

SECTION 65. SELECTION OF JUDGE OR RECORDER [MUNICIPAL COURT JUDGE].

Such court shall be presided over by a judge in such City who shall be selected in the manner and under the respective provisions of this Charter concerning the selection of officers other than the elective officers, and all such provisions are hereby made applicable to the Judge herein provided for. Such Judge shall hold office for the same length of time and under the same terms and provisions as other appointed officers of the City and shall be subject to removal in the same manner and by the same procedure provided by this Charter for other appointive officers. Such Judge shall receive such compensation as shall be prescribed by the proper officers of the City under the provisions of this Charter relative to the compensation of appointive officers.

The Council is authorized to appoint one or more Acting Judges who shall have the same authority as granted to the regular Judge by this Charter and the laws of the State of Texas.

(Ordinance 1969-2, art. VII, 2/18/69, ratified 4/1/69)

State law references–Municipal court judges, V.T.C.A., Government Code, sec. 29.004; reference in state law to "recorder" means "judge of the municipal court, V.T.C.A., Government Code, sec. 29.004(d); term of municipal court judge, V.T.C.A., Government Code, sec. 29.005.

SECTION 66. CLERK OF MUNICIPAL COURT.

The City Secretary of said City shall be ex officio clerk of said court and may be authorized to appoint a deputy, who shall have the same powers as the City Secretary when acting as the Clerk of said court. It shall be the duty of said Clerk to keep a record of the proceedings of said court; to issue all process and generally to do and perform all the duties of a clerk of a court as prescribed by the laws of the State of Texas for the Clerk of the County Court insofar as such provisions may be applicable.

State law reference–Municipal court clerk, generally,V.T.C.A., Government Code, sec. 29.010.

SECTION 67. TRIAL BY JURY.

Every person charged with a misdemeanor in said court shall be entitled, if they shall demand, to be tried by a jury of six (6) legal residents of said City, who shall be summoned, empaneled and qualified as jurors in Justice Courts under the laws of the State of Texas. For all jurors summoned, the City shall pay the sum of $10.00, and for all jurors who serve the City shall pay the sum of $15.00 in each case. (Ordinance 1969-2, art. VIII, 2/18/69, ratified 4/1/69; election of 4/7/84)

State law references–Right to trial by jury inviolate, Tex. Code Crim. Proc. art. 1.12; trial before the jury, Tex. Code Crim. Proc. ch. 36; jury pay and expenses for jurors, Tex. Code Crim. Proc. art. 104.001.

SECTION 68. PLEADING, PRACTICE AND PROCEDURE.

All rules of pleading, practice and procedure now established for the County Court by the laws of the State of Texas shall apply in said Municipal Court insofar as the same are applicable except that the proceedings in such court shall be commended [commenced] by complaint in the manner and under the regulations now provided by law in criminal cases prosecuted before the Justice of the Peace of the State of Texas and except that the Recorder [Municipal Court Judge] need not charge the jury except upon charges requested in writing by the defendant or the defendant's attorney, which such charges the Recorder [Municipal Court Judge] shall have the power to give or refuse under the same rules and regulations now applicable to the granting or refusing of such charges by the County Judge in criminal cases under the Statutes of said State. Complaints before such court hereby created and established may be sworn to before the Recorder [Municipal Court Judge], Clerk of said court or the clerk's deputy, or the City Attorney or the City Attorney's assistant, each and all of which officers for that purpose shall have power to administer oaths; or it may be sworn to before any other officer authorized by law to administer oaths.

State law reference–Procedures for processing cases within criminal jurisdiction of municipal court, Tex. Code Crim. Proc. ch. 45.

SECTION 69. SEAL OF MUNICIPAL COURT.

The said Municipal Court shall have a seal having engraved thereon a star of five points in the center and the words "Municipal Court of Borger, Texas" the impress of which shall be attached to all proceedings except subpoenas issued out of said court and shall be used to authenticate the official acts of the Clerk and of the Recorder [Municipal Court Judge] where they are authorized or required to use the seal of office.

SECTION 70. COMMENCEMENT AND TRIAL OF CAUSES.

In all prosecution in said court where under an ordinance or under the provisions of the Penal Code of the State of Texas, the complaint shall commence "In the name and by the authority of the State of Texas" and shall conclude "against the peace and dignity of the State"; and where an offense is covered by an ordinance the complaint may also conclude "contrary to said ordinance;" and all prosecution in said court shall be conducted by the City Attorney of said City or by the City Attorney's assistant; but the County Attorney of Hutchinson County, Texas, if such person so desires, may also represent the State of Texas in such prosecution.

State law references–Requisites of complaint, Tex. Code Crim. Proc. art. 1.23; municipal prosecutions by city attorney or deputy city attorney, Tex. Code Crim. Proc. art. 45.201.

SECTION 71. RULES FOR COLLECTING FEES AND COSTS - PRACTICE.

The City shall have power by means of ordinances to be ordained and established in the manner provided by this Charter for ordaining and establishing other ordinances from time to time to prescribe such rules not inconsistent with the provisions of this Charter or the laws of the State of Texas as may be deemed proper to enforce by execution against the property of the defendant or by imprisonment of the defendant the collection of all costs and fees imposed by such court and shall also have the power to adopt such rules and regulations concerning the practice and procedure in such court as may be deemed proper by the legislative body of said city not inconsistent with the provisions of this Charter nor the laws of the State of Texas. Until the passage of such ordinance all rules and regulations of said City now in force concerning the Municipal Court therein and the enforcement of collection of fees and costs imposed by said Court shall be applicable to the court hereby created and established.

State law reference–Municipal court fines, costs and special expenses, Tex. Code Crim. Proc. art. 45.203.

SECTION 72. PAYMENT OF FEES AND COSTS.

All costs and fees imposed by said Court in any prosecution therein shall be paid into the City Treasury of said City for the use and benefit of the City.

State law reference–Municipal court fines, costs and special expenses, Tex. Code Crim. Proc. art. 45.203.

SECTION 73. [MAXIMUM COSTS.]

There shall be taxed against and collected from each defendant in case of the defendant's conviction before said court such costs as may be provided by the ordinances of the City; but in no case shall there be prescribed the collection of greater costs than are prescribed by the law of the State of Texas to be collected from defendants convicted before Justices of the Peace.

State law references–Municipal court fines, costs and special expenses, Tex. Code Crim. Proc. art. 45.203; costs paid by defendants, Tex. Code Crim. Proc. ch. 102.

SECTION 74. WITNESS FEES: ATTENDANCE OF WITNESSES.

The provisions of the Code of Criminal Procedure of the State of Texas regulating the amount and collection of witness fees and for enforcing the attendance of witnesses in criminal cases tried before the Justices of the Peace of the State shall as far as applicable govern and be applicable to the trial of cases before said court.

State law reference–Witness fees paid by defendant, Tex. Code Crim. Proc. art. 102.002.

SECTION 75. PUNISHMENT FOR CONTEMPT; BAIL.

The Judge of said Municipal Court shall have the power to punish for contempt to the same extent and under the same circumstances as County Judges under the laws of the State of Texas may punish for contempt of the County Court. The Judge shall have the power to take recognizances, admit to bail and forfeit recognizances and bail bond under the same rules and regulations as now govern the taking and forfeiture of the same in the County Court under the laws of Texas.

State law reference–Contempt of court, V.T.C.A., Government Code, sec. 21.002.

SECTION 76. PROCESS: HOW SERVED.

All process issued out of said Municipal Court shall be served by the Chief of Police or any police officer of the City under the same rules and regulations as are provided by the laws of Texas for the service by sheriffs and constables of process issued out of the County Court so far as the same are applicable.

State law reference–Service of process, Tex. Code Crim. Proc. sec. 45.202.

SECTION 77. WRITS MAY BE EXECUTED ANYWHERE IN COUNTY.

Writs issued out of said court or by the Clerk thereof for offenses against the law may be executed and the accused person arrested by the Chief of Police or any police officer of the City anywhere within the territorial limits of Hutchinson County.

State law reference–Service of process, Tex. Code Crim. Proc. sec. 45.202.

SECTION 78. PEACE BOND: PROCEDURE CONCERNING.

Whenever any person has been required by the Recorder [Municipal Court Judge] to give a peace bond or a bond for good behavior or any similar bond which may be legally required and has complied with said order to give such bond and has been guilty of the violation or infraction of said bond and the same is proved or established to the satisfaction of the court in any trial or complaint, such party so offending may be fined in the sum of two hundred dollars ($200.00) and the City in its corporate name may sue in any court having jurisdiction for the recovery of the penalty of such bond.

SECTION 79. MISCELLANEOUS PROVISIONS.

In all cases the fines imposed on appeal together with the costs imposed in the Municipal Court and the Court to which the appeal is taken shall be collected from the defendant and the defendant's bondsmen and such fines and the costs of the Municipal Court shall, when collected, be paid into the treasury of the City. When the defendant in such cases is committed to custody, the defendant shall be committed to the custody of the Chief of Police of the City to be held by the Chief of Police in accordance with ordinances of the City providing for the custody of prisoners convicted before said court; and said City shall be liable to the officers of the court to which the appeal is taken for the costs due them when such defendant has fully discharged such fines and costs. Said Municipal Court shall hold no terms and shall be at all times open for the transaction of business.

SECTION 80. APPEALS: APPELLATE PROCEDURE.

Appeals from judgments rendered by said Municipal Court shall be heard by the County Court of Hutchinson County, and in all such appeals to said County Court the trial shall be de novo, the same as if the prosecution had been originally commenced in that court. Said appeals shall be governed by the rules and practice for appeals from the Justices' Courts to the County Court of the State, as far as the same may be applicable.

State law reference–Appeal procedures, bond, etc., Tex. Code Crim. Proc. art. 45.042 et seq.

SECTION 81. PRESENT MUNICIPAL COURT VALIDATED UNTIL ORGANIZATION HEREUNDER.

Until the due and legal organization of the said court as herein provided for, the Municipal Court in said City as now established shall continue to exercise its powers and jurisdiction.

SECTION 82. CITY ATTORNEY: QUALIFICATIONS, SALARY, POWERS AND DUTY.

The City Attorney shall be a regularly licensed and practicing attorney-at-law. The City Attorney shall receive for services rendered such compensation as may be fixed by the Council, and shall hold the office until a successor is appointed and qualified. The City Attorney shall represent the City in all litigation and controversies, and it shall be the City Attorney's duty to approve in writing all proposed ordinances of the City before they are adopted, or to file with the City Council in writing legal objections thereto. It shall be the City Attorney's duty to draft or pass upon all proposed ordinances granting franchises of any kind, and in the event of the City Attorney's disapproval of any such ordinance it shall be the duty of the City Attorney to file with the City Council written legal objections thereto. It shall be the duty of the City Attorney to inspect and pass upon all papers, documents, contracts and other instruments in which the City may be interested. The City Attorney shall be the legal adviser of the Mayor, City Manager, of the superintendents of the different departments, and of the City Council, or any committee thereof, and of all city officers and employees, with respect to any legal question involving any official duty or any other matter pertaining to the affairs of the City of Borger. The City Attorney shall perform such other duties as the City Council shall direct. Whenever it shall be brought to the City Attorney's knowledge through the affidavit of ten credible persons or otherwise, that any person, firm or corporation, exercising and enjoying any franchise or privilege from the City of Borger, has been guilty of a breach of any condition of such franchise or privilege [or] has failed to comply in any material manner with the terms and stipulations thereof, it shall be the duty of the City Attorney to report the same to the City Council, together with all facts bearing upon the same which may be brought to his attention. If the City Council shall determine that said complaints are well founded, it shall be its duty to take such action as may be necessary, and to cause the City Attorney to carry out its instructions thereon; and in the event the offending corporation, person or firm, shall fail or refuse to conform to the orders of the Council with respect thereto, it shall be the duty of the Council to direct the City Attorney to institute suit in the Court having jurisdiction thereof against such corporation, firm or person, for a judgment or forfeiture of such franchise or privilege, or any other judgment proper under the premises. It shall be the duty of the City Attorney to see that all penal ordinances of the city are impartially enforced. (Amended 1/23/45)

SECTION 83. ASSISTANT CITY ATTORNEY: HOW APPOINTED, QUALIFICATIONS, SALARY, POWERS AND DUTIES.

The City Manager may appoint an Assistant City Attorney, if in the City Manager's judgment it is necessary to the proper administration of the office of City Attorney; and the City Attorney and the Assistant City Attorney shall have authority to administer oaths and affidavits. The qualifications of the Assistant City Attorney shall be the same as those prescribed for City Attorney, and the Assistant City Attorney shall receive such compensations as may be prescribed by the City Council. The Assistant City Attorney's duties shall be such as may be prescribed by the City Council.

SECTION 84. CITY SECRETARY: QUALIFICATIONS, SALARY, POWERS AND DUTIES.

The City Secretary shall receive for services rendered such compensation as may be fixed by the Council. It shall be the duty of the City Secretary to attend all meetings of the City Council and to keep accurate books provided for that purpose; to preserve and keep in order all books, papers, documents, records and files of the Council; to countersign all documents, papers and licenses authorized by the Council; to keep a record of all such, and to countersign all warrants drawn by the Treasurer or other proper officer of the City. The City Secretary shall perform such other and further duties as may be required either by law or by the City Council or by ordinance or otherwise. The City Secretary shall have custody of all ordinances of the city and of all papers and records of the City Council, and of the seal of the corporation, and shall affix the same to only such documents and obligations of the city as the City Secretary may be legally authorized so to do. (Amended 1/23/45; Ordinance 1969-2, art. IX, 2/18/69, ratified 4/1/69)

SECTION 85. TAX ASSESSOR AND COLLECTOR; SALARY, BOND, POWER AND DUTIES.

The City Assessor and Collector shall receive for services rendered, such compensation as may be fixed by the City Council. The City Assessor and Collector shall give bond in such amount as may be prescribed by the City Council, with good and sufficient sureties, said bond to be payable to the Mayor and the Mayor's successors in office. The Council may require a new bond of him at any time, if in its opinion the existing bond is insufficient, and whenever such new bond is required, the City Assessor and Collector shall perform no official act until such new bond shall be given and approved. The City Assessor and Collector shall assess or cause to be assessed all taxable property in such manner and within such time as the Council may prescribe. The City Assessor and Collector shall make duplicate assessment rolls, and on their completion and approval the City Assessor and Collector shall deliver one copy to the City Manager and retain one for use in making collections. The City Assessor and Collector shall cause property holders to render their property for taxation in the manner prescribed by law and ordinance, and for this purpose the City Assessor and Collector is empowered to administer oaths and affirmations. The City Assessor and Collector shall collect all taxes due the city, whether the same be general, special, occupation, license or otherwise, and shall pay the same over to the City Treasurer within six days of their collections, taking duplicate receipts therefor, one of which the City Assessor and Collector shall retain, and the other the City Assessor and Collector shall turn over to the City Manager; provided, however, the City Assessor and Collector shall not be entitled to keep on hand a sum exceeding $1,000.00. The City Assessor and Collector shall monthly or oftener if required make a detailed report to the City Council of all collections made by the City Assessor and Collector. The City Assessor and Collector shall be vigilant and see that no business is carried on, unless the license or occupation tax due thereon shall have first been paid. The City Assessor and Collector shall have such deputies as may be given by the Council. The Tax-Assessor Collector and Board of Equalization shall comply with all state laws regulating tax assessing and collecting. (Election of 4/7/84)

SECTION 86. RESERVED.

Editor's note–Section 86, pertaining to penalties for default of duty of the Tax Assessor and Collector, was repealed in the election of April 7, 1984.

SECTION 87. DEPOSITORY.

The City Council shall designate a bank or banks in the City of Borger as the City Depository or depositories which shall be selected for a period of two years, and the bank or banks in the City of Borger which shall offer, in a bid, services of the greatest net value to the city shall be selected. The Council shall have the right to reject any and all bids offered as City Depository. (Ordinance 1969-2, art. X, 2/18/69, ratified 4/1/69; election of 4/7/84)

State law reference–Depositories for municipal funds, V.T.C.A., Local Government Code, ch. 105.

SECTION 88. CHIEF OF POLICE; QUALIFICATIONS, SALARY, POWERS AND DUTIES, BOND.

The Chief of Police shall be the chief police officer of the City. The Chief of Police shall receive for services such compensation as may be fixed by the Council. The Chief of Police shall either in person or by deputy attend Municipal Court while in session, and upon request of the City Manager or the City Council, attend City Council meetings while in session, and shall promptly and faithfully execute all writs and process issued to the Chief of Police. The Chief of Police shall have like power with the Sheriff of the County to execute the writ of search warrant. The Chief of Police shall be active in quieting riots, disorders and disturbances of the peace within the limits of the City, and shall take into custody all persons so offending against the peace of the City, and shall have the authority to take suitable and sufficient bail for the appearance before the Municipal Court of any person charged with an offense against the ordinances or laws of the City or the State of Texas. It shall be the duty of the Chief of Police to arrest without warrant all violations of the public peace, and all who obstruct or interfere with the Chief of Police in the execution of the duties of that office, or who shall be guilty of any disorderly conduct or disturbances whatever in the presence of the Chief of Police or upon complaint of any citizen. To prevent a breach of the peace or preserve quiet and good order, the Chief of Police shall have the authority to close any theater, drinking house or any other place or building of public resort; and in the prosecution and suppression of crime and arrest of offenders the Chief of Police shall have, possess and exercise like power, authority and jurisdiction as the Sheriff of the County, under the laws of the State. The Chief of Police shall give a bond payable to the City of Borger in the sum of not less than $2,500.00 or such other greater sum as the City Council may require by ordinance. The Chief of Police shall perform such other duties, and possess such other powers, rights and authority as the Council may by ordinance require or confer. (Election of 4/7/84)

SECTION 89. RIGHT OF EMINENT DOMAIN.

Said city shall have the right of eminent domain and the power to appropriate private property for public purposes whenever the governing authority deems it necessary; and to take any private property, within or without the city limits, for any of the following purposes, to wit: City Halls, Fire Stations, Police Stations, Jails, Calaboose, Fire Alarm Systems, Libraries, Hospitals, Sanitariums, Auditoriums, Market Houses, Reformatories, Abattoirs, Streets, Avenues, Alleys, Parks, Highways, Playgrounds, Sewer Systems, Storm Sewers, Sewage Disposal Plants, Filtering Beds and Emptying Grounds for Sewer Systems, Drainage, Water Supply Sources, Wells, Water and Electric Light and Power Systems, Street Car Systems, Telephone and Telegraph Systems, Gas Plants or Gas Systems, Cemeteries, Prison Farms, Pest Houses, and for any other municipal purpose that may be deemed advisable. The power herein granted for the purpose of acquiring private property shall include the power of improvement and enlargement of water works, including water supply, riparian rights, standpipes, watersheds and the construction of supply reservoirs. In all cases wherein the city exercises the power of eminent domain, it shall be controlled as nearly as practicable, by the laws governing the condemnation of property by railroad corporation in the State; the City taking the position of the railroad corporation in such case. The power of eminent domain hereby conferred shall include the right of the governing authority when so expressed, to take the fee in the land so condemned, and such power and authority shall include the right to condemn public property for such purposes.

State law references–Eminent domain, V.T.C.A., Property Code, ch. 21; municipal right of eminent domain, V.T.C.A., Local Government Code, ch. 251.

SECTION 90. OWNERSHIP OF PUBLIC UTILITIES.

Said City shall have the power to buy, own or construct, and to maintain and operate within or without the city limits, complete water system or systems, gas or electric lighting power plant or plants, telephone or telegraph systems, street railways, sewer systems, sewage plants, fertilizing plants, abattoirs, municipal railway terminals, or any other public service utility, and to demand and receive compensation for services furnished by the city for private purposes or otherwise, and to have the power to regulate, by ordinance, the collection of compensation for such services. Said city shall have the power to acquire by lease, purchase or condemnation, the property 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 within or without the city, or any portion thereof.

State law references–Municipal home-rule powers to regulate public utilities and franchises using streets, etc., V.A.C.S., art. 1175; municipal utilities, V.T.C.A., Local Government Code, sec. 402.001 et seq.; authority for municipal public services and utility systems in home-rule municipalities, V.T.C.A., Local Government Code, sec. 402.002; municipal jurisdiction over electric utility, V.T.C.A., Utilities Code, ch. 33; municipal jurisdiction over water and sewer utility rates, operations and services, V.T.C.A., Water Code, sec. 13.042; municipal jurisdiction over rates, operations and services of gas utility, V.T.C.A., Utilities Code, ch. 103; Public Utility Regulatory Act, V.T.C.A., Utilities Code, ch. 11 et seq.; miscellaneous powers and duties of utilities, V.T.C.A., Utilities Code, ch. 181.

SECTION 91. FUNDS FOR ACQUISITION OF ANY PUBLIC UTILITY: SECURITY FOR SAME, ETC.

Should the City determine to acquire any public utility by purchase, condemnation or otherwise, as herein provided, said city shall have the power to obtain funds for the purpose of acquiring said public utility and paying the compensation therefor, by issuing bonds or notes, or other evidence of indebtedness and may 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 acquired.

State law reference–Municipal home-rule powers to regulate public utilities and franchises using streets, etc., V.A.C.S., art. 1175.

SECTION 92. MANUFACTURE OR PURCHASE OF PUBLIC UTILITY PRODUCTS.

Said city shall have the authority to manufacture its own electricity, gas or anything else that may be needed or used by it or the public; to make contract with any person, firm or corporation for the purchase of gas, water, electricity or any other commodity or article used by it or the public, and to sell the same to the public as may be determined by the governing authority.

State law reference–Authority for municipal public services and utility systems in home-rule municipalities, V.T.C.A., Local Government Code, sec. 402.002.

SECTION 93. RESERVED.

Editor's note–Section 93, which pertained to the right to operate and maintain public utilities which had been acquired by the city and to the exclusivity of the right to operate and maintain said utilities, was repealed June 1, 1935.

SECTION 94. RIGHT TO REGULATE CHARGES, ETC., OF HOLDER OF FRANCHISE OR PRIVILEGE.

Said city shall have the power to determine, fix, and regulate charges, fares and rates of any person, firm or corporation now exercising, or that may hereafter exercise, any right of franchise or public privilege in said city, and to prescribe the kind of service to be furnished and the equipment to be used, and the manner in which the service shall be rendered, and to change such regulations from time to time. In order to ascertain all of the facts necessary for a proper understanding of what is or should be reasonable rate or regulation, the governing authority shall have full power to inspect the books and other records of such persons, firms or corporations and compel the attendance of witnesses for such purpose; providing that in adopting such regulations and in fixing or changing such compensations, no stocks or bonds authorized or issued by any person, firm or corporation exercising such franchise or privilege shall be considered, unless proof be made, that the same have been actually issued by such person, firm or corporation for money, or its equivalent, paid and used for the purchase and development of the property under investigation.

State law references–Franchise to use streets in municipality, V.T.C.A., Transportation Code, sec. 311.071 et seq.; authority to grant franchise to use or occupy public grounds, V.T.C.A., Local Government Code, sec. 282.003; municipal home-rule powers to regulate public utilities and franchises using streets, etc., V.A.C.S., art. 1175.

SECTION 95. STREET POWERS.

The powers, terms and provisions of an act passed by the First Called Session of the Fortieth Legislature of the State of Texas and entitled:

> "An Act to authorize incorporated cities, towns and villages incorporated under either general or special law, including those operating under a special charter or amendments of charter adopted pursuant to the Home Rule provisions of the constitution to cause to be improved streets, avenues, alleys, highways, boulevards, drives, public places, squares, or any portion or portions thereof, and to assess part of the cost thereof against abutting property and owners thereof, and against railroads, street railroads or interurbans and owners thereof occupying, using or crossing streets, avenues, alleys, highways, boulevards, drives, public places or squares improved, and to provide for the enforcement and collection of such assessments and providing the powers, terms and provisions of this Act shall not repeal any charter provision or law, general or special, but shall exist as alternative powers, terms and provisions, and providing that any city which shall adopt or amend its own charter under the Home Rule provisions of the Constitution may provide therein for any of the powers, terms and provisions thereof, as part of, in lieu of, or as alternative to any charter provision, and providing the necessary matters and things incidental to and necessary for the carrying out of the purposes of this Act, and providing this Act shall not apply in any city, town or village not having more than one thousand inhabitants, and declaring an emergency",

are hereby embraced in and made a part of this charter, and the City of Borger and its governing body shall have, possess and may exercise all of the terms, powers and provisions herein contained.

State law reference–Street improvements and assessments in cities having more than 1,000 inhabitants, V.T.C.A., Transportation Code, ch. 313.

SECTION 96. CONSTRUCTION OF SIDEWALKS AND CURBS.

Said city shall have the power to provide for the construction and building of sidewalks and curbs and to charge the entire cost of the construction of said sidewalks, including the curb, against the owner of the abutting property and make a special charge against the owner for such cost, and to provide by special assessment, a lien against such property for such cost.

State law reference–Assessment for construction of sidewalks and curbs, V.T.C.A., Transportation Code, sec. 311.093.

SECTION 97. IMPROVEMENT OF SIDEWALKS AND CURBS.

Said city shall have the power to provide for the construction, improvement or repair of any sidewalk or curb by penal ordinance, and to declare defective sidewalks or curbs public nuisances.

State law reference–Authority over sidewalks, V.T.C.A., Transportation Code, sec. 311.004.

SECTION 98. FRANCHISES FOR USE OF STREETS.

Said city shall have the power and authority to grant franchises for the use and occupancy of streets, avenues, alleys and any and all public grounds belonging to or under the control of the city. No telegraph, telephone, electric light or power, street railway, interurban railway, steam railway, gas company, waterworks water systems, or any other character of public utility, shall be granted any franchise or permitted the use of any street, avenue, alley, highway, or grounds of the city without first making application to, and obtaining the consent of, the governing authority thereto, expressed by ordinance and upon paying such compensation as may be prescribed and upon such condition as may be provided for by such ordinance, and before such ordinance proposing to make any grant or franchise or privilege to any applicant to use or occupy any street, avenue, alley, or any other public ground belonging to or under the control of the city, shall become effective, publication of said ordinance, as finally proposed to be passed, shall be made in a newspaper published in the City of Borger, once a week for three (3) consecutive weeks; which publication shall be made at the expense of the applicant desiring said grant and said proposed ordinance shall not be thereafter changed unless republished as in the first instance, nor shall any such ordinance take effect or become a law or contract or vest any rights in the applicant therefor, until after the expiration of thirty days from the last publication of said ordinance as aforesaid.

Pending the time such ordinance may become effective it is hereby made the duty of the governing authority of the city to order an election if requested so to do by written petition, signed by at least ten (10) percent of the legally qualified voters, as determined by the number of votes cast in the last regular municipal election, at which election the qualified voters of said city shall vote for or against the proposed grant, as set forth in detail by the ordinance conferring the right and privileges upon the applicant therefor. Such election shall be ordered not less than thirty (30) days nor more than ninety (90) days from the date of filing said petition, and if at said election the majority of the votes cast shall be for the granting of such franchise or privilege, said ordinance and the making of said proposed grant shall thereupon become effective, but if a majority of the votes cast at said election shall be against granting of such franchise or privilege such ordinance shall be ineffective and the making of such proposed grant be null and void.

No franchise shall ever be granted by the City Council other than an indeterminate franchise or a franchise for a period of years not exceeding twenty, except in cases where an election is held, as above provided, to determine whether or not a franchise shall be granted, and no franchise granted as the result of any election shall ever be for a period of time exceeding forty years.

State law references–Franchise to use streets in municipality, V.T.C.A., Transportation Code, sec. 311.071 et seq.; authority to grant franchise to use or occupy public grounds, V.T.C.A., Local Government Code, sec. 282.003; municipal home-rule powers to regulate public utilities and franchises using streets, etc., V.A.C.S., art. 1175.

SECTION 99. PUBLIC WORKS IMPROVEMENTS.

Said city shall have the power to open, extend, straighten or widen any public street, avenue or alley and for such purpose to acquire the necessary land by purchase or condemnation, and to provide that the cost of improving any such street, avenue or alley by opening, extending, straightening or widening the same shall be paid for by the owner of the property lying in the territory of such improvement and which is specially benefited thereby and to provide that the cost shall be charged by special assessment against such owner and made a lien against the owner's said property for the amount due by the owner. Three (3) Special Commissioners shall be appointed by the County Judge of Hutchinson County, Texas, for the purpose of condemning said land and apportioning said cost, and such apportionment shall be specially assessed by the governing authority of said city against the owners and their property lying in the territory so found by said Special Commissioners to be specially benefited in enhanced value, and said city may issue assignable certificates for the payment of any such cost against such property owner and the owner's property and may provide for the payment thereof in deferred payments, which deferred payments shall bear interest at the rate not exceeding eight (8) percent per annum. Said city shall pay such proportion of such cost as may be determined by said Special Commissioners to be due by it; provided the cost to be paid by the city shall never exceed one-third (1/3) of the cost of such improvements. (Election of 4/7/84)

State law references–Street improvements and assessments in cities having more than 1,000 inhabitants, V.T.C.A., Transportation Code, ch. 313; authority of municipality over and under public highways, streets and alleys, V.T.C.A., Transportation Code, sec. 311.001; assessment for street improvements, V.T.C.A., Transportation Code, sec. 311.091; assessment of costs of improvements on abutting properties, V.T.C.A., Transportation Code, sec. 313.041 et seq.

SECTION 100. ALTERING STREETS, OBSTRUCTIONS, ENCROACHMENTS, ETC.

Said city shall have the power to control, regulate and remove all obstructions, encroachments and encumbrances on any public street, avenue, or alley and to narrow, alter, widen, straighten, vacate, abandon, and close same, to provide for sprinkling and cleaning same, and to regulate and control the moving of buildings, and structures of every kind and character upon and along same.

State law references–Municipal regulation of obstructions on streets, etc., V.T.C.A., Transportation Code, ch. 311; authority of home-rule municipality to regulate movement of building on streets, V.T.C.A., Transportation Code, sec. 311.005; closing of street or alley, V.T.C.A., Transportation Code, sec. 311.007.

SECTION 101. PARKS, PLAYGROUNDS, ETC.

Said city shall have exclusive control over all city parks and municipal playgrounds and the right to control, regulate and remove all obstructions and prevent all encroachments thereupon; and to provide for raising, grading, filling, terracing, landscape gardening, erecting buildings, providing amusements therein, for establishing walks and paving driveways around, in and through said parks, playgrounds and other public grounds.

SECTION 102. CITIES, TOWNS AND VILLAGES: ASSESSMENTS FOR STREET WIDENING AND OPENING PAYABLE [IN] INSTALLMENTS.

The powers, terms and provisions of an act passed by the Regular Session of the Fortieth Legislature of the State of Texas and entitled:

> "An Act to amend Chapter 17, Title 28; cities, towns and villages, Article 1213 of the Revised Civil Statutes of Texas of 1925, so that the assessments for street widening and street opening may be made payable in not exceeding sixteen annual payments, and declaring an emergency",

are hereby embraced and made a part of this charter and the City of Borger and its governing body shall have, possess and may exercise all of the terms, powers, and provisions therein contained.

State law reference–Assessment for highway improvements, V.T.C.A., Transportation Code, secs. 314.046 and 314.049.

SECTION 102-A. CITY ZONING LAW: AUTHORIZING CITIES AND INCORPORATED VILLAGES TO PASS ZONING REGULATIONS.

The powers, terms and provisions of an Act passed by the Regular Session of the Fortieth Legislature of the State of Texas entitled:

"An Act enabling cities and incorporated villages to pass zoning regulations, granting full power to said cities and incorporated villages, providing for the creation of districts, declaring purposes in view, providing for the method of procedure, providing for certain changes, providing for a commission, providing for a board of adjustment, providing for its powers and duties, providing certain methods of enforcement and remedies, providing certain exemptions, providing the method to be followed in case of conflict with other laws, providing for the validity for all parts of the law not declared unconstitutional, and declaring an emergency",

are hereby embraced in and made a part of this charter and the City of Borger and its governing body shall have, possess and may exercise all of the terms, powers and provisions therein contained.

State law reference–Municipal zoning authority, V.T.C.A., Local Government Code, ch. 211.

SECTION 103. TAXATION.

The City shall have the power and is hereby authorized annually, to levy and collect taxes at a rate of not to exceed Two Dollars and Fifty Cents ($2.50) on the One Hundred Dollars ($100.00) of the assessed valuation of all real and personal property within the City Limits, not exempt from taxation by the Constitution and laws of the State. (Election of 4/7/84)

State law references–Texas Property Tax Code supersedes municipal charter, V.T.C.A., Tax Code, sec. 1.02; tax liens and personal liability, V.T.C.A., Tax Code, ch. 32; property taxes authorized, V.T.C.A., Tax Code, sec. 302.001; tax collection powers, V.T.C.A, Tax Code, sec. 302.102.

SECTION 104. LICENSE TAX.

The City shall authorize the granting and issuing of licenses and shall direct the manner of issuing and registering the same and fix the fees thereof but no license shall be issued for a longer period than one (1) year, and shall not be assignable except by permission of the governing authorities of the city.

State law reference–Occupation taxes, V.T.C.A., Tax Code, sec. 302.101.

SECTION 105. FRANCHISE TAX.

The City shall have the power, annually, to levy and collect a franchise tax against any person, firm or corporation using and occupying the public streets, alleys or grounds of the City separately from the tangible property of such person, firm or corporation, and to levy and collect same annually upon the property of all such persons, firms or corporations as the same are now and may be assessed under the State Laws, and thereunder and shall have full power to enforce the collection of such taxes.

SECTION 106. REGULATE ASSESSMENTS.

The City shall have the power to regulate the manner and mode of making out tax lists, inventories and appraisement of property therein, and to prescribe the oath that shall be administered to each person rendering property for taxation and to prescribe how, when, where property shall be rendered and to prescribe the number of, and forms of assessment, rolls and to adopt such measures as may be deemed advisable to secure the assessment of all properties within the City Limits and to collect taxes thereon and may provide a fine and penalty upon all persons failing, neglecting or refusing to render their property for taxation, and to do all things necessary or proper to render effectual the collection of money by taxation, and provide methods of enforcing same by attachment, sequestration or otherwise.

SECTION 107. UNRENDERED PROPERTY.

The City shall have power to provide for the rendition and assessment of unrendered property for taxation and levy and assess taxes thereon, annually and to provide for the rendition, levy, and assessment of taxes for previous years on property omitted from taxation, and to provide interest at the rate of six (6) percent per annum for such unrendered or omitted property and to change and provide correction and assessment of property erroneously assessed.

SECTION 108. TIME [OF] TAX LEVY.

All real, personal or mixed property held, owned or situated in the City of Borger shall be liable for all municipal taxes, due by the owner thereof, including taxes on real estate, franchises, personal and mixed property. Such municipal taxes are hereby declared to be a lien, charge and incumbrance upon the property so taxed and shall be a prior lien to all other claims, sales assignments, transfers, gifts and judicial writs. Said lien, shall exist on the first day of January of each year until all such taxes have been paid and against any real estate which, for any cause has failed to be assessed for one or more years, and such lien shall be good and effective for every year for which assessments have failed. Personal property of all persons, firms or corporations owing any taxes to the City of Borger, is hereby made liable for all of such taxes, whether the same be upon personal or real property or upon both. The governing authority of the City, at its first meeting in June of each year or as soon thereafter as practicable shall levy the annual tax for each year, but special taxes or assessments allowed by this Charter may be levied, assessed and collected at such time as the governing authorities may provide; provided that should the governing authorities fail or neglect to levy the annual tax herein provided for any one year the annual tax levy for the preceding year last made by said governing authority shall and will be considered in force and effective as the tax levy for the year for which no annual tax levy was made.

SECTION 109. COLLECTION [OF] TAX.

The said City shall have full power to provide for the collection, by suit or otherwise, [of] taxes assessed, levied and imposed, and is hereby authorized, and to that end shall have full power and authority to sell, or cause to be sold all kinds of property, real and personal as provided herein, or by the revised Statutes of this State, and shall make such rules and regulations and enact all such ordinances as are deemed necessary for the collection of any taxes provided in this Charter.

It shall not be necessary in any action, suit or proceeding in which the City shall be a party, for any bond, undertaking or security to be executed in the behalf of the City.

The City shall have the power to control and manage the finances of the City; to provide its fiscal year and fiscal arrangements.

State law reference–Imposition of penalty for collection of delinquent taxes, V.T.C.A., Tax Code, secs. 33.01, 33.07, 33.08.

SECTION 110. DIFFERENT FUNDS.

All money arising from the collection of taxes by the City shall be divided into funds and designated as “General Fund”, “Interest and Sinking Fund”, and “Hotel/Motel Room Occupancy Tax Fund”, and such other funds as may be authorized by ordinance of the City Council.

No irregularities in the time and manner of making or returning the City Assessment Rolls or the approval of such Rolls shall invalidate any assessment.

(Election of 4/7/84)

SECTION 111. BOARD OF EQUALIZATION - QUALIFICATIONS OF MEMBERSHIP - HOW AND WHEN APPOINTED - POWERS AND DUTIES.

There shall be a Board of Equalization, consisting of three members. The members of said Board shall be elected by the City Council upon nomination of any member thereof. Each member of said Board shall be a qualified voter of the City of Borger, and shall have resided within the City at least one year next preceding said member's appointment, and shall be at least twenty-five years of age, and an owner of taxable real estate within the City of Borger. Said Board shall be appointed not later than the first day of May of each year, and shall sit as a Board of Equalization to equalize the taxes assessed on the rolls of the Tax Assessor and Collector. In addition to the powers granted by this Act, it shall have the powers and perform the same duties as the Court of County Commissioners in regard to the assessment of property for taxation and the equalization thereof, and shall be governed in its procedure and acts in this respect by the same rules and laws of the State of Texas that said County Commissioners Court is governed by while sitting as a Board of Equalization. Said Board shall meet for business as soon as the City Tax Assessor and Collector has compiled all or any one of the assessment rolls of the City for its action, and shall carefully examine said roll or rolls and properly and equitably adjust and equalize the taxable values thereon, and thus continue until it has adjusted and equalized the valuations of all the property on said rolls provided, however, that the said Board shall not receive pay for more than five days in performing its duties each year. Said Board shall also be governed by such rules and regulations as may be prescribed by the City Council by ordinance, and upon the completion of its work it shall make due report of its action to the City Council. The members of said Board shall each receive such compensation as may be prescribed by ordinance, not to exceed $10.00 per day. The first Board appointed under this charter shall hold office as follows: One for one year and two for two years, and thereafter the appointment shall be for a term of three years.

In case of dissatisfaction with the decision of said Board of Equalization by any taxpayer, an appeal from the decision of said Board may be had to the City Council, and such appeal must be by written petition specifically stating the things complained of and be filed within thirty days after said Board has made its final report to the City Council. The decision of the City Council in all cases of appeal from the decision of the Board of Equalization shall be final, and no appeal shall lie therefrom.

(Ordinance 1969-2, art. XI, 2/18/69, ratified 4/1/69)

SECTION 112. BONDS.

In keeping with the Constitution of the State of Texas and not contrary thereto, the City of Borger shall have the power to borrow money on the credit of the City for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants, certificates of obligation and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by any City under and in accordance with the restrictions, conditions and laws of the State of Texas. (Election of 4/7/84)

State law references–Public Security Procedures Act,V.T.C.A., Government Code, ch. 1201; bond elections generally, V.T.C.A., Government Code, ch. 1251; municipal bonds, V.T.C.A., Government Code, ch. 1331; authority of municipality to issue bonds, V.T.C.A., Government Code, sec. 1331.052.

SECTION 113. INTEREST AND SINKING FUNDS.

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds, time warrants, and certificates of obligation of the City. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on all such bonds, time warrants, and certificates of obligation issued by the City of Borger. The sinking fund maintained for the redemption of any debt may be invested in any interest bearing security authorized by the laws of this State. Investments of all sinking funds for interest shall mature at least fifteen (15) days prior to the date of payment due on bonds issued by the City of Borger. The Council may also invest any other City funds in any state or national chartered bank in interest-bearing certificates of deposit secured by pledged securities as required by State law for City deposits. (Election of 4/7/84)

SECTION 114. SALE OF BONDS.

No bonds issued by the City of Borger shall be invalid because they are sold for less than par value and accrued interest. The Council shall have the right to reject any or all bids. (Election of 4/7/84)

SECTION 115. REVENUE BONDS.

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self-liquidating municipal function not now or hereafter prohibited by any general laws of the State, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties or interest therein acquired and the income therefrom, and shall never be a debt of the City. All revenue bonds issued by the City shall be in accordance with State law. (Election of 4/7/84)

SECTION 116. EXECUTION AND REGISTRATION OF OBLIGATIONS.

All bonds, warrants and certificates of obligation shall be signed by the Mayor, countersigned by the City Secretary and sealed with the seal of the City in the manner provided by general law, and shall be payable at such times and place or places as may be fixed therein. It shall be the duty of the Mayor, when such bonds are issued, to forward the same to the Attorney General of the State of Texas for approval and for registration by the Comptroller of Public Accounts. (Election of 4/7/84)

SECTION 116-A. BOND REGISTER.

The Director of Finance or other officer of the City designated by the City Manager shall keep, or cause to be kept, for and on behalf of the City a complete bond registry and books showing all bonds, warrants, and certificates of obligation issued, the date and amount thereof, the rate of interest, maturity and other information pertinent thereto, of all bonds or other indebtedness surrendered and all other transactions of the Council having reference to the refunding of the indebtedness of said City. When bonds or their coupons are paid, their payment or cancellation shall be noted in said registry. The books shall be safely kept among the records of the City. (Election of 4/7/84)

SECTION 117. CITY HEALTH OFFICER: QUALIFICATIONS, HOW APPOINTED.

The City Health Officer shall be a qualified voter of the City of Borger, and shall have resided in said city for at least one year next preceding appointment. The City Health Officer shall receive for services rendered such compensation as may be fixed by the City Council. The City Health Officer shall be a competent physician, legally qualified to practice medicine within this State, of reputable professional standing. The City Health Officer's appointment shall be made by the City Manager, subject to the approval of the City Council. After appointment, the City Health Officer shall take and subscribe to the official oath, and shall file a copy of such oath and a copy of this appointment with the Texas State Board of Health, and shall not be deemed to be legally qualified until said copies have been so filed.

State law references–Health authorities, V.T.C.A., Health and Safety Code, sec. 121.021 et seq.; health authority in municipality without organized local public health department or district, V.T.C.A., Health and Safety Code, sec. 121.028 et seq.

SECTION 118. DUTIES.

The City Health Officer shall perform such duties as may be required of that office by general law and city ordinances with regard to the general health and sanitation of the City of Borger, and perform such other duties as shall be legally required of the City Health Officer by the City Manager or the ordinances of the City of Borger. The City Health Officer shall discharge and perform such duties as may be prescribed for such individual under the directions, rules, regulations and requirements of the State Board of Health and the president thereof. The City Health Officer shall be required to aid and assist the State Board of Health in all matters of quarantine, vital and mortuary statistics, inspection, disease prevention and suppression and sanitation within the City of Borger. The City Health Officer shall at all times report to the State Board of Health in such manner and form as said board may prescribe, the presence of all contagious, infectious and epidemic diseases within the City Health Officer's jurisdiction, and shall make such other and further reports in such manner and form, and at such times as said state board shall direct, touching all such matters as may be proper for said board to direct, and the City Health Officer shall aid such said state board at all times in the enforcement of proper rules, regulations and requirements in the enforcement of all sanitary laws, regulations and vital statistics collection and to perform such other duties as said state board shall direct.

SECTIONS 119, 120. RESERVED.

Editor's note–Section 119, pertaining to the board of public charities, was repealed April 1, 1969, by an election held pursuant to Ordinance 1969-2, art. XIII, adopted February 18, 1969. Section 120, pertaining to board of public library, was repealed April 1, 1969, by the same election held pursuant to Ordinance 1969-2, art. XIV.

SECTION 121. RESERVED.

Editor's note–Section 121, providing for a board of city development, its membership, powers and duties and a tax assessment for the raising of money for its operations, was repealed June 1, 1935. See SECTION 136 of this Charter.

SECTION 122. RESERVED.

Editor's note–Section 122, pertaining to the segregation of Negroes and whites in cities, was repealed at an election held April 1, 1969, pursuant to Ordinance 1969-2, art. XV, adopted February 18, 1969.

SECTION 123. PAYMENT OF CLAIMS.

No warrant for the payment of any claim shall be issued by the City, unless such claim shall be evidenced by an itemized account, under oath and approved by the City Manager, and audited and allowed by the City Council at a regular or special meeting, and all warrants shall be signed by the City Manager and countersigned by the City Secretary and/or their deputies. (Election of 4/7/84)

SECTION 124. OIL OR GAS WELL DRILLING PROHIBITED.

It is hereby declared to be unlawful for any person, firm or corporation to hereafter drill for oil or gas, within three hundred feet of any church, public school, private residence or building where business is carried on therein, within the corporate limits of the City of Borger as the same is hereby declared to be a nuisance, dangerous to life and property, caused by the gas, noise, offensive odors and danger of fire explosion, and the City Council is hereby directed and empowered to pass all ordinances necessary to enforce the restrictions contained herein and provide penalties for the violation thereof.

State law references–Oil and gas, V.T.C.A., Natural Resources Code, chs. 52, 81 et seq.; municipal regulation of exploration and development of mineral interests, V.T.C.A., Natural Resources Code, sec. 92.007.

SECTION 125. POLICEMEN.

There shall be appointed such number of policemen as may be deemed necessary by the City Manager for the safety and protection of the citizens of Borger and their property. The appointments to be made by the City Manager by and with the consent of the City Council and they shall receive such compensation as may be agreed upon by the City Manager and the City Council and shall be under the immediate supervision of the Chief of Police and shall be his Deputies in office. (Election of 4/7/84)

State law reference–Police force in home-rule municipality, V.T.C.A., Local Government Code, sec. 341.003.

SECTION 126. FIRE CHIEF; QUALIFICATIONS, SALARY, DUTIES.

The City Manager may appoint a Fire Chief. The Fire Chief shall receive for services rendered such compensation as may be agreed upon by the City Manager and the City Council. Such individual shall perform such duties as fire chief as may be required of him by ordinance. (Election of 4/7/84)

State law reference–Fire department in home-rule municipality, V.T.C.A., Local Government Code, sec. 342.011.

SECTION 127. CITY ENGINEER: QUALIFICATIONS, SALARIES, DUTIES.

The City Manager may appoint a City Engineer. The City Engineer shall receive for services rendered such compensation as may be fixed by the Manager and approved by the Council. Such individual shall perform such duties as City Engineer as may be required of such person by the Manager and City Council.

SECTION 128. AMENDMENTS TO CHARTER.

Amendments to this Charter may be submitted to the electors of the City by a majority vote of the Council and shall be submitted by the council when a petition signed by thirty (30) percent of the electors of the city, setting forth any such proposed amendment when same shall have been filed with the City Secretary in the manner and form prescribed herein for the submission of ordinances by initiative petition. The amendment shall be submitted to the electors at the next regular municipal election, if one shall occur, not less than 40 days nor more than 60 days after said amendment is ordered submitted by the Council; otherwise, the City Council shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid, not less than thirty days prior to such election the City Secretary shall cause a copy of the proposed amendment to be published in the Official Newspaper of the City. If such proposed amendment be approved by a majority of the qualified electors voting thereon it shall become a part of the Charter at the time fixed therein.

State constitution reference–Adoption or amendment of charter, Texas Constitution, art. 11, sec. 5.

State law reference–Adoption or amendment of charter, V.T.C.A., Local Government Code, sec. 9.001 et seq.

SECTION 129. OTHER POWERS OF CITY.

All powers vested in Cities exceeding one thousand population by the provision of Title 22, or other provisions of the Revised Statutes of the State of Texas, are hereby retained and are cumulative of the powers vested by this Charter of the City of Borger, and the enumeration of the powers made in this Charter shall never be construed to preclude by implication or otherwise, the city from exercising all powers incident to the enjoyment of local self government and from doing any and all things not inhibited by the Constitution and laws of the State of Texas.

SECTION 130. UNCONSTITUTIONAL PARTS.

Should any provision or portion of this Charter be declared unconstitutional by the Courts of this State, the remainder thereof shall be unimpaired by such holding and shall be in full force and effect, until amended or repealed, or held unconstitutional by the courts as herein provided.

SECTION 131. WHEN CHARTER EFFECTIVE.

For the purpose of electing officers and exercising the powers of the city as provided herein, this Charter shall take effect from the time of its approval by a majority of the electors of the City of Borger.

SECTION 132. WHEN EFFECTIVE FOR OFFICIAL ACTS.

For the purpose of establishing departments, divisions and offices, and distributing the functions thereof, and for all other purposes, this Charter shall take effect forthwith upon the qualification of the officers who shall be elected at the first election of officers held hereunder.

SECTION 133. VOTE ON PROPOSED CHARTER; MANNER, ETC.

This charter shall be submitted to the qualified voters of the city of Borger for adoption or rejection, on the fourth Tuesday in June, 1930, the same being the 24th day thereof at which election of a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, then it shall become the Charter of the City of Borger until amended or repealed. It being impracticable to submit this charter by sections, it is hereby prescribed that the form of the ballot to be used in such election shall be as follows, to wit:

OFFICIAL BALLOT

Special Charter Election held in the city of Borger, Texas, June 24, 1930.

FOR THE ADOPTION OF THE CHARTER

AGAINST THE ADOPTION OF THE CHARTER

In voting said Ballot the voter shall indicate his vote "For the Adoption of the Charter" by scratching or running a line through the words "Against the Adoption of the Charter", and shall indicate his vote "Against the Adoption of the Charter" by scratching or running a line through the words "For the Adoption of the Charter."

The place of holding said election shall be at the City Hall in the City of Borger, and the polls shall open and close and said election shall be conducted and returns made, and results declared, as provided by the laws of the State of Texas, governing municipal elections, and in the event a majority of the votes cast at such election shall be in favor of the Adoption of such Charter then an official order shall be entered upon the records of said city, by the City Council of Borger, declaring the same adopted, and the person exercising the duties of 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 such charter so adopted, and such Secretary shall furnish to the Mayor, a copy of such charter, so adopted, authenticated by his signature and the seal of the city, which copy of the charter shall be, by the Mayor, forwarded to the Secretary of State, and which said copy shall show the approval of such charter by a majority vote of the qualified voters of the City of Borger, Texas.

SECTION 134. ELECTION OF [FIRST COUNCIL MEMBERS].

An election is hereby called for the 24th day of June, 1930, for the election of five Councilmembers to serve as such until the first Tuesday in April, 1931, as provided by the terms and provisions of this Charter, and the five persons receiving the greatest number of votes of the qualified electors voting at said election are hereby declared, and by the terms and provisions of this charter are declared elected as such Councilmembers of the City of Borger. Any candidate desiring to submit their name to be printed upon the official ballot for said office shall file or cause to be filed with the City Secretary of the City of Borger, a petition requesting that their name appear on said official ballot signed by not less than five percent of the qualified electors voting at the last general municipal election on or before ten (10) days prior to the date of the election, as provided for herein. The said election or elections to be held under the direction and supervision of the City Council, according to the laws of the State of Texas regulating Municipal elections, and the City Council is respectfully urged to do all things necessary to be done by them for the holding of a legal election.

Within five (5) days after the election of all the Councilmembers they shall each take the oath of office and qualify as Councilmembers, and shall hold their respective offices until the First Tuesday in April, 1931, as aforesaid, and until their successors are elected and qualified, unless sooner removed under the provisions of this Charter. In the event the qualified electors voting upon the adoption or rejection of the Charter, by a majority vote, reject the Charter, the election of officials as herein provided shall be of no effect.

SECTION 135. [SUBDIVISION REGULATION.]

Buildings for residential purposes may be constructed only on land properly platted and subdivided into residential areas or lots and served by streets and/or public rights-of-way set apart and dedicated to public use. Should any property lying within or adjacent to the City Limits as established by the charter be hereinafter platted into blocks and lots, the owners of said property shall plat and lay out the same so as to conform to the streets and alleys abutting on same, and shall file with the mayor a correct map thereof; providing, that in no case shall the City of Borger be required to pay for any of said streets or alleys at whatever date opened and when opened by reason of the platting of said property, at whatever date platted, they shall become by such act the property of the City of Borger for use as public highways. (Added 6/29/53)

State law reference–Regulation of subdivision and property development, V.T.C.A., Local Government Code, ch. 212.

SECTION 136. [APPOINTMENT OF BOARD OF CITY DEVELOPMENT.]

The City Council shall have the authority to appoint what shall be known and designated as "A Board of City Development" which shall be composed of not exceeding fifteen members who shall serve without compensation, and may prescribe the qualifications and duties of such board and their term of office, and may appropriate not exceeding two mills on the One Dollar valuation on the taxable property in the City of Borger, from the general fund of said City, to support the work of such Board. (Added 6/29/53)

SECTION 137. [DISCHARGE OF DUTIES UPON REFUSAL OF INITIATIVE, REFERENDUM OR RECALL BY AUTHORITIES.]

In case the governing authorities of the City shall fail or refuse any initiative, referendum or recall petition provided for in this charter, or order such initiative, referendum or recall election, or discharge any other duties with reference to such initiative, referendum or recall, the District Judge of Hutchinson County, Texas, shall discharge any of such duties herein provided to be discharged by the governing authorities of said City. (Added 6/29/53)

SECTION 138. EMPLOYMENT.

No qualified person shall be denied employment by the City on the grounds that at the time of such person's employment he or she is not a resident and qualified voter of the City. All provisions of the Charter in conflict with this section are hereby repealed. (Ordinance 1969-2, art. XII, 2/18/69, ratified 4/1/69)

State law reference–Residency requirements for municipal employees, V.T.C.A., Local Government Code, sec. 150.021.

Upon their qualification the Councilmembers elected shall be and constitute the governing body and authority of the City of Borger, and shall, thereafter, administer its affairs agreeable to the provisions of this charter.

CITY CODE

Contents:

CHAPTER 1 GENERAL PROVISIONS
CHAPTER 2 ANIMAL CONTROL*
CHAPTER 3 BUILDING REGULATIONS
CHAPTER 4 BUSINESS REGULATIONS
CHAPTER 5 FIRE PREVENTION AND PROTECTION
CHAPTER 6 HEALTH AND SANITATION
CHAPTER 7 MUNICIPAL COURT
CHAPTER 8 OFFENSES AND NUISANCES
CHAPTER 9 PERSONNEL
CHAPTER 10 REPEALED
CHAPTER 11 TAXATION
CHAPTER 12 TRAFFIC AND VEHICLES
CHAPTER 13 UTILITIES
CHAPTER 14 UNIFIED LAND DEVELOPMENT ORDINANCE (ULDO)
Non-codified Ordinances
Ordinance History Table

CHAPTER 1 GENERAL PROVISIONS

Contents:

ARTICLE 1.01 CODE OF ORDINANCES*
ARTICLE 1.02 ADMINISTRATION
ARTICLE 1.03 CITY COUNCIL
ARTICLE 1.04 BOARDS AND COMMISSIONS*
ARTICLE 1.05 EMERGENCY MANAGEMENT*
ARTICLE 1.06 PARKS AND RECREATION*
ARTICLE 1.07 FEE SCHEDULE
ARTICLE 1.08 ECONOMIC DEVELOPMENT INCENTIVES

ARTICLE 1.01 CODE OF ORDINANCES*

Sec. 1.01.001 Adoption

There is hereby adopted the Code of Ordinances of the City of Borger, Texas, as compiled, edited and published by Franklin Legal Publishing, Inc. (Ordinance adopting Code)

Sec. 1.01.002 Designation and citation of code

The ordinances embraced in this and the following chapters, articles and sections shall constitute and be designated the "Code of Ordinances, City of Borger, Texas," and may be so cited. (Ordinance adopting Code)

Sec. 1.01.003 Catchlines of articles, divisions and sections

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

Sec. 1.01.004 Definitions and rules of construction

(a) 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.

(b) 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.

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

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

City, municipal corporation, municipality and town. Each means the City of Borger, Texas.

City manager, city secretary, chief of police or other city officers. The words "city manager," "city secretary," "chief of police" or other city officers or departments shall be construed to mean the city manager, city secretary, chief of police or such other municipal officers or departments, respectively, of the City of Borger, Texas.

Council. Whenever the term "council" or "city council" or "the council" is used, it shall mean the city council of the City of Borger, Texas.

County. The term "county" or "this county" shall mean the County of Hutchinson, Texas.

Easement. The term "easement" shall mean a right, liberty, privilege or advantage without profit which the owner of one parcel of land may have in the lands of another; or a right in the owner of one parcel of land, by reason of such ownership, to use the land of another for a special purpose not inconsistent with a general property interest in the owner.

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

Highway. The term "highway" shall include any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass and causeway in the city, dedicated or devoted to public use.

May. The word “may” is permissive.

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

Must and shall. Each is mandatory.

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

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

Officer, office, employee, commission, or department. References to an officer, office, employee, commission or department refer to an officer, office, employee, commission, or department of this municipality unless the context clearly requires otherwise.

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

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

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

Property. The word “property” means and includes real and personal property.

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

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

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

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

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

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

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

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

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

(Ordinance adopting Code)

Sec. 1.01.005 Severability of parts of code

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

Sec. 1.01.006 Repeal of ordinances

(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, proceeding, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way 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) The repeal of an ordinance or any portion thereof shall not repeal the repealing clause of an ordinance or revive any ordinance which has been previously repealed.

(Ordinance adopting Code)

Sec. 1.01.007 Amendments or additions to code

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

Sec. 1.01.008 Supplementation of code

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

(b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

    (1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for articles, sections and other subdivisions of the code printed in the supplement and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to articles, sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this section," "this subsection," etc., as the case may be; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance articles or sections inserted into the code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

(Ordinance adopting Code)

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

(a) Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars ($500.00). However, a fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation, including the dumping of refuse, may not exceed two thousand dollars ($2,000.00); provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. In the event that any such violation is designated as a nuisance under the provisions of this code, such nuisance may be summarily abated by the city. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

(b) The imposition of any such fine for any such violation shall not stop any other relief against any such violation available at law or equity.

(Ordinance adopting Code)

State law reference–Penalty for violations, V.T.C.A., Local Government Code, sec. 54.001.

ARTICLE 1.02 ADMINISTRATION

Division 1. Generally

Sec. 1.02.001 Fiscal year

The fiscal year of the city shall begin on October 1 of each year and end on September 30 the following year. (1998 Code, sec. 30.02)

State law references–General fiscal power to establish fiscal year, V.T.C.A., Local Government Code, sec. 101.022; city fiscal year, V.T.C.A., Tax Code, sec. 1.05.

Sec. 1.02.002 Bond of officers and employees

All officers and employees of the city, when required by the city manager or city council, shall execute a bond to the city, for such amount and for such sureties as are approved by the council, conditioned upon the faithful performance of the duties of such officers and employees. The premium for such bond shall be paid by the city. (1998 Code, sec. 30.03)

Charter references–Bond of city manager, sec. 46; bond of tax assessor and collector, sec. 85; bond of chief of police, sec. 88.

State law reference–Official bonds, V.T.C.A., Government Code, ch. 604.

Sec. 1.02.003 Defaulters not eligible for office

No person who is in debt to the city for any sum of money, other than current utility bills, shall be eligible for any elective or appointive city office. (1998 Code, sec. 30.04)

Secs. 1.02.004–1.02.030 Reserved

Division 2. Claims Against City*

Sec. 1.02.031 Notice required

(a) The city shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf or, in the event the injury results in death, the person who may have a cause of action under the law by reason of such death or injury shall, within the time limits established in charter SECTION 5 for good cause shown from the date the damage was received, give notice in writing to the mayor and city council of the following facts:

(1) The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received.

(2) The nature of the damage or injury sustained.

(3) The apparent extent of the damage or injury sustained.

(4) A specific and detailed statement of how and under what circumstances the damage or injury occurred.

(5) The amount for which each claimant will settle.

(6) The actual place of residence of each claimant by street, number, city and state on the date it is presented.

(7) In case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury of any part thereof and the names of the doctors, if any, to whose care the injured person is committed.

(8) In case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

(b) No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall aver and prove that previous to the filing of the original petition the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the city council refused.

(Ordinance adopting Code)

Sec. 1.02.032 Filing of notice

All notices required by this division shall be effectuated by serving them upon the city secretary at the following location: 600 N. Main, Borger, Texas 79007. All such notices shall be effective only when actually received in the office of the person named above. (Ordinance adopting Code)

Sec. 1.02.033 Exceptions in cases of actual notice

(a) The above written notice requirements shall be waived if the city has actual knowledge of death, injury or property damage likely to result in a claim against the city. The city shall not be deemed to have actual knowledge unless that knowledge is attributable to an appropriate city official whose job duties include the authority to investigate and/or settle claims against the city.

(b) Notice requirements shall likewise be waived in cases in which the plaintiff can demonstrate good cause or civil rights violations.

(Ordinance adopting Code)

Sec. 1.02.034 Notice to be sworn to

The written notice required under this division shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein. (Ordinance adopting Code)

Secs. 1.02.035–1.02.060 Reserved

Division 3. Records Management*

Sec. 1.02.061 Definition of city records

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tapes, electronic media, or other information-recording media, regardless of physical form or characteristic and regardless of whether public access to 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 division or procedures authorized by it and in no other manner. The term does not include:

(1) Extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;

(2) Notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;

(3) Blank forms;

(4) Stocks of publications;

(5) Library and museum materials acquired solely for the purposes of reference or display; or

(6) Copies of documents in any media furnished to members of the public to which they are entitled under chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (V.T.C.A., Local Government Code, ch. 201 et seq.), or other state law.

(Ordinance adopted 4/17/90, sec. 1)

Sec. 1.02.062 Additional definitions

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

Essential record. Any record of the city necessary to the resumption or continuation of operations of the city in an emergency or disaster, to the re-creation of the legal and financial status of the city, or to the protection and fulfillment of obligations to the people of the state.

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

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

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

Records management officer. The person designated in section 1.02.065 of this division.

Records management plan. The plan developed under section 1.02.066 of this division.

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.

(Ordinance adopted 4/17/90, sec. 2; Ordinance O-002-16 adopted 3/1/16)

Sec. 1.02.063 City records declared public property

All city records as defined in section 1.02.061 of this division 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. (Ordinance adopted 4/17/90, sec. 3)

Sec. 1.02.064 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. (Ordinance adopted 4/17/90, sec. 4)

Sec. 1.02.065 Designation of records management officer

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

Sec. 1.02.066 Records management plan to be developed; approval of plan; authority of plan

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

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

(c) State law relating to the duties, other responsibilities, or records keeping 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 division and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the city.

(Ordinance O-002-16 adopted 3/1/16)

Sec. 1.02.067 Duties of records management officer

In addition to other duties assigned in this division, the records management officer shall:

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

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

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

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

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

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

(7) Monitor records retention and administrative rules issued by the state library and archives commission to determine if the records management program and the city's records control schedules are in compliance with state regulations;

(8) Disseminate to the city council and department heads information concerning state laws and administrative rules relating to local government records;

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

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

(11) Report annually to the city council of the implementation of the records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under subsection (10); and

(12) Bring to the attention of the city council noncompliance by department heads or other city personnel with the policies and procedures of the records management program or the Local Government Records Act.

(Ordinance adopted 4/17/90, sec. 8; Ordinance O-002-16 adopted 3/1/16)

Sec. 1.02.068 Duties and responsibilities of department heads

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

(1) Cooperate with the records management officer in carrying out the policies and procedures established in the city for the efficient and economical management of records and in carrying out the requirements of this division;

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

(3) Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the city and the requirements of this division.

(Ordinance adopted 4/17/90, sec. 9)

Sec. 1.02.069 Records control schedules to be developed; approval; filing with state

(a) The records management officer, in cooperation with department heads, shall prepare records control schedules on a department by department basis listing all records series created or received by the department and the retention period for each series. Records control schedules shall also contain such other information regarding the disposition of city records as the records management plan may require. (Ordinance O-002-16 adopted 3/1/16)

(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. (Ordinance adopted 4/17/90, sec. 12)

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

(d) Before its adoption a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If the 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 schedule to the director and librarian.

(e) Appropriate records control schedules issued by the state library and archives commission shall be adopted by the records management officer for use by the city as provided by law. Any destruction of records of the city will be in accordance with these schedules and the Local Government Records Act.

(Ordinance O-002-16 adopted 3/1/16)

Sec. 1.02.070 Implementation of records control schedules; destruction of records under schedule

(a) A records control schedule for a department that has been approved and adopted under section 1.02.069 shall be implemented by department heads according to the policies and procedures of the records management plan.

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

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

(Ordinance O-002-16 adopted 3/1/16)

Sec. 1.02.071 Destruction of unscheduled records

(a) 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.

(b) Material that is not included in the definition of a local government record and is described by section 1.02.070 may be disposed of at the discretion of the custodian or the creator of the document, as applicable.

(Ordinance adopted 4/17/90, sec. 14)

ARTICLE 1.03 CITY COUNCIL

Division 1. Meeting Rules and Procedures

(Ord. # O-001-25, 02/18/2025)

Sec. 1.03.001 Meeting procedures

The following rules govern the conduct of City Council meetings:

(a) Regular meetings shall be held as specified by City Charter, with notice posted in accordance with the Texas Open Meetings Act.

(b) Special and emergency meetings may be convened with proper notice.

(c) The Mayor shall preside over meetings, maintaining order and enforcing rules of procedure.

(d) If the mayor is absent at the hour of meeting, the mayor pro tem shall take the chair and preside over the meeting and the business shall be proceeded with as indicated.

(e) Roberts Rules of Order will serve as the basis of procedure for deliberation and debate during meetings. The following are commonly used motions and procedures for use by Council Members:

(1) Motion for Action

(A) Purpose: To introduce new business or propose a decision or action.

(B) Description: A motion for action is the foundation of Council decision-making and must be clear, specific, and actionable. Only one main motion may be considered at a time.

(C) When to Use: When initiating a formal discussion or proposing a specific action for Council approval.

(D) Sample Motion: “I move that we approve the proposed ordinance as presented.”

(2) Amendment to a Motion

(A) Purpose: To modify the wording or conditions of a main motion without altering its fundamental intent.

(B) Description: An amendment refines a motion by adding, deleting, or substituting specific language. It must be germane to the main motion and is voted on before the main motion.

(C) When to Use: When the proposed motion requires clarification, refinement, or adjustment.

(D) Sample Motion: “I move to amend the motion by adding the phrase ‘pending staff review’ before ‘approval.’”

(3) Motion to Table

(A) Purpose: To temporarily postpone consideration of an item.

(B) Description: This motion defers action on the current item to address more pressing issues or gather additional information.

(C) When to Use: When immediate action is impractical or further information is required.

(D) Sample Motion: “I move to table this item until the next Council meeting.”

(4) Motion to Postpone

(A) Purpose: To delay consideration of an item to a specified time or meeting.

(B) Description: Unlike a motion to table, postponement includes a specific time for reconsideration and ensures the item is not overlooked.

(C) When to Use: When an item requires additional preparation or when more information is expected by a certain date.

(D) Sample Motion: “I move to postpone this discussion until the next regularly scheduled meeting.”

(5) Motion to Call the Question

(A) Purpose: To end debate and proceed to a vote on the pending motion.

(B) Description: This motion requires a second and a two-thirds majority vote. If approved, debate ceases, and the Council immediately votes on the main motion.

(C) When to Use: When discussion has become repetitive or unproductive, and a decision is necessary.

(D) Sample Motion: “I move to call the question.”

(6) Motion to Reconsider

(A) Purpose: To reopen discussion on a motion that was previously decided.

(B) Description: This motion can only be made by a Council member who voted on the prevailing side of the original motion and must occur during the same meeting or the next scheduled meeting.

(C) When to Use: When new information or circumstances warrant revisiting a previous decision.

(D) Sample Motion: “I move to reconsider the vote on the approved budget amendment.”

(7) Pont of Order

(A) Purpose: To address a breach in procedure or rules.

(B) Description: A Point of Order is not a motion but a formal objection raised to enforce meeting rules. The presiding officer rules on its validity immediately.

(C) When to Use: When a procedural error or rule violation is observed.

(D) Sample Statement: “Point of order, the discussion is outside the scope of the current agenda item.”

(8) Motion to Adjourn

(A) Purpose: To end the meeting.

(B) Description: This motion concludes the meeting, dismisses attendees, and carries any unfinished items to the next meeting.

(C) When to Use: When all business has been addressed, or further discussion is unnecessary.

(D) Sample Motion: “I move to adjourn the meeting.”

(9) Motion to Limit Debate

(A) Purpose: To set a time limit for discussion on a motion.

(B) Description: This motion requires a two-thirds majority vote and ensures efficient use of meeting time.

(C) When to Use: When discussions are lengthy or repetitive, and time constraints need to be enforced.

(D) Sample Motion: “I move to limit debate on this topic to ten minutes.”

(10) Motion to Divide the Question

(A) Purpose: To separate a motion into distinct parts for individual consideration.

(B) Description: This motion is used when a single motion contains multiple propositions that may need separate votes.

(C) When to Use: When one part of a motion is agreeable, but another part requires further discussion or modification.

(D) Sample Motion: “I move to divide the question so that we vote separately on the two proposed actions.”

(11) Recognizing Speakers

(A) Members of the Council or the public wishing to speak must first address the Chair (Mayor or Mayor Pro Tem) and request recognition. Example: “Mr./Madam Mayor, I would like to speak on this item.”

(B) The Chair shall recognize speakers in the order in which requests are made. Priority shall be given to Council members over members of the public.

(C) Council members may speak without time limits unless the Chair imposes a reasonable restriction to maintain meeting efficiency. Members of the public addressing the Council shall adhere to time limits established by the Council (three minutes per speaker).

(12) Handling Unruly Speakers - The Chair shall manage disruptive behavior or speech to maintain decorum and ensure the meeting proceeds efficiently. The following steps shall apply:

(A) Initial Warning: The Chair shall politely warn any individual engaging in disruptive behavior. Example Statement: "Please refrain from interruptions or personal attacks and limit your comments to the topic under discussion."

(B) Second Warning: If the behavior persists, the Chair shall issue a second, firmer warning and remind the individual of the rules of decorum. Example Statement: "This is your second warning. Continued disruption may result in removal from the meeting."

(C) Call for Assistance: If the individual fails to comply, the Chair may request assistance from the Chief of Police or a designated sergeant-at-arms to ensure order. Example Statement: "The individual is being disruptive and will be escorted from the meeting if this behavior continues."

(D) Removal: Upon continued disruption or failure to adhere to decorum, the Chair may call for the removal of the individual. Removal shall occur only with the support of a majority vote of the Council if the individual is a member of the public. Example Statement: "As this disruption persists, I am calling for a vote to remove this individual from the meeting."

(E) Recess if Necessary: If multiple disruptions occur, the Chair may call a brief recess to restore order. Example Statement: "This meeting is now in recess for five minutes to allow order to be restored."

(F) Documentation: The City Secretary, or his/her designee, shall document instances of disruptive behavior in the meeting minutes, noting the warnings given and any actions taken.

(f) Council members shall limit their remarks to the subject under consideration.

(g) No one except a member of the city council, and officers in the discharge of their official duties, shall be allowed to address the council or be permitted to participate in the proceedings, except by consent of the council.

(h) All meetings of the city council shall be open to the public, unless the Council recesses into Executive Session, in compliance with Chapter 551, Texas Govt. Code.

(i) The Chief of Police may be called upon to act as sergeant-at-arms and shall insure the orderly behavior of the public in attendance.

(j) Public participation shall be facilitated through a designated comment period, subject to time limits and decorum rules.

(1998 Code, sec. 30.15) (Ord. # O-001-25, 02/18/2025)

Charter references–Meetings of the council generally, sec. 52; time of meetings, sec. 53.

Effective on: 3/11/2025

Sec. 1.03.002 Decorum

The Decorum guidelines are designed to describe the manner in which elected and appointed officials should treat one another, City staff, constituents, and others they come into contact with while representing the City of Borger:

(a) **Honor the role of the chair in maintaining order:** It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following parliamentary procedure.

(b) **Practice civility and decorum in discussions and debate:** Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.

(c) **Avoid personal comments that could offend other members:** If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

(d) **Demonstrate effective problem-solving approaches:** Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

(e) Direct requests for information or action through the City Manager.

(1998 Code, sec. 30.16) (Ord. # O-001-25, 02/18/2025)

Effective on: 3/11/2025

Sec. 1.03.003 Enforcement of rules and sanctions

The Council may enforce these rules through the following actions:

(a) A motion to censure a member for conduct unbecoming of their office.

(b) Temporary suspension of privileges, such as participation in committees or special assignments.

(c) If any member of the city council makes comments of a personal nature, or in any other manner disrupts the orderly conduct of business, in the course of discussion or action on a given agenda item, any member of the city council may call the behavior to the attention of the disruptive member, who must cease said behavior. Should the city Council member refuse to comply, the individual may be removed from the dais by a two-thirds majority vote, upon motion and second, of the city council.

(1998 Code, sec. 30.17) (Ord. # O-001-25, 02/18/2025)

Effective on: 3/11/2025

Sec. 1.03.004 Place system for election of members

The city hereby adopts the place system for the election of city council members. Each office of the city council shall be assigned a place number, so that hereafter each such office shall bear its own separate designation, such as City Council Member, Place No. 1; City Council Member, Place No. 2; City Council Member, Place No. 3; City Council Member, Place No. 4; City Council Member, Place No. 5. As terms of incumbent city council members expire, each candidate for the office of city council shall file his/her application for a specific place on the city council. In such election the ballot shall show each office of the city council as a separate office by place number, with the name of each candidate printed thereon under the specific office for which he/she is a candidate.

(1998 Code, sec. 30.18)

Sec. 1.03.005 Election of Mayor and Mayor Pro Tem

Pursuant to Section 41 of the City Charter, the Mayor shall be elected by the City Council through a secret ballot process conducted by the City Secretary. The procedures for election are as follows:

(a) The election of the Mayor shall occur during the first meeting of the newly seated Council following a general election or as otherwise specified in the City Charter.

(b) A quorum of the Council, as defined in the City Charter, must be present to conduct the election.

(c) The City Secretary shall distribute, collect, and count the ballots.

(d) The results of the vote shall be read aloud by the City Secretary.

(e) The individual receiving the majority of votes of the whole cancel (3 votes) shall be deemed elected as Mayor, provided that individual accepts the position.

(f) If the selected individual declines the position, the process shall repeat until a Mayor is elected.

(g) The same process shall be followed for the election of the person, who shall serve in the absence of the Mayor. The person selected shall be officially designated as the Mayor Pro Tem and shall assume all duties of the Mayor during such absences.

(Ord. # O-001-25, 02/18/2025)

Effective on: 3/11/2025

Sec. 1.03.006 Filling council vacancies

In accordance with the Texas Local Government Code and applicable provisions of the City Charter, vacancies on the City Council shall be addressed as follows:

(a) If the remaining term of the vacant position is less than one year from the date of the next available uniform election date, the Council may appoint a qualified individual to fill the vacancy.

  (1) Appointments shall only be considered if necessary to maintain a quorum for the conduct of City business.

  (2) The appointment process shall include public notice and a call for qualified applicants.

  (3) The Council shall deliberate in an open meeting to select the appointee by majority vote.

(b) If the remaining term exceeds one year from the date of the next available uniform election date, a special election shall be called as required by the Texas Local Government Code.

(Ord. # O-001-25, 02/18/2025)

Effective on: 3/11/2025

Secs. 1.03.007-1.03.020 Reserved

(Ord. # O-001-25, 02/18/2025)

Effective on: 3/11/2025

Division 2. Code of Ethics

(Ord. # O-001-25, 02/18/2025)

Sec. 1.03.021 Purpose

The Code of Ethics establishes principles and standards to guide the behavior of City council members with the understanding that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible only to the people of the city and that governmental decisions and policy should be made in the proper channels of the governmental structure.

(Ord. # O-001-25, 02/18/2025)

Effective on: 3/11/2025

Sec. 1.03.022 Ethical standards

City council members shall:

(a) City council members shall act in the public interest and prioritize the needs of residents above personal gain.

(b) City council members shall avoid conflicts of interest, including financial and familial interests, and disclose any potential conflicts prior to deliberation or decision-making.

  (1) City council members shall not have a substantial interest in any contract with the City of Borger.

(c) In order to preserve and promote independent advice and decisions from city boards and the integrity of the independent board process, council members shall not speak before any city board, commission or committee except on behalf of their own financial interest; in which case, they shall publicly state the nature of their financial interest and that they are appearing only in your private capacity.

(d) Council members shall not give any orders to any employee except through the city manager as provided by the City Charter.

(e) Council members shall not participate in the process for the appointment of or the confirmation of the appointment of a member to a board, commission or committee of the city, or to the governing body of an independent entity all or part of whose members are appointed by the city council, after you are aware that an individual seeking, being promoted for, or being considered for the position:

  (1) Is related to the council member within a degree described by Section 573.002, Texas Government Code; or

  (2) Is the council member's employer; or

  (3) Is a director or officer of a business entity (as defined in Section 171.001, Texas Local Government Code) which is the council member's employer; or

  (4) Owns ten (10) per cent or more of the voting stock or shares of a business entity which is the council members employer.

(f) Council members shall refrain from using their position for personal benefit or the benefit of associates.

(g) Council members shall uphold confidentiality of privileged information obtained through their position.

(h) Council members shall maintain professional, respectful interactions with colleagues, staff, and the public.

(i) Council members shall ensure all actions comply with local, state, and federal laws.

(Ord. # O-001-25, 02/18/2025)

Effective on: 3/11/2025

Sec. 1.03.023 Violations and enforcement

The City Council may investigate alleged violations of the Code of Ethics through a transparent process. Findings of a violation, by a two-thirds majority vote, upon motion and second, of the city council may result in the following actions:

(a) Issuance of a formal warning.

(b) Censure by the City Council, documented in the official record.

(c) Suspension of privileges, including committee appointments.

(d) Referral to legal authorities for violations of law.

(Ord. # O-001-25, 02/18/2025)

Effective on: 3/11/2025

ARTICLE 1.04 BOARDS AND COMMISSIONS*

Division 1. Generally

Secs. 1.04.001–1.04.030 Reserved

Division 2. Repealed

(Ord. # O-006-22, 07/19/2022)

Effective on: 8/9/2022

Division 3. Hutchinson County Joint Airport Zoning Board*

Sec. 1.04.061 Created and composition

(a) Subject to like provisions being made by the commissioners court of the county, by proper order, duly promulgated and entered on its minutes, and as authorized by the provisions of Tex. Local Gov't Code section 241.001 et seq., there is hereby created a joint airport zoning board, to be known as the Hutchinson County Joint Airport Zoning Board, which shall have the powers and exercise the duties set forth in Tex. Local Gov't Code section 241.001 et seq.

(b) The Hutchinson County Airport Zoning Board shall be composed of five members, two of whom shall be appointed by the city council and two of whom shall be appointed by the commissioners court of the county. The fifth member shall be elected by a majority of the members so appointed and the fifth member shall serve as chairperson of the joint airport zoning board.

(1998 Code, sec. 31.35)

Sec. 1.04.062 Duties of building inspector

The building inspector is hereby authorized and directed to undertake and perform the respective duties, responsibilities, and functions as are delegated to such office under an ordinance known as the Hutchinson County Airport Zoning Ordinance; provided that the building inspector shall maintain a separate set of records pertaining to his official functions as required of him under the ordinance above mentioned. (1998 Code, sec. 31.36)

Sec. 1.04.063 Duties of board of adjustment

The city board of adjustment is authorized and directed to exercise the duties, responsibilities, and functions as delegated to it under an ordinance designated as the Hutchinson County Airport Zoning Ordinance; provided, such board shall keep a separate set of records as to its functions under the ordinance. (1998 Code, sec. 31.37)

Sec. 1.04.064 Duties of planning and zoning commission

The city planning and zoning commission is authorized and directed to exercise the duties, responsibilities, and functions as delegated to it under an ordinance designated as the Hutchinson County Airport Zoning Ordinance; provided, such commission shall keep a separate set of records as to its functions under the ordinance. (1998 Code, sec. 31.38)

Sec. 1.04.065 Discharge of duties

The building inspector, the board of adjustment, and the planning and zoning commission shall continue to discharge the functions as delegated to their respective offices under the provisions of the Hutchinson County Airport Zoning Ordinance and sections 1.04.062 through 1.04.064 without further action from time to time by the city council. (1998 Code, sec. 31.39)

ARTICLE 1.05 EMERGENCY MANAGEMENT*

Sec. 1.05.001 Organization

(a) There exists the office of emergency management director of the city, which shall be held by the mayor. (Ordinance O-003-03, sec. 1, adopted 4/1/03; Ordinance adopting Code)

(b) An emergency management coordinator may be appointed by and serve at the pleasure of the director.

(c) 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 division. He/she may delegate authority for execution; however, responsibility shall remain with the director.

(d) 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.

(Ordinance O-003-03, sec. 1, adopted 4/1/03)

Sec. 1.05.002 Powers and duties of director

The duties and responsibilities of the emergency management director shall include the following:

(1) Surveying actual or potential hazards which threaten life and property within the city and identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.

(2) Supervision of the development and approval of an emergency management plan for the city, and shall recommend for adoption by the city council all mutual aid arrangements deemed necessary for the implementation of such plan.

(3) Authority to declare a local state of disaster. 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.

(4) Issuance of necessary proclamations, regulations, or directives which are necessary for carrying out the purposes of this division. Such proclamation, regulation, or directive shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the city secretary.

(5) Direction and control of the operations of the city emergency management organization as well as the training of emergency management personnel.

(6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.

(7) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.

(8) Marshaling of all necessary personnel, equipment, or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.

(9) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which the city is located and with other municipalities within the county, for the countywide coordination of emergency management efforts.

(10) Supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.

(11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

(12) Surveying the availability of existing personnel, equipment, supplies, and services which could be used during a disaster, as provided for herein.

(13) Other requirements as specified in the Texas Disaster Act (chapter 418 of the Government Code).

(Ordinance O-003-03, sec. 2, adopted 4/1/03)

Sec. 1.05.003 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 division. As provided by state law, the plan shall follow the standards and criteria established by the state division of emergency management. Insofar as possible, the form of organization, titles, and terminology shall conform to the recommendations of the state division of emergency management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The emergency management plan shall be considered supplementary to this division and have the effect of law during the time of a disaster. (Ordinance O-003-03, sec. 3, adopted 4/1/03)

Sec. 1.05.004 Interjurisdictional program

The mayor is hereby authorized to join with the county judge and the mayors of the other cities in said county in the formation of an interjurisdictional emergency management program for the county, and shall have the authority to cooperate in the preparation of an interjurisdictional emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as said program may affect the city. (Ordinance O-003-03, sec. 4, adopted 4/1/03)

Sec. 1.05.005 Exemptions from liability

This division 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 said 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 division shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license or privilege, or otherwise permits the city to inspect, designate, and use the whole or any part or parts of such real estate or premises, for the purpose of sheltering persons during an actual, impending, or practice enemy attack 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. (Ordinance O-003-03, sec. 5, adopted 4/1/03)

Sec. 1.05.006 Offenses; penalty

(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 division.

(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) Convictions for violations of the provisions of this division shall be punishable by fine not to exceed five hundred dollars ($500.00).

(Ordinance O-003-03, sec. 6, adopted 4/1/03)

Sec. 1.05.007 Conflicts with state or federal law or military regulations

This division shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule, or regulation. (Ordinance O-003-03, sec. 8, adopted 4/1/03)

ARTICLE 1.06 PARKS AND RECREATION*

Division 1. Generally

Secs. 1.06.001–1.06.020 Reserved

Division 2. Off-Leash Areas, Dog Parks

Sec. 1.06.021 Definitions

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

Animal control officer. A person designated by the city to represent and act for the city in the impoundment of animals, in the controlling of stray animals, and all other matters as otherwise required by this article and CHAPTER 2 of this code.

Dog. A domesticated animal that is a member of the canine family.

Dog park. A public park that is specifically designated by the city as a place for dogs to exercise and play off-leash in a controlled environment under the supervision, possession, and control of their owner(s).

Off-leash area. An area designated by the city in which dogs, under the effective control of their owners or handlers, may be off a leash.

Owner/handler. Any person who supervises, controls, or possesses any dog confined in a dog park. Any person supervising, controlling, or possessing any dog confined in a dog park is rebuttably presumed to be the owner of such dog for the purpose of this division.

Sec. 1.06.022 Enforcement of division provisions

Law enforcement officers and animal control officers are authorized to enforce the provisions of this division.

Sec. 1.06.023 Running at-large

Notwithstanding any other provision to the contrary in this code, any dog confined within a dog park and located within view and voice control of its owner is not considered to be running at-large.

Sec. 1.06.024 Rules and regulations; penalty

(a) All dogs must be on a leash while entering and exiting the dog park.

(b) Dogs are not required to be on a leash while in the fenced area of the park. All dogs must be under the control of the owner/handler.

(c) No more than two (2) dogs per owner/handler are allowed in the park at any time.

(d) No dog may be left unattended in the park and every dog must always be within view of and within voice control of the owner/handler. Dog owners/handlers must be physically capable of controlling their dogs and must prevent aggressive behavior, biting, fighting, and aggressive barking.

(e) Dogs showing any aggression must be leashed and immediately removed from the park. Dogs with a known history of aggressive or dangerous behavior are prohibited from entering the park.

(f) Dog owners/handlers must carry one leash per each dog under their control while in the park.

(g) Dogs under 6 months of age are not allowed in the park.

(h) Dogs must have current vaccinations to enter the park.

(i) Dogs must wear a collar with a current rabies tag while in the park.

(j) Dogs must be healthy and free of contagious diseases and parasites while in the park.

(k) Dogs in heat are not allowed in the park.

(l) Appropriate dog toys are allowed in the park, but no toys that are edible, such as rawhides and bones, are allowed.

(m) Dog owners/handlers are responsible for immediately picking up and disposing of all of their dog's waste in appropriate receptacles.

(n) Dog owners/handlers must repair any damage caused by their dog (such as holes dug by the dog).

(o) No animals other than dogs are allowed in the park.

(p) All children 13 years of age and younger must always be accompanied and supervised by an adult while in the dog park.

(q) No smoking, food (dog or human), alcoholic beverages. glass or metal containers, bicycles, skateboards, roller blades, scooters, strollers or carriages are allowed in the dog park.

(r) No grooming may be done in the dog park.

(s) No dog training is allowed, except between the hours of 6:00 a.m. and 10:00 a.m.

(t) The park is subject to closure upon a determination by the city that there is a reason deemed to be in the public's interest or safety or for maintenance.

(u) Any person who violates the dog park rules may be removed from the park and may be prohibited from returning to or using the dog park(s).

(v) A violation of these rules is punishable by a fine of up to $500.00.

(w) All other city ordinances pertaining to parks and animal control shall remain in effect.

Sec. 1.06.025 Signage

The city shall post and maintain clearly readable sign(s) in a visible location on or near the area, providing notice regarding:

(1) Hours of operation.

(2) The rules and regulations of the dog park.

(3) A statement limiting the liability of the city, such as:
"Use of this park is at your own risk. Dog owners/handlers are responsible for the actions and behavior of their dogs and are liable for damages or injury inflicted by their dogs. The City of Borger has no liability or responsibility for damage or injuries in the dog park. Park users assume all risk associated with use of the park and waive liability of the City of Borger for any injury or damage caused by dogs or humans while accessing or using the park."

(4) A violation or penalty provision.

(5) Contact information for the parks and recreation department and the Borger Police Department.

Sec. 1.06.026 Designated areas

(a) The area currently designated for an "off-leash area" or dog park, is located at 1201 Bulldog Boulevard and is a sectioned off, fenced-in area located in Johnson Park. The "off-leash area" or dog park at this location, will be known as the Borger Dog Park.

(1) The city may from time to time designate other "off-leash" or dog park areas.

(2) This division establishes the rules and regulations of current and future "off-leash" or dog park areas within the city.

(b) Hours of operation: The Borger Dog Park shall normally be open to the public from 6:00 a.m. to 10:00 p.m. daily. The parks and recreation department may expand the hours, restrict public access, or close the park during these hours if and when it deems doing so appropriate.

Secs. 1.06.027–1.06.030 Reserved

Division 3. Alyn Rogers Memorial RV Park

Sec. 1.06.031 Definitions

Recreational vehicle (RV). A recreational vehicle is a self-propelled or permanently towed mobile living unit built on a single chassis. The unit is typically four hundred (400) square feet or less and used for temporary human occupancy away from the users' permanent place of residence. A recreational vehicle as described under this section is one that contains permanently installed sleeping facilities or human sanitary treatment or disposal facilities or both. For purposes of this article, the term includes motor homes, tour buses, campers, cab-over campers, and travel trailers.

Sec. 1.06.032 Use of RV parking facilities

(a) Residents and nonresidents may utilize the RV park camping spaces, hookups, utilities, and services connected therewith for a period not to exceed seventy-two (72) hours in any seven-day period.

(b) Residents and nonresidents may not utilize the RV park camping spaces, hookups, utilities, and services connected therewith for any period in excess of seventy-two (72) hours in any seven-day period without a written permit issued by the city marshal or his authorized designee.

(c) Utilization of RV park camping spaces, hookups, utilities, and services connected therewith for a period in excess of seventy-two (72) hours without a written permit or for any period in excess of the time granted by a written permit shall be a violation of this section. A violation of this section shall subject the violator to a fine as provided in section 1.01.009.

Sec. 1.06.033 RV park rules

(a) Cab-over campers may not be removed from the vehicle and placed on the ground.

(b) Tent camping, sleeping in cars, or sleeping outside of the recreational vehicle are prohibited.

(c) Storage of personal items under or around vehicles or RV's is prohibited with the exception of no more than two storage totes that are fully closable. Gasoline cans of any size and external propane tanks in excess of seven (7) gallon capacity are strictly prohibited.

(d) All RV's and personal vehicles must be capable of being moved with twenty-four (24) hours' notice; and must be moved within twenty-four (24) hours, if requested by the city marshal or his designee. Mechanical work on vehicles or RV's including work on interior flooring, walls, or large appliances is prohibited.

(e) Quiet time will be observed from 10:30 p.m. until 7:00 a.m. each and every day.

(Ordinance O-002-17 adopted 6/20/17)

Division 4. Hike and Bike Trails

(Ord. # O-008-21, 06/01/2021)

Sec. 1.06.041 Rules and Regulations

The following rules and regulations shall apply to any hike and bike trail owned or operated by the City of Borger.

(1) Alcoholic Beverages are prohibited on any hike or bike trial.

(2) All pets must be kept on a leash at all times. Pet owners/handlers are responsible for immediately pickup up and disposing of all their pet's waste in appropriate receptacles.

(3) Only motorized vehicles operated by the City or an associated nonprofit for the maintenance of the trail system shall be allowed. No privately owned recreational motorized vehicles shall be permitted on any hike or bike trail.

(4) No littering. Trash must be disposed of in the proper receptacle.

(5) No swimming or wading in any body of water in a hike and bike trail system.

(6) No horses permitted on any hike and bike trails.

(7) No hunting is allowed, and the use of firearms is prohibited.

(8) No glass or metal containers are allowed on the hike and bike trails.

(9) The trails are subject to closure upon a determination by the City that there is a reason deemed to be in the public's interest, safety, or for maintenance.

(Ord. # O-008-21, 06/01/2021)

Effective on: 6/1/2021

Sec. 1.06.042 Enforcement of Regulations

Law enforcement officers and animal control officers are authorized to enforce the rules and regulations contained in this division.

(Ord. # O-008-21, 06/01/2021)

Effective on: 6/1/2021

Sec. 1.06.043 Penalty

Any person who violates any of the provisions of this division is guilty of a separate offense for each day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred dollars ($500.00).

(Ord. # O-008-21, 06/01/2021)

Effective on: 6/1/2021

Sec. 1.06.044 Signage

(1) The City shall post and maintain clearly readable sign(s) in a visible location on or near the trail head of a hike or bike trail providing notice regarding:

(a) the rules and regulations for the use of the hike or bike trail;

(b) A statement limiting the liability of the city, such as:

"Use of hike and bike trails is at your own risk. The City of Borger has no liability or responsibility for damage or injuries incurred in use of hike and bike trails. The user of hike and bike trails assumes all risks associated with use of the trail and waives liability of the City of Borger for any injury or damage caused or received while accessing or using the hike or bike trail."

(b) a violation or penalty provision; and

(c) contact information for the Parks and Recreation Department and the Borger Police Department.

(Ord. # O-008-21, 06/01/2021)

Effective on: 6/1/2021

Sec. 1.06.045 Hours of Use

The use of hike and bike trails shall be limited to the hours between sunrise and sunset.

(Ord. # O-008-21, 06/01/2021)

Effective on: 6/1/2021

Division 5. Standards of Care for Youth Programs

(Ord. # O-004-19, 05/21/2019)

Sec. 1.06.061 General Administration

a) Definitions

City – City of Borger.

Effective on: 5/21/2019

City Council – City Council of the City of Borger.

Effective on: 5/21/2019

Department – Public Works Department of the City of Borger.

Effective on: 5/21/2019

Director – City of Borger Director of Public Works or designee.

Effective on: 5/21/2019

Division – Recreation Division of the City of Borger

Effective on: 5/21/2019

Employee – Someone who has been employed by the City of Borger and has been assigned responsibility for managing, administering or implementing some portion of the City of Borger Youth Program.

Effective on: 5/21/2019

Parent(s) – A parent or guardian who has legal custody and authority to enroll a child in the City of Borger Youth Program(s).

Effective on: 5/21/2019

Participant – A youth whose parent has completed all required registration procedures and who has been determined to be eligible for the City of Borger Youth Program(s).

Effective on: 5/21/2019

Program Manual – A document containing the policies, procedures, required forms and organizational and programming information relevant to a City of Borger Youth Program.

Effective on: 5/21/2019

Program Site – Any area or facility where a City of Borger Youth Program is held.

Effective on: 5/21/2019

Recreation Coordinator – The City of Borger Recreation Division full-time employee who has been assigned administrative responsibility for the City of Borger Youth Program(s).

Effective on: 5/21/2019

Recreation Supervisor – Any City of Borger Recreation Division full-time employee who has been given responsibility to implement City of Borger Youth Program(s).

Effective on: 5/21/2019

Recreation Aide – Any City of Borger Recreation Division temporary employee who has been assigned responsibility to implement City of Borger Youth Program(s).

Effective on: 5/21/2019

Youth Program(s) – City of Borger Youth Program(s) held at the City's Johnson Park Youth Center, any City park, or designated school sites currently operated or used, with agreement, by the City of Borger. These programs are not child-care facilities.

Effective on: 5/21/2019

b) Organization

1. The governing body of the City of Borger Youth Program is the Borger City Council.
2. Implementation of the Youth Program Standard of Care is the responsibility of the Recreation Coordinator and division employees.
3. Youth Programs to which these standards apply include any program, including the Summer Park Recreation Program, held at the Johnson Park Youth Center, any City park, and designated school sites operated by the City of Borger. Other programs may be subsequently designated by the City of Borger.
4. Each City of Borger Youth Program site will have a current copy of the Standards of Care available for public and staff review.
5. Parents of participants will be provided a current copy of the Standards of Care during the registration process or the Standards of Care can be accessed on the City of Borger website at www.borgertx.gov. Parents of participants will be informed that the City of Borger Youth Program(s) are not licensed by the State.
6. Criminal background checks will be conducted on prospective Youth Program employees. If results of the criminal checks indicate that an applicant has been arrested for any of the following offenses, he or she may not be considered for employment:
    i. A felony or misdemeanor classified as an offense against a person.
    ii. A felony or misdemeanor classified as public indecency.
    iii. A felony or misdemeanor violation of any law intended to control the possession or distribution of any controlled substance or any violation of City Policy.

iv. Any offense involving moral turpitude.

v. Any offense that would potentially put the City of Borger or participants of the Program at risk.

c) Objectives of Youth Programs

1. To provide youth with the opportunity of recreational activities which may include sports, games, arts and crafts, education, dance, drama, special events, field trips, etc.
2. To provide an encouraging and supportive atmosphere by emphasizing the positive development of physical skills, emotional development and growth of self-confidence.
3. To provide a safe environment by promoting good health and welfare for all participants.
4. To teach youth how to spend leisure time wisely in an effort to meet the emotional physical and social needs of youth.

d) Inspections/Monitoring/Enforcement

1. An annual facility inspection report will be initiated by the Recreation Coordinator to confirm adherence to the Standards of Care. This report will be submitted in March.
   i. Inspection reports will be sent to the Director for review and kept on record for at least two years.
   ii. The Director will review the report and establish deadlines and criteria for compliance with the Standard of Care.
2. Complaints regarding enforcement of the Standards of Care will be directed to the Recreation Coordinator. The Recreation Coordinator will be responsible for taking the necessary steps to resolve the problems. Complaints regarding enforcement of the Standards of Care and their resolution will be recorded by the Recreation Coordinator and forwarded to the Director, the complaint and resolution will be noted.
3. The Recreation Coordinator will provide an annual report to the City Council on the overall status of the Youth Program(s) and their operation relative to compliance with adopted Standards of Care.

e) Enrollment

1. Before a child may be enrolled, a parent/guardian must sign registration forms that contain:
   i. Name, address and telephone number of the child;
   ii. Name and address of parents/guardian and telephone numbers during program hours;
   iii. The names and telephone numbers of people to whom the child may be released;
   iv. A statement of the child's special needs;
   v. Proof of residency and age, when appropriate; and,
   vi. A liability waiver which also includes permission for field trips and emergency medical authorization.

f) Suspected Abuse

1. Program employees will report suspected child abuse in accordance with the Texas Family Code. In a situation where an employee is involved in an incident with a child that could be considered child abuse, the incident shall immediately be reported to the Recreation Supervisor. The Recreation Supervisor will immediately notify the Police Department and any other agency, as may be appropriate.

(Ord. # O-004-19, 05/21/2019)

Effective on: 5/21/2019

Sec. 1.06.062 Staff Qualifications, Functions and Training

a) Recreation Coordinator

1. Qualifications

i. Full-time, employee of the City of Borger Recreation Division.

ii. Must meet the minimum requirements for the City of Borger to plan and implement recreation activities.

iii. Must pass a background investigation, including testing for illegal substances.

iv. Must have current certifications in First-Aid and Cardiopulmonary Resuscitation (CPR) offered by the American Red Cross, NASCO and/or the American Heart Association.

v. Must have current certifications as NASCO Lifeguard Instructor.

vi. Must communicate effectively with the public.

vii. Must complete any City of Borger mandatory training.

2. Job Functions

i. Responsible for administering the Youth Program(s) daily operations in compliance with the adopted Standards of Care.

ii. Responsible for hiring, supervising and evaluation of recreation supervisors.

iii. Responsible for planning, implementing and evaluation of programs.

iv. Maintains supplies, equipment and all necessary documentation for the operation of the Youth Program(s).

v. Communicates with parent(s) as necessary.

vi. Provides reports as necessary to City Administration and/or City Council.

vii. Know and follows all City of Borger standards, polices, and procedures that apply to the Youth Program(s).

viii. Ensure that participants are released only to a Parent(s) or an adult designated by the parent(s).

b) Recreation Supervisor(s)

1. Qualifications

i. Full-time or part-time employees of the City of Borger Recreation Division.

ii. Must be able to consistently exhibit competency, good judgement, and self-control when working with children.

iii. Must relate to children with courtesy, respect, tolerance, and patience.

iv. Must have current certifications in First-Aid, Cardiopulmonary Resuscitation (CPR) and Lifeguard by the American Red Cross, the American Heart Association and/or NASCO.

v. Must pass a background investigation, including testing for illegal substances.

vi. Will be responsible for understanding and following all City of Borger standards, policies and procedures that apply to the City of Borger Youth Program(s).

2. Job Functions

i. Provides participants with an environment in which they can feel safe, enjoy wholesome recreation activities, and can participate in appropriate social opportunities with their peers.

ii. Directly lead activities using a method that will provide opportunities for involvement of all participants on an equal basis.

iii. Must exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.

iv. Promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied and well-organized activities.

v. Must be with participants at all times while they are participating in the Program(s).

vi. Ensure participants are released only to a parent(s) or an adult designated by the parent(s).

c) Recreation Aide

1. Qualifications

i. Temporary and/or part-time employees of the City of Borger Recreation Division.

ii. Should be able to consistently exhibit competency, good judgement and self-control when working with children.

iii. Must relate to children with courtesy, respect, tolerance, and patience.

iv. Must pass a background investigation, including testing for illegal substances.

v. Must understand and following all City of Borger standards, policies and procedures that apply to the City of Borger Youth Program(s).

2. Job Functions

i. Assists in leading activities using a method that will provide opportunities for involvement of all participants on an equal basis.

ii. Exhibits enthusiasm for the activity to impart a feeling of excitement in the participants.

iii. Promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied and well-organized activities.

iv. Will be responsible for picking up the areas used by their group after each activity.

v. Must be with participants at all times while they are participating in the Program(s).

vi. Ensures that participants are released only to a parent(s) or an adult designated by the parent(s).

d) Training and Orientation

1. The Division is responsible for providing training and orientation to the Program employees in working with children and for specific job responsibilities. The Recreation Coordinator will provide each recreation supervisor and recreation aide with appropriate training and orientation for the Program they are assigned to.

2. Program employees must be competent with the Standards of Care for Youth Program operation as adopted.

3. Program employees must be competent with the Program(s) polices, including discipline, guidance release of participants as outlined in the Summer Park Recreation Parent Manual and/or other related manuals for other programs.

4. Program employees will be trained in appropriate procedures to handle emergencies.

5. Program employees will be trained in areas including standards, polices, procedures, provision of recreation activities, safety issues, and organization.

(Ord. # O-004-19, 05/21/2019)

Effective on: 5/21/2019

Sec. 1.06.063 Program Operations

a) Staff-Participant Ratio

1. The City of Borger Youth Program shall use a minimum staff ratio of 1 staff member per each 50 participants from ages 6 – 12.

2. Each participant should have a Program employee who is responsible for him or her and who is aware of details of the participant's habits, interests, and any special needs as identified by the participant's parents during the registration process.

b) Notification

1. Parents must be notified immediately when Program employees are aware of the following:
    i. Participant is injured; or,
    ii. Participant has a sign or symptom requiring exclusion from the site (i.e. communicable disease, fever and/or illness).
2. All parents must be notified if there is an outbreak of any communicable disease.

c) Discipline

1. Program employees will implement discipline and guidance in a consistent manner, based on the best interests of Program participants.
2. There will be no cruel or harsh punishment or treatment.
3. Program employees may use brief, supervised separation from the activity if necessary.
4. As necessary, Program employees will initiate discipline reports to the parents of participants. Parents will be asked to sign participant discipline reports to indicate they have been advised about a specific problem or incident. Copies of these reports will be kept on file with the Recreation Coordinator.
5. A sufficient number and/or sever nature of discipline reports as detailed in the Program manual may result in a participant being suspended and/or expelled from the program.
6. In instances where there is a danger to other participants or staff, offending participants will be removed form the Program site as soon as possible.
7. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any Program site will be subject to ejection from the site and possible arrest and legal action.

d) Programming

1. Program employees will provide activities for each group according to the participants' age, interests and abilities. The activities will be appropriate to participants health, safety and well-being. The activities also will be flexible and designed to promote the participants' emotional, social and mental growth.
2. Program employees will provide indoor and outdoor time periods to include:
    i. Alternating active and passive activities;
    ii. Opportunity for individual and group activities; and
    iii. Outdoor time each day that weather permits.
3. Program employees will be attentive and considerate of the participants' safety on field trips and during any transportation provided by the Program. Participants must be counted before leaving the Program site and before boarding the transportation to return to the Program site.
    i. During trips, Program employees supervising participants must have immediate access to emergency medical forms and emergency contact information for each participant.
    ii. Program employees will check the roll of participants frequently.
    iii. Program employees should have First-Aid supplies and a guide to First-Aid and emergency care available on field trips.
    iv. Notice of any field trips will be displayed at a prominent location at each program site.

e) Communication

1. Each Program site will have access to a telephone for use in contacting the Youth Center, Recreation Coordinator or making emergency calls.
2. The Recreation Coordinator will post the following telephone numbers adjacent to a telephone accessible to all Program employees at each site:

i. Ambulance or emergency medical services
ii. City of Borger Police Department
iii. City of Borger Fire Department
iv. Poison Control
v. The telephone number for the site itself.
vi. Numbers at which parents/guardian may be reached.

f) Transportation

1. First-Aid supplies and a First-Aid emergency care guide will be available in all Program vehicles that transport children.
2. All program vehicles used for transporting participants must have available a 6-BC portable fire extinguisher located in the passenger compartment of the vehicle which will be accessible to the adult occupants.
3. Transportation cards with the names and telephone number of the participants' parents and physicians will be available in all Program vehicles that transport participants.

(Ord. # O-004-19, 05/21/2019)

Effective on: 5/21/2019

Sec. 1.06.064 Facility Standards

a) Safety

1. Program employees will inspect Program sites daily to detect sanitation and safety concerns that might affect the health and safety of the participants. A monthly inspection report will be completed by the Program staff and kept on file at the Youth Center.
2. Buildings, grounds and equipment on the Program site will be inspected, cleaned, repaired, and maintained to protect the health of the participants.
3. Program equipment and supplies should be safe for the participants to use.
4. Program employees should have First-Aid supplies available at each site, during transportation, and for the duration of any off-site activity.
5. Program employees should have First-Aid supplies available to staff in a designated location. Program employees should have an immediately accessible guide to First-Aid and emergency care.
6. Program air conditioners, electric fans, and heaters should be mounted out of participants' reach or have safeguards that keep participants from being injured.

b) Fire

1. In case of fire, danger of fire, explosion, or other emergency, Program employee's first priority is to evacuate the participants to a designated safe area.
2. The Program site will have an annual fire inspection by the City of Borger Fire Marshal and the resulting report will detail any safety concerns observed. The report will be forwarded to the Director who will review and establish deadlines and criteria for compliance. Information from this report will be included in the Recreation Coordinator's Annual Report to the City Council.
3. Each Program site must have at least one (1) fire extinguisher approved by the Fire Marshal readily available to all Program employees. The fire extinguisher is to be inspected monthly by the Recreation Coordinator and a monthly report will be kept at the center, who will keep the report on file for a minimum of two years. All Recreation Division employees will be trained in the proper use of fire extinguishers.

c) Health

1. Illness or Injury
    i. A participant who is considered to be a health or safety concern to other participants or staff will not be admitted to the Program.
    ii. Illnesses and injuries will be handled in a manner to protect the health of all participants and employees. Paramedics will be notified in the event of an injury that cannot be remedied through basic First-Aid. An accident report shall be completed and forwarded to the Recreation Coordinator
    iii. An ill participant will not be allowed to attend or participate if the participant is suspected of having a fever of 100.4 degrees or greater and/or accompanied by behavior changes or other signs or symptoms until a medical evaluation indicating that the participant can return to the Program.
    iv. Program employees will follow plans to provide emergency care for injured participants or for participants with symptoms of an acute illness as specified in the Program manual.
    v. Program employees will follow the recommendation of the Texas Department of State Health Services concerning the admission or readmission of any participant after a communicable disease.
2. Program employees will not administer medication to a participant. If a participant requires medication, arrangements must be made between the parents and the Recreation Coordinator to allow the parent and/or a designated adult to administer the medication to the participant.

i. Medication will not be stored at Program sites. Parents and/or adult designees will need to transport medication with them when administering to the participant.

3. Toilet Facilities
   i. The program will have inside toilets located and equipped so children can use them independently and Program employees can supervise as needed.
   ii. An appropriate and adequate number of lavatories and toilets will be provided.
4. Sanitation
   i. The Program site must have adequate light, ventilation, and heat.
   ii. The Program must have an adequate supply of water, meeting the standards of the Texas Department of State Health Services for drinking water, and ensure that it will be supplied to the participants in a safe and sanitary manner.
   iii. Program employees must see that garbage is removed from Program sites daily.

d) Participants
1. All participants must wear tennis shoes daily. Sandals or flip flops are not permitted.
2. Shoes must be worn at all times, unless the participant is in the swimming pool or participating in an activity that requires no shoes to be worn.
3. Participants must respect the Program employees, Program site and each other.

(Ord. # O-004-19, 05/21/2019)

Effective on: 5/21/2019

Division 6. The Dome Civic and Convention Center

(Ord. # O-002-22, 04/05/2022)

Sec. 1.06.071 Definitions

The Facility – The Dome Civic and Convention center, the entire premises thereof, including, without limitation, meeting rooms, convention space, ballrooms, banquet facilities, park areas, outdoor exhibit area, driveways, parking lots, or other portions thereof.

Effective on: 4/5/2022

Facility Coordinator – The City's employee in charge of the facility.

Effective on: 4/5/2022

The Dome – The portion of the facility consisting of the area and space located under the aluminum dome structure.

(Ord. # O-002-22, 04/05/2022)

Effective on: 4/5/2022

Sec. 1.06.072 Contract Required

(a) A written contract will be required for use of the facility or any portion of the facility. The facility coordinator is authorized to execute such contracts on behalf of the city in keeping with the terms and conditions of this article and any regulation and policies promulgated hereunder.

(b) All payments for use of the facility in accordance with the fees stated in ARTICLE 1.07 shall be made to the city. All fees and payments must be received 30 days in advance of the event. The coordinator may allow booking with less

than 30 days advance notice; however, if a booking is made with less than 30 days advance notice, all deposits and fees must be paid prior to confirming the date.

(c) **Cancellations** – Regardless of when an event is booked, if an event is canceled, refunds of deposits and fees shall be based on the following:

(1) A full refund will be issued when more than 30 days' notice is given.

(2) A 50% refund will be issued when notice is given 14 – 30 days before the event.

(3) No refund will be issued when less than 14 days' notice is given.

(Ord. # O-002-22, 04/05/2022; Ord. # O-008-24, 09/17/2024)

Effective on: 10/11/2024

Sec. 1.06.073 Refusal to Lease

(a) The city reserves the right to refuse to lease the facility if:

(1) The proposed use will constitute a violation of any applicable ordinances of the city or laws of the state or any other governmental entity or political subdivision having jurisdiction;

(2) The Applicant is indebted to the city;

(3) Applicant's prior use of a city facility resulted in damages to the facility caused by applicant's negligence, failure to provide proper security, failure to provide proper crowd control, or violated facility policies and procedures; or

(4) The proposed use exposes the facility or attendees to potentially damaging, hazardous, or life-threatening risk.

(b) The Facility Coordinator shall have authority to refuse to lease the facility. Refusals shall be in writing and include justification of the refusal. The applicant may appeal the Facility Coordinator's decision to the City Manager, in writing, within 5 days. The City Manager shall review the application and provide a decision in writing within 5 days following receipt of the request for appeal. The City Manager's decision shall be final.

(Ord. # O-002-22, 04/05/2022; Ord. # O-008-24, 09/17/2024)

Effective on: 10/11/2024

Sec. 1.06.074 Waiver of Fees

(a) A valid 501(c)(3) non-profit entity hosting an event whose proceeds support services directly provided to residents located in Hutchinson County will not be charged a facility rental fee for said fundraising events.

(Ord. # O-002-22, 04/05/2022)

Effective on: 4/5/2022

Sec. 1.06.075 Deposit/Insurance

(a) To ensure and maintain the excellent condition of the facility, a security deposit and/or event insurance listing the "City of Borger" as the payee will be required from both third-party vendors and the Applicant. The City Manager, with the recommendation of the facility coordinator, shall establish insurance requirements for the use of the facility, which shall be available for review on the City's website or available in person at the facility or City Hall. The deposit and/or insurance per room is as follows:

(1) The Dome – $250 Security Deposit and event insurance required

(2) Ballroom Grand – $250 Security Deposit and event insurance required

(3) Ballroom Half - $250 Security Deposit

(4) Conference Room - $100 Security Deposit

(5) Meeting Room - $100 Security Deposit

(6) Catering Kitchen - $250 Security Deposit

(7) Entire Venue – $500 Security Deposit and event insurance required

(b) Deposits shall be refunded upon verification that the terms and requirements outlined in the deposit checklist provided to the client at the time of reservation have been satisfactorily completed.

(c) If an event has to be rescheduled more than two weeks before the original date, the deposit shall be refunded, and a new deposit will be required to hold the new date.

(d) When necessary, the deposit, or a portion thereof, may be withheld for:

(1) Cancellation Fees.

(2) Failure to meet time requirements for booking payment requirements.

(3) Failure to ensure proper post-event cleanup.

(4) Damages incurred to the facility during the event.

(5) Violation of facility policies and procedures.

(e) Any event where an alcohol permit is issued, regardless of the requirements above, shall provide event insurance in accordance with the schedule promulgated by the City Manager.

(Ord. # O-002-22, 04/05/2022; Ord. # O-008-24, 09/17/2024)

Effective on: 10/11/2024

Sec. 1.06.076 Venue Regulations

(a) The following items shall be prohibited from use inside the facility:

(1) Fireworks and or unauthorized pyrotechnics;

(2) Laser Pointers;

(3) Air horns, bull Horns, or electronic noisemakers of any kind;

(4) Confetti and glitter; and

(5) Skateboards, rollerblades, roller skates, scooters, bicycles and hoverboards.

(b) The facility is designated as “non-smoking,” and cigarettes, cigars, smoke machines, electronic cigarettes, vaping, and all other smoke-generating and smoking devices are prohibited. Smoking is only allowed in designated outdoor locations.

(c) Lost and found items turned in by patrons or discovered by staff will be logged in to lost and found each night. All items will be disposed of appropriately if not claimed within 30 days.

(d) Individuals shall always comply with all rules and regulations of the Dome Civic & Convention Center when on the premises, which include, but are not limited to:

(1) Appropriate behavior must always include respect for ALL individuals.

(2) Individuals must always wear shirts and shoes.

(3) Individuals who may legally consume alcoholic beverages shall do so responsibly.

(4) Individuals shall refrain from using offensive language, fighting, displaying obscene gestures, throwing objects, and engaging in other behavior deemed detrimental to the experience of other individuals.

(5) Individuals may not stand on seats or any other building structure.

(6) A responsible adult must always supervise children.

(7) Event attendance numbers must correlate with booking information discussed with the facility coordinator.

(8) Cooking on portable gas, electric, or fueled cooking appliances inside the facility is prohibited. This does not include electric food warmers or “crockpots.” The 6-burner stove located in the kitchen is the only acceptable cooking source. Other cooking appliances are permissible outside of the facility and when located 25 feet or more from any entrance.

(9) Violations of the Code of Conduct may result in eviction from the facility of the offending party without refund of any admission paid and/or forfeiture of event applicant’s security deposit. The city reserves the right to prohibit entry into future events held at the facility by any individual that violates the rules and regulations.

(Ord. # O-002-22, 04/05/2022; Ord. # O-008-24, 09/17/2024)

Effective on: 10/11/2024

Sec. 1.06.077 Decorating Guidelines

Decorations may be used in accordance with the following guidelines:

(a) For hanging banners or décor:

(1) Nails, staples, screws, or any other permanent mounting fixtures are never allowed for any reason.

(2) No tape of any kind is allowed on any walls, curtains, columns, or metal frames around the Dome. On GLASS surfaces only, a high-quality, transparent tape (i.e., Scotch tape) may be used to hang signs, banners or other décor.

(3) Clips, beeswax, decorator hooks, command strips, and poster putty are acceptable for hanging banners or décor, provided that no damage to painted surfaces is caused by use of these items.

(4) The event client may be liable for any damages caused by hanging or mounting banners and décor.

(b) No décor of any kind may be hung from light fixtures, fire sprinklers, signage, or other permanently placed fixtures (i.e., wood acoustic panels)

(c) Helium balloons are not allowed in the Dome. Helium balloons or balloons without Helium may be used in the ballrooms and meeting rooms; however, if any balloons are left, the event client may be subject to additional charges and forfeit the deposit.

(d) Doors marked as emergency exits and doors with exit signs above them may not be blocked at any time, for any reason.

(e) The use of candles is permitted provided that ALL candles are in a votive in which the flame does not extend past the top of the votive. No incense, sparklers, sage, or other types of burning is allowed within the facility. Any flame must be attended at all times.

(f) Hanging decorative items from the Dome ceiling is permitted but requires pre-approval from the facility coordinator and the proper equipment to ensure the objects are safely and securely fastened.

(g) For A/V cables or extension cords: All cables and cords running through walkways, aisles, or doorways must be firmly taped or adequately covered so as to prevent a fall or trip hazard condition. Mats and cable ramps are acceptable for covering cords provided that the facility coordinator approves and if they are provided by the event client or vendor.

(Ord. # O-002-22, 04/05/2022)

Effective on: 4/5/2022

Sec. 1.06.078 Other Rules and Regulations

The City Manager may promulge other rules and regulations, keeping with the minimum guidelines of this article, for the use of the facility.

(Ord. # O-002-22, 04/05/2022)

Effective on: 4/5/2022

ARTICLE 1.07 FEE SCHEDULE

Division 1. Animal Services

Sec. 1.07.001 In general

(a) Animal adoption: $45.00.

(b) Boarding fee: $10.00 per day.

(c) Owner surrender:

  (1) Animal is heartworm negative, current on vaccinations, altered and deemed adoptable by the animal control supervisor: $30.00 per animal.

  (2) Animal deemed adoptable but needs vaccinations: $80.00 per animal.

  (3) Litters (under 10 weeks of age): $60.00.

(d) Pick-up:

  (1) Deceased animal: $35.00 per occurrence.

  (2) Deceased animal - after hours: $50.00 per occurrence.

(e) Impound fee:

  (1) Live animal: $35.00 per occurrence.

  (2) Live animal - after hours: $50.00 per occurrence.

(f) Rabies quarantine: 10 days boarding fee + impound fee.

(g) Rabies vaccination: $25.00 per year.

(h) Reclaim charges:

  (1) Loose animals that are picked up (1st annual occurrence): $35.00.

  (2) Loose animals that are picked up (2nd annual occurrence): $55.00.

  (3) Loose animals that are picked up (3rd annual occurrence): $75.00.

  (4) Loose animals that are picked up (4th or more annual occurrence): $100.00.

  (5) Loose livestock that are picked up: $65.00 per occurrence.

(i) Dangerous Dog Registration: $50.00 per year

(j) Multi-Animal Permit (Animals Over Allowable Limit): $25.00 per year

(k) Distemper/Parvo Intake Vaccination: $10.00 per intake

(l) Animal identification microchip: $35.00 per animal.

(Ord. # O-008-23, 09/19/2023; Ord. # O-007-24, 09/17/2024)

Effective on: 10/1/2024

Secs. 1.07.002–1.07.010 Reserved

Division 2. Fire Prevention

Sec. 1.07.011 Inspections and operational permits

(a) Annual safety inspection - commercial building: $0.00.
  (1) Reinspection fee after 2nd inspection, plus associated penalties: $50.00.

(b) Assisted living institutions:
  (1) Providing care for 10 or less residents: $50.00.
  (2) Providing care for more than 10 residents: $75.00.

(c) Daycare centers:
  (1) Providing care for 10 or less persons: $50.00.
  (2) Providing care for more than 10 persons: $75.00.

(d) Nursing homes: $100.00.

(e) Hospital: $100.00.

(f) Foster/adoption homes: $25.00.

(g) Special events (includes plan review and inspection): $100.00.

(Ord. # O-008-23, 09/19/2023)

Effective on: 10/1/2023

Sec. 1.07.012 Construction permits

(a) Work without a permit:
  (1) First offense: 2 times the calculated permit fee, plus $250.00 administrative fee.
  (2) Second and subsequent offense: 3 times the calculated permit fee, plus $500.00 administrative fee and charges filed in municipal court.

(b) Fire alarm system plan review (fee includes first visit for witnessing testing): $100.00.
  (1) Plus $50.00 per 10 notification or initiating devices.

(c) Additional fire alarm system witnessed testing: $75.00 per occurrence.

(d) Suppression system plans review for systems with 25 or fewer heads (fee includes first visit for witnessing the testing of underground and aboveground system): $200.00.
  (1) Plus $50.00 for each additional group of 25 or fewer heads.

(e) Additional suppression system witnessing test:
  (1) Underground witnessing test: $50.00.
  (2) Aboveground witnessing test: $100.00.

(f) Suppression system fire pump test or acceptance test: $25.00.

(g) Kitchen vent hood suppression system:
  (1) Plan review (includes first visit for witnessing testing): $100.00.
  (2) Acceptance test: $50.00.

(h) Alternative fire suppression system:
  (1) Plan review (spray booths, dry/wet chemical, etc.) (fee includes first visit for witnessing testing): $100.00.
  (2) Witnessing test: $50.00.

(i) Fuel distribution tank and pipe installation (plans review and testing): $150.00.

(j) Fuel distribution tank and pipe removal: $150.00 (plus, demolition permit and bond required).

(1) Compressed tank storage installation (plans review and witnessing testing): $150.00.

(k) Hydrant flow test: $100.00.

(l) All secondary or additional witnessing testing not noted: 1/2 of original fee.

(Ord. # O-008-23, 09/19/2023)

Effective on: 10/1/2023

Sec. 1.07.013 Other permits/fees

(a) False alarm (after 6th alarm): $50.00 per occurrence.

(b) Controlled bum in city limits:

(1) Approved: $50.00.

(2) Unapproved: $300.00 and charges filed in municipal court.

Secs. 1.07.014–1.07.020 Reserved

Division 3. Fire Department

Sec. 1.07.021 Apparatus, personnel, and equipment

(a) The following list is not all-inclusive of equipment that may be damaged or contaminated during the course of a response effort. Additional equipment that is not herein listed may be charged at actual replacement costs.

(b) The following fees may be assessed against the person/company requesting fire/EMS service at which the city's fire department responded. The same fees may be charged for specialized use or rental - such as, but not limited to, stand by services or industrial contracted use.

(1) Apparatus.

(A) Aerial apparatus: $600.00 per truck, per hour.

(B) Type 1 engine: $450.00 per truck, per hour.

(C) Rescue vehicle: $500.00 per truck, per hour.

(D) Wildland engine: $350.00 per truck, per hour.

(E) Command/support vehicle: $150.00 per truck, per hour.

(F) Tanker apparatus: $350.00 per truck, per hour.

(2) Personnel.

(A) Fire inspector: $80.00 per hour.

(B) Fire investigator: $80.00 per hour.

(C) Firefighter: $35.00 per hour.

(D) Fire driver: $40.00 per hour.

(E) Fire lieutenant/fire fighter paramedic: $40.00 per hour.

(F) Fire captain/fire fighter paramedic supervisor: $55.00 per hour.

(G) Fire chief/assistant chief/emergency management command personnel: $105.00 per hour.

(H) Basic Emergency Medical Technician: $25.00 per hour

(I) Advanced Emergency Medical Technician: $30.00 per hour

(J) Paramedic: $35.00 per hour

(K) Wild firefighter: $35.00 per hour.

(L) Telecommunicator: $25.00 per hour

(3) Haz-mat.

(A) Absorbent: $17.00 per bag.

(B) Barricade tape: $20.00 per roll.

(C) Broom: $20.00 each.

(D) Disposable coveralls: $20.00 each.

(E) Disposable goggles: $20.00 each.

(F) Drum liners: $8.00 each.

(G) Latex gloves: $5.00 per pair.

(H) Lite-dri: $20.00 per 50lb. bag.

(I) Plug and patch kit: $30.00 per bag.

(J) Poly sheeting: $50.00 per roll.

(K) Shovel: $50.00 each.

(L) Sand: $30.00 per bag.

(M) Hazmat Sampling: $100 per sample

(4) Protective equipment replacement.

(A) Bunker coat: $1,820 each.

(B) Bunker pants: $2,220 each.

(C) FF boots: $515 per pair.

(D) FF gloves: $90 per pair.

(E) Helmet: $385 each.

(F) Nomex hood: $80 each.

(5) Firefighting agents.

(A) FFF foam: $22.00 per gallon.

(B) Class A foam: $17.00 per gallon.

(C) Light water: $20.00 per gallon.

(D) Micro-blaze: $30.00 per gallon.

(6) Emergency medical service.

(A) Advanced Life Support – Emergent: $1,600.00 per response.

(B) Advanced Life Support – Non-emergent: $1,500.00 per response.

(C) Advanced Life Support – Level 2: $1,800.00 per response.

(D) Basic Life Support – Emergent: $1,400.00 per response.

(E) Basic Life Support – Non-emergent: $1,300.00 per response.

(F) Specialty Care Transport: $2,000.00 per response.

(G) Advanced Life Support Disposables: $400.00 per response.

(H) Basic Life Support Disposables: $350.00 per response.

(I) Oxygen: $150 per response.

(J) Mileage: $24 per mile

(K) No transport (Patient Refusal): $50 per response.

(7) Firefighting equipment replacement.

(A) A-frame combo ladder: $414.00 each.

(B) Attic folding ladders:

(i). 8 foot: $230.00 each.

(ii). 10 foot: $255.00 each.

(C) Deluge monitor w/o pie and tips: $2,080.00 each.

(D) Extension ladders:

(i). 24 foot: $525.00 each.

(ii). 35 foot: $925.00 each.

(E) Foam aerator tube: $396.00 each.

(F) Fog nozzles:

(i). 1.0": $510.00 each

(ii). 1.5"–1.75": $825.00 each.

(iii). 2.5": $1,000.00 each.

(iv). 2.5" master: $1,000.00 each

(v). 2.5" play pipe: $1,095.00 each.

(G) Hose:

(i). 1.0": $75.00 per 50 feet.

(ii). 1.0'' booster: $125.00 per 50 feet.

(iii). 1.75": $220.00 per 50 feet.

(iv). 2.5": $258.00 per 50 feet.

(v). 3.0": $370.00 per 50 feet.

(vi). 5.0": $890.00 per 100 feet.

(H) Motorola portable radio: $8,500.00 each.

(I) BK portable radio: $2,000.00 each.

(J) PASS alarm: $200.00 each.

(K) Roof ladders:

(i). 12 foot: $275.00 each.

(ii). 14 foot: $335.00 each.

(L) SCBA air mask: $240.00 each.

(M) SCBA air mask complete: $2,300.00 each.

(N) SCBA cylinders: $1,000.00 each.

(O) Stacked tips w/shaper: $566.00 each.

(8) Rescue equipment.

(A) Acetylene cutting kit: $185.00 per hour.

(B) Air bags: $275.00 per hour.

(C) Air impact tool: $85.00 per hour.

(D) Ajax cutting tool: $35.00 per hour.

(E) Saws-all: $65.00 per hour.

(F) Oxygen with mask: $90.00 per hour.

(G) Porta power: $85.00 per hour.

(H) Rescue tools (spreaders, cutters, rams, etc.): $300.00 per hour each.

(9) Fire equipment used.

(A) ABC extinguisher: $45.00 each.

(B) Axe(s): $12.00 per hour.

(C) Barricade/scene tape: $20.00 per roll.

(D) Bolt cutters (HD): $12.00 per hour.

(E) Cellular phone with long distance charges: $25.00.

(F) Chain saw: $40.00 per hour.

(G) CO2 extinguisher: $45.00 each.

(H) Explosive meter: $180.00.

(I) Gas plug/gasoline plug kit: $45.00 each.

(J) Generator: $45.00 per hour.

(K) Hall runner: $15.00 each.

(L) Halligan tool: $12.00 per hour.

(M) Hand lights: $15.00 each.

(N) K-tool: $20.00.

(O) PPV fan(s): $50.00 per hour.

(P) Purple K extinguisher: $75.00 each.

(Q) Rescue (K-12) saw: $40.00 per hour.

(R) Roll(s) of plastic: $30.00 each.

(S) Salvage covers: $25.00 each.

(T) Scene lights: $32.00 per hour.

(U) Tank, portable/fold-a-tank: $150.00.

(V) Water extinguisher: $15.00 each.

(W) Windshield tool: $10.00.

(Ord. # O-008-23, 09/19/2023; Ord. # O-007-24, 09/17/2024)

Effective on: 10/1/2024

Secs. 1.07.022–1.07.030 Reserved

Division 4. Miscellaneous Fees and Permits

Sec. 1.07.031 Taxicab

(a) Vehicle permit fee: $150.00 per vehicle

(b) Taxicab driver's permit: $25.00 per year

(c) Horse drawn carriage permit: $25.00 per 6 months

Sec. 1.07.032 Street closures

(a) Special event: No fee.

(b) Parade: No fee.

Sec. 1.07.033 Alley paving

Cost of material calculated by the street department.

Sec. 1.07.034 Peddlers, solicitors, hawkers and itinerant vendors

(a) Peddler master permit, Peddler individual permit, Solicitor/hawker master permit, Solicitor/hawker individual permit, Distributor permits, Mobile street vendor, Transient retail master permit: 30-day permit: $30.00.

(b) Mobile Food Unit: $150.00 per year.

(Ord. # O-013-21, 09/07/2021)

Effective on: 10/1/2021

Secs. 1.07.035–1.07.040 Reserved

Division 5. Parks and Recreation

Sec. 1.07.041 Cofield Community Building

(a) Rental fee:

  (1) County residents: $20.00 per hour with $175.00 daily maximum.

  (2) Nonresidents: $40.00 per hour with $400.00 daily maximum.

  (3) Nonprofit organization: $10.00 per hour with $75.00 daily maximum.

(b) Refundable security deposit: $250.00 for all rentals.

  (1) Events larger than 50 attendees with an alcohol permit issued will require Event Insurance in addition to a security deposit.

(c) Rental cancellation fee:

  (1) 15 day or more notice: $0.00.

  (2) 14 day or less notice: $25.00.

(d) Pre-party inspection: $25.00 per hour.

(There are no ordinances associated with this section.)

Effective on: 10/1/2022

Sec. 1.07.042 Dome Civic and Convention Center

(a) Local Rates available to residents or organizations located, living, or operating in Hutchinson County:

Venue Room	Event Day Rate	Move-In/Out & Rehearsal Rate (Mon – Thurs) Fri, Sat, Sun = Event Day Rate	Hourly Rate 2-hour min / 4-hour max
The Dome	$368.00	$184.00	n/a
Ballroom Grand	$552.00	$276.00	n/a
Ballroom Half	$276.00	$138.00	n/a
Nutrien Room	$55.00	$33.00	$15.00
Eddie Edwards Room	$55.00	$33.00	$15.00
Catering Kitchen	$92.00	$46.00	n/a
Entire Venue	$1,380.00	$690.00	n/a

(b) Non-local rate available to any person or organization living or operating outside of Hutchinson County:

Venue Room	Event Day Rate	Move-In/Out & Rehearsal Rate (Mon – Thurs) Fri, Sat, Sun = Event Day Rate	Hourly Rate 2-hour min / 4-hour max
The Dome	$460.00	$230.00	n/a
Ballroom Grand	$690.00	$360.00	n/a
Ballroom Half	$345.00	$173.00	n/a
Nutrien Room	$69.00	$40.00	$20.00
Eddie Edwards Room	$69.00	$40.00	$20.00
Catering Kitchen	$100.00	$100.00	n/a
Entire Venue	$1,600.00	$800.00	n/a

(c) Non-profit rate offered to any registered non-profit:

Venue Room	Event Day Rate	Move-In/Out & Rehearsal Rate (Mon – Thurs) Fri, Sat, Sun = Event Day Rate	Hourly Rate 2-hour min / 4-hour max
The Dome	$240.00	$120.00	n/a
Ballroom Grand	$360.00	$180.00	n/a
Ballroom Half	$180.00	$90.00	n/a
Nutrien Room	$36.00	$24.00	$5.00
Eddie Edwards Room	$36.00	$24.00	$5.00
Catering Kitchen	$40.00	$40.00	n/a
Entire Venue	$960.00	$480.00	n/a

(1) Non-profits will not be charged a rental fee for fundraising events whose proceeds support services directly provided to residents located in Hutchinson County.

(d) Ticket Events:

(1) Per City Council Resolution (R-002-20), the Venue Tax established to fund The Dome requires an admission tax of 10% on the price of the ticket sold as admission to an event at The Dome Civic & Convention Center.

(e) Event Services:

	Price	Unit
Round Table 60" W x 60" D x 29" H	$7.00	Each
Training Table 72" W X 24" D X 28.5" H no power needs	$7.00	Each
Training Table 72" W X 24" D X 28.5" H surface mounted power	$7.00	Each
Podium	$10.00	Each
Ballroom Chair	Included with table rental	Each
Training Chair	Included with training room rental	Each
Portable Stage	$100.00	Per Event
Rectangular support tables	$5.00	Each
Portable Bar	$50.00	Each
Security – Uniformed Officer (BPD)	$55 per hour	Per Officer
Dance Floor (Includes set-up and tear-down)	$750.00	Per event
12 0z Drinking Classes	$2.00	Per place setting
Flatware	$1.00	Per place setting
Coffee Mugs	$1.00	Per mug
Porcelain Plate (All sizes)	$2.00	Per plate
Cocktail Table	$6.00	Per table
Greenery Backdrop	$30.00	Per event
A Frame Sign	$10.00	Per sign per event
Whiskey Barrels	$25.00	Per barrel per event
Pipe & Drape	$10.00	Per unit per event
Linens/Fabric	$3.00	Per unit
Votives/Glass Centerpiece	$5.00	Per setting
Black Cloth Dividers	$8.00	Per unit
Change Request Fee	$50.00	Per change
Set-up Crew	$150.00	Per event
Event Support Staff	$25.00	Per hour
Event Support Call-out	$25.00	Per call
Early Unlock Fee (Unlock requested before 8 AM)	$35.00	Per day

(f) Security Deposit:

Venue Room	Amount	Additional Requirements
The Dome	$250.00	Plus event insurance
Ballroom Grand	$250.00	Plus event insurance
Ballroom Half	$250.00	
Nutrien Room	$100.00	
Eddie Edwards Room	$100.00	
Catering Kitchen	$250.00	
Entire Venue	$500.00	Plus event insurance

(Ord. # O-002-22, 04/05/2022; Ord. # O-007-24, 09/17/2024)
Effective on: 10/1/2024

Sec. 1.07.043 Johnson Park Youth Center

(a) Swimming pool:
  (1) Swimming pool admission: $2.00 per person per day.
  (2) Swimming pool individual season pass: $50.00 per person.
  (3) Family season pass $45.00 per person minimum of 2 related persons.
  (4) After hours swimming pool rental (maximum 75 swimmers):
    (A) County residents: $100.00 per hour.
    (B) Non-residents: $150.00 per hour.
  (1) Refundable security deposit: $100.00.

(b) Youth center (300 guests maximum):
  (1) Rental fee (only when not open to the public):
    (A) County residents: $50.00 per hour.
    (B) Non-residents: $75.00.
  (1) Refundable security deposit: $100.00.
  (2) DJ service: $25.00 per hour.

(c) Gym reservation:
  (1) Practice rental fees:
    (A) During public hours: $15.00 per 1-1/2 hour slot.
    (B) During non-public hours: $50.00 per 1-1/2 hour slot.
  (2) Tournament fees:
    (A) Daily rental rate: $150.00 per day.
    (B) Refundable security deposit: $250.00 per tournament.
  (3) Climbing wall addition:
    (A) During public hours: $40.00 per 1-1/2 hour slot.
    (B) During non-public hours: $10.00 per 1-1/2 hour slot.

Sec. 1.07.044 Other fees

(a) Park pavilion reservation fee: $25.00 per reservation (one day maximum).
(b) Park event permit (organized events larger than 75 people): $100.00 per event per day.
(c) Refundable park litter deposit: $150.00 refunded after confirmation of park condition.
(d) Park alcohol permits (excludes Johnson Park Youth Center, Agnes Howe, and Huber Park Stadium):
  (1) Parties of 30 or less: $25.00.
  (2) Parties of 31 to 50: $50.00.
  (3) Parties of 51 to 150: $75.00.
  (4) Parties of more than 150: $100.00.
  (5) Parties located in the Dome at the Dome Civic and Convention Center: $150.00.

(Ord. # O-007-24, 09/17/2024)

Effective on: 10/1/2024

Secs. 1.07.045–1.07.050 Reserved

Division 6. Planning and Development

Sec. 1.07.051 Building permits

(a) New single-family residential and residential additions:
  (1) Building permit fee: $0.15 per square foot ($100.00 minimum).
  (2) Electrical permit fee: $0.05 per square foot ($40.00 minimum).
  (3) Plumbing permit fee: $0.05 per square foot ($40.00 minimum).
  (4) Mechanical permit fee: $0.05 per square foot ($40.00 minimum).
  (5) Plan review fee: $75.00 per structure.
  (6) Technology fee: $10.00 per each permit.

(b) New commercial and commercial additions:
  (1) Building permit fee: $0.20 per square foot ($250.00 minimum).
  (2) Electrical permit fee: $0.10 per square foot ($60.00 minimum).
  (3) Plumbing permit fee: $0.10 per square foot ($60.00 minimum).
  (4) Mechanical permit fee: $0.10 per square foot ($60.00 minimum).
  (5) Plan review fee: $250.00 ($0.10 per sq. ft over 3,000 sq. ft.).
  (6) Technology fee: $25.00 per each permit.

(c) Residential remodel (single-family, duplexes, triplexes) + $10 technology fee: $0.10 per square foot of the room(s) containing the remodeled area(s) ($50 minimum).

(d) Apartment renovations + $10.00 technology fee: $75.00 per unit.

(e) Commercial remodeling + $10.00 technology fee: $0.003 per estimated value ($100.00 minimum).

(f) Inspection/reinspection fee: $40.00 per inspection.Inspections after normal hours: $100.00 per hour.

(g) Work without a permit:
  (1) First offense: 2 times the calculated permit fee, plus $250.00 administrative fee.
  (2) Second and subsequent offense: 3 times the calculated permit fee, plus $500.00 administrative fee and charges filed in municipal court.

(Ord. # O-010-20, 09/15/2020; Ord. # O-013-21, 09/07/2021)

Effective on: 10/1/2021

Sec. 1.07.052 Electrical permits

(a) Residential remodel + $5.00 technology fee: $40.00.

(b) Commercial remodel + $5.00 technology fee: $60.00.

(c) HVAC electric hook-up: $40.00.

(d) “T” pole: $40.00.

(e) Meter loop: $40.00.

(f) Reinspection fee: $50.00 per inspection.

(g) Inspection fee/after hours: $100.00 per hour.

(h) Work without a permit:

(1) First offense: 2 times the calculated permit fee, plus $250.00 administrative fee.

(2) Second and subsequent offense: 3 times the calculated permit fee, plus $500.00 administrative fee and charges filed in municipal court.

(Ord. # O-013-21, 09/07/2021)

Effective on: 10/1/2021

Sec. 1.07.053 Mechanical permits

(a) Residential remodel + $5.00 technology fee: $40.00.

(b) Commercial remodel + $5.00 technology fee: $60.00.

(c) HVAC change out: $40.00.

(d) Reinspection fee: $50.00 per inspection.

(e) Inspection fee/after hours: $100.00 per hour.

(f) Work without a permit:

(1) First offense: 2 times the calculated permit fee, plus $250.00 administrative fee.

(2) Second and subsequent offense: 3 times the calculated permit fee, plus $500.00 administrative fee and charges filed in municipal court.

(Ord. # O-013-21, 09/07/2021)

Effective on: 10/1/2021

Sec. 1.07.054 Plumbing permits

(a) Residential remodel + $5.00 technology fee: $40.00.

(b) Commercial remodel + $5.00 technology fee: $60.00.

(c) Apartment remodel + $5.00 technology fee: $75.00.

(d) Residential gas (gas test): $40.00.

(e) Commercial gas (gas test): $60.00.

(f) Reinspection fee: $50.00 per inspection.

(g) Inspection fee/after hours: $100.00 per hour.

(h) Work without a permit:

(1) First offense: 2 times the calculated permit fee, plus $250.00 administrative fee.

(2) Second and subsequent offense: 3 times the calculated permit fee, plus $500.00 administrative fee and charges filed in municipal court.

Sec. 1.07.055 Business license and associated fees

(a) Coin-operated business license: $7,500.

(b) Coin-operated machine permit: $750 per machine.

(c) Coin-operated occupational tax: $15 per machine.

(d) Operating without a machine permit: $500 per machine.

(e) Release of a Sealed Machine: $5 per machine

(f) Adult business license: $750 per year.

(g) Adult business reinspection fee: $50 per inspection.

(Ord. # O-010-20, 09/15/2020)

Effective on: 9/15/2020

Sec. 1.07.056 Miscellaneous permits and fees

(a) Accessory structure less than 120 square feet: No cost.

(b) Accessory structure 120 square feet or more: $0.10 per square foot ($50.00 minimum).

(c) Alarm permit (registration): $35.00.

(d) False intrusion alarm

  (1) 4–6 responses: $50.00 each alarm.

  (2) 7–9 responses: $75.00 each alarm.

  (3) 10 + responses: $100.00 each alarm.

(e) Alcohol permit: 1/2 state fee.

(f) Certificate of occupancy inspection commercial (inspection is performed if the water account is switched from one business/tenant to another. Includes zoning verification): No charge.

(g) Certificate of occupancy inspection residential (inspection is performed if the residence was vacant for 6 months or more): No charge.

(h) Demolition permit (cash bond between $100.00 and $500.00 required): $50.00.

(i) Driveway/ROW permit (no charge if associated with residential or commercial site plan approval): $40.00.

(j) Fence permit 7' (residential or commercial):

  (1) Fences under 7': No cost.

  (2) Fences 7' and over: $40.00.

(k) Roof permits:

  (1) Residential: $40.00.

  (2) Commercial: $60.00.

(l) RV/manufactured home park: $400.00.

(m) RV/manufactured home park additions or alterations: $25.00 per space.

(n) Moving permit: $75.00 + $65.00 escort fee.

(o) Pool permit:

  (1) Above ground: $50.00.

  (2) In-ground: $100.00.

(p) Irrigation system permit fee: $40.00 + $5.00 technology fee.

(q) Contractor registration fees:

(1) General contractor + $5.00 technology fee: $95.00 per year.

(2) Electrical contractor: $0.00 (Texas Occupations Code 1305.201).

(3) Plumbing contractor: $0.00 (Texas Occupations Code 1305.551).

(4) Mechanical Contractor" $0.00 (Texas Occupations Code 1302.304).

(r) Facelift program (voluntary demolition agreement): At cost tipping/landfill fees.

(s) Code variance (nonzoning): $50.00 + $15.00 technology fee.

(t) Oil, gas, disposal or injection well drilling application fee: $250.00.

(u) Oil, gas, disposal or injection well drilling permit: $500.00.

(Ord. # O-010-22, 09/20/2022)

Effective on: 10/1/2022

Sec. 1.07.057 Shipping, cargo, and/or storage containers

(a) Temporary shipping or cargo and nonsteel storage containers: $20.00.

(b) Permanent shipping or cargo and nonsteel storage containers: $20.00.

Sec. 1.07.058 Sign permits

(a) Banner/portable sign (approved banner/portable signs shall be displayed for a maximum of 60 days from the date of issuance.): $25.00.

(b) New sign or to reface a sign + $5.00 technology fee: $40.00 + $0.12 per square foot of the outer dimension of surface area, rounded up to the nearest dollar.

Sec. 1.07.059 Site plan review fees

(a) New apartment and apartment addition + $15.00 technology fee: $150.00.

(b) New commercial and commercial additions + $15.00 technology fee: $150.00.

Sec. 1.07.060 Subdivision fees

(a) Plat Application + $15 technology fee: $175 + $10 per lot.

(b) Plat variance + $15 technology fee: $100.

(c) Subdivision – preliminary plan + $15 technology fee: $150.

(d) Plat filing fee: County filing fee.

(Ord. # O-010-20, 09/15/2020)

Effective on: 9/15/2020

Sec. 1.07.061 Zoning fees

(a) Special use permit + $15.00 technology fee: $150.00.

(b) Rezoning request + $15.00 technology fee: $150.00.

(c) Planned developments + $15.00 technology fee: $200.00.

(d) Zoning variance + $15.00 technology fee: $75.00.

(e) Zoning notices: $1.00 per mailed notice.

(f) Notices in newspaper: $75.00.

Sec. 1.07.062 Wide format printing

(a) Black and white: $5.00 per every 24" length.

(b) Color: $10.00 per every 24" length.

(c) City map sets:

(1) 1:400 scale: $10.00 per page.

(2) 1:600 scale: $8.00 per page.

(3) 1:800 scale: $6.00 per page.

(4) Small set: $200.00 per set.

(5) Large set: $400.00 per set.

Secs. 1.07.063–1.07.070 Reserved

Division 7. Police Department

Sec. 1.07.071 In general

(a) Accident report: $6.00 per report.

(b) Applicant finger printing: $10.00 per set.

(c) Police reports:

(1) Less than or equal to 20 pages: $5.00.

(2) More than 20 pages: $0.25 per page.

(d) Marked police unit: $30.00 per hour.

(e) Off-duty police officer (3-hours minimum and work must be approved by the chief): $55.00 per hour.

(Ord. # O-010-22, 09/20/2022; Ord. # O-007-24, 09/17/2024)

Effective on: 10/1/2024

Secs. 1.07.072–1.07.080 Reserved

Division 8. Solid Waste Collection

Sec. 1.07.081 Collection

(a) Residential:

(1) Month base fee: $28.00.

(2) Additional polycart for curbside service accounts: $28.00 per month.

(b) Commercial:

(1) 1-1/2 yd container: $28.00 per month per container.

(A) Additional pickup per week: $28.00 per month.

(2) 3 yd container: $49.50 per month per container.

(A) Additional pickup per week: $49.50 per month.

(3) Unscheduled requested pickup: $35.00 per request.

(Ord. # O-013-21, 09/07/2021; Ord. # O-010-22, 09/20/2022; Ord. # O-008-23, 09/19/2023; Ord. # O-007-24, 09/17/2024)

Effective on: 10/1/2024

Sec. 1.07.082 Roll-off service

(a) Residential:

(1) Person requesting the roll-off must match the name on the utility bill at the address where the roll-off will be used. Churches and registered non-profits will be charged the residential rate. Addresses without active utility accounts will be charged the commercial rate.

(2) Set fee: $50.

(3) Daily fee for days 0–14: $0.

(4) Daily fee for day 15+: $10 per day.

(5) Disposal fee: $51.50 per ton.

(6) Tires with wheels: $5 per set.

(7) Noncompliance fee: $100.

(b) Commercial:

(1) Set fee: $200.00.

(2) Daily fee: $10.00 per day.

(3) Disposal fee: $51.50 per ton.

(4) Pull fee: $150.00.

(5) Re-set fee: $100.00.

(6) Tires with wheel: $5.00 per set.

(7) Noncompliance fee: $100.00.

(Ord. # O-010-20, 09/15/2020)

Effective on: 9/15/2020

Sec. 1.07.083 Tipping fee

Tipping fee (solid waste dropped off at the transfer station): $53.50 per ton.

(Ord. # O-008-23, 09/19/2023; Ord. # O-007-24, 09/17/2024)

Effective on: 10/1/2024

Sec. 1.07.084 Vector control fee

Vector control: $1 per utility account per month.

(Ord. # O-010-20, 09/15/2020)

Effective on: 9/15/2020

Secs. 1.07.084–1.07.090 Reserved

Division 9. Utilities

Sec. 1.07.091 Water deposits

(a) Residential:
  (1) 3/4" to 1" meter: $75.00.
  (2) 1-1/2" meter: $100.00.
  (3) 2" meter: $150.00.

(b) Commercial:
  (1) 3/4" to 1" meter: $100.00.
  (2) 1-1/2" meter: $150.00.
  (3) 2" meter: $225.00.

(c) Residential or commercial water meter installations larger than 2" or with a nonstandard meter box will be charges at: Cost + 15%.

Sec. 1.07.092 Water tap fees

(a) 3/4" meter: $1,000.00.

(b) 1" meter: $1,300.00.

(c) 1-1/2" meter: $1,800.00.

(d) 2" meter: $2,200.00.

(Ord. # O-007-24, 09/17/2024)

Effective on: 10/1/2024

Sec. 1.07.093 Water meter downsize fee

(a) 1", 1-1/2" or 2" downsized to 3/4": $750.00.

(b) 1-1/2" or 2" downsized to 1": $950.00.

(c) 2" downsized to 1-1/2": $1,200.00.

(d) 3" or larger downsized: Cost plus 15%.

Sec. 1.07.094 Water rates

(a) Class A and B:
  (1) Monthly minimum rate:
    (A) 3/4" meter: $14.00 per month base fee.
    (B) 1" meter: $27.00.
    (C) 1-1/2" meter: $35.00.
    (D) 2" meter: $45.00.
    (E) 3" meter: $75.00.
    (F) 4" meter: $125.00.
    (G) 6" + meter: $225.00.
  (2) Rate per 1,000 gallons of consumption: $2.95.

(b) Class C: Class C industrial customers (absent specific terms of a particular water supply or other mutually approved contract terms):

(1) Rate per 1,000 gallons of consumption per water source.

(A) City system water (potable): $3.05 per 1,000 gallons.

(B) City well water (potable): $2.43 per 1,000 gallons.

(C) City effluent (non-potable): $1.22 per 1,000 gallons.

(D) CRMWA raw surface water (non-potable): $1.25 per 1,000 gallons.

(E) CRMWA well water (non-potable): $2.46 per 1,000 gallons.

(c) Class A, B, and C customers outside located outside the city limits (absent specific terms of a particular water supply or other mutually approved contract terms) will pay the same rate as listed in subsections (a) & (b) above subject to the provisions of Chapter 13, Section 13.01.007, Water and sewer service outside the city limits.

(Ord. # O-010-20, 09/15/2020; Ord. # O-008-23, 09/19/2023)

Effective on: 10/1/2023

Sec. 1.07.095 Sewer rates

(a) Class A residential (metered consumption will be averaged over the months of January, February and March to calculate the consumption amount for residential customers. New customers will be billed for 2,000 gallons of consumption until the actual average can be calculated):

(1) Month base fee: $21.00.

(2) Rate per 1,000 gallons of metered consumption: $3.40.

(b) Class B commercial/industrial customers (metered consumption for commercial customers shall be the actual water consumption recorded each month for the purpose of water billing):

(1) Month base fee: $21.00.

(2) Rate per 1,000 gallons of metered consumption: $3.40.

(c) Class A and B customers outside located outside the city limits (absent specific terms of a particular sewer collection or other mutually approved contract terms) and subject to the provisions of Chapter 13, Section 13.01.007, Water and sewer service outside the city limits will pay a flat fee of $27.80 ($20.00 base plus $6.80 an amount equal to 2,000 of consumption).

(Ord. # O-010-20, 09/15/2020; Ord. # O-013-21, 09/07/2021; Ord. # O-008-23, 09/19/2023; Ord. # O-007-24, 09/17/2024)

Effective on: 10/1/2024

Sec. 1.07.096 Additional utility service fees

(a) After hours connection fee: $50.00.

(b) Connect fees: $25.00.

(c) Damaged water meter: Cost of meter; damage due to customer tampering.

(d) Damaged ERT (encoder receiver transmitter): Cost of ERT; damage due to customer tampering.

(e) Fire hydrant meter base monthly fee: $100.00.

(f) Fire hydrant meter deposit: $500.00.

(g) Late fee: $25.00.

(h) Lock fee: $25.00.

(i) Plugged/pulled meter: $75.00.

(j) Reconnect fee: $25.00.

(k) Re-read fee: $20.00.

(l) Return check and NSF electronic draft fee: $30.00.

(m) Return trip fee: $20.00.

(n) Transfer fee: $20.00.

(o) Unauthorized usage fee (customer turns water back on to avoid the afterhours charge): $75.00.

Secs. 1.07.097–1.07.100 Reserved

Division 10. Wireless Communication Facilities in the Public Right-of-Way

Sec. 1.07.101 Right-of-way fees

(a) Application fees (certificate of insurance required):

(1) Application (5 nodes): $500.00.

(2) Additional nodes in application: $250.00 per node.

(3) Node support pole: $1,000.00 per support pole.

(b) Annual and monthly rates:

(1) Node (annual): $250.00 per node.

(2) Node pole collocation (annual): $20.00 per pole.

(3) Service pole attachment (annual): $20.00 per pole.

(4) Transport facility (monthly): $28.00 per node.

(Ordinance O-010-19 adopted 9/17/19)

Division 11. Transportation User Fee

Sec. 1.07.111 Transportation User Fee

(a) Residential Rate: $8 per month

(b) Commercial Rate:

(1) Houses of Worship or other Non-Classified: $10 per month

(2) Tier I – 0 to 9 Trip Rate: $30 per month

(3) Tier II – 10 to 15 Trip Rate: $45 per month

(4) Tier III – 16 – 50 Trip Rate: $65 per month

(5) Tier IV – 51 to 150 Trip Rate: $80 per month

(6) Tier V – 151 to 349 Trip Rate: $175 per month

(7) Tier VI – 350 or larger Trip Rate: $500 per month

(Ord. # O-010-20, 09/15/2020; Ord. # O-008-23, 09/19/2023)

Effective on: 10/1/2023

ARTICLE 1.08 ECONOMIC DEVELOPMENT INCENTIVES

(Ord. # O-013-20, 10/20/2020)

Sec. 1.08.01 Program Created

(a) A Chapter 380 Economic Development Program is hereby established. Under this Program, incentives may be granted for programs that directly or indirectly support the expansion and retention of business, including, but not limited to, housing programs, land acquisition for new facilities, construction of new facilities, expansion or modernization of existing facilities that add new taxable values to the ad valorem tax rolls, infrastructure supporting the construction or expansion of new housing or facilities, and to businesses renovating existing facilities within the city limits.

(b) Incentives established under this Program shall maintain the public use and purpose of the grant of public funds so that the public benefit or amount of revenue realized by the City and attributable to the project are commensurate with value of any incentives granted under this Program. To be considered for incentives as a Chapter 380 Economic Development Program, a project must at least meet requirements established herein.

Effective on: 10/20/2020

Sec. 1.08.02 Reserved (Definitions)

Effective on: 10/20/2020

Sec. 1.08.03 Types of Incentives

Grant incentives offered under a Chapter 380 economic incentive agreement may be in the form of grants, loans, and/or use of public services, and may be utilized for:

(1) Land and/or building acquisition costs.
(2) Relocation assistance costs.
(3) Construction, improvement, or renovation costs.
(4) Extension of public roads, water and/or sewer infrastructure.
(5) Asbestos testing and/or abatement.
(6) Fire safety/suppression systems within the Central Business District.
(7) Kitchen vent hoods for projects in the Central Business District.
(8) Drainage improvements.
(9) Property tax abatement.
(10) Sales tax rebate.
(11) Any other purpose approved by City Council.

Effective on: 10/20/2020

Sec. 1.08.04 Commercial Construction Incentive:

Any project requesting incentives under this Section must provide justification for incentives based on the following criteria:

(1) The proposed construction must provide for a minimum of 15,000 square feet of new retail business or commercial use space; and,

(2) The proposed construction must provide for a minimum increased taxable value in real and business personal property for the City of $1,000,000 for a new business; or,

(3) A minimum increased taxable value for the City of $750,000 of real and business personal property for an existing business established and operating within the City limits.

Effective on: 10/20/2020

Sec. 1.08.05 Downtown Renovation and Improvement Incentive:

Any project requesting incentives under this Section must provide justification for incentives based on the following criteria:

(1) The business or business location/building must be in the Central Business District and undertaking a renovation and improvement of an existing building, regardless of size; and,

(2) The business provides a retail, food service, or entertainment product or service.

Effective on: 10/20/2020

Sec. 1.08.06 New Retail Incentive:

Any project requesting incentives under this Section must provide justification for incentives based on the following criteria:

(1) The new retail business offers a product(s) for sale to the general public with operating hours open to the public consisting of a minimum of 40 hours and 6 days per week; and,

(2) The business will result in a minimum increased taxable value in real and business personal property for the City, excluding inventory, of at least $500,000.

Effective on: 10/20/2020

Sec. 1.08.07 Single Family Housing Development Incentive:

Any project requesting incentives under this Section must provide justification for incentives based on the following criteria:

(1) The proposed subdivision from the developer shall meet all requirements of the City's subdivision ordinance, including curbs and sidewalks, and must contain a minimum of 10 single family residential lots.

(2) Each home constructed shall be constructed and designed to have a minimum appraised value of $150,000.

Effective on: 10/20/2020

Sec. 1.08.08 Multi-Family Housing Development Incentive:

Any project requesting incentives under this Section must provide justification for incentives based on the following criteria:

(1) The proposed development shall meet all requirements of the City's Building Code and include a minimum of 10 units.

(2) The proposed development will contain amenities and other requirements as shall be negotiated by the City and the Developer.

Effective on: 10/20/2020

Sec. 1.08.09 Other Projects Requirements:

Any other project may be considered if it is specifically determined by the Borger Economic Development Corporation and the City Council to bring extraordinary benefit to the City, consistent with this Program.

Consideration for other projects shall include the following general criteria:

(1) Type and number of jobs to be created or retained.

(2) Additional revenues created for the City from sales tax and tax collected on business personal property and/or inventory.

(3) Additional revenues created for the City from property tax.

(4) Market conditions and growth potential for the business activity.

(5) Any combination of the above criteria.

Effective on: 10/20/2020

Sec. 1.08.10 Denial of Incentives:

(a) All eligible applications for incentives shall be considered on a case-by-case basis as set forth herein, and the decision to approve or deny any incentive shall be made solely at the discretion of the City Council.

(b) A project shall not be eligible for incentives if a building permit has been issued for the project prior to making the application for incentives in accordance with this Program.

Effective on: 10/20/2020

Sec. 1.08.11 Application Process:

In order for the City to evaluate a request for an economic incentive, and to determine the level at which an applicant qualifies for incentives, the applicant shall complete a “project impact worksheet.” This worksheet will be used to perform an economic impact analysis for the proposed project. Additional information may be included to further describe the project and may be required to provide a comprehensive evaluation. Businesses are encouraged to include any information regarding ancillary benefits associated with the project such as the ability of the project to attract other projects to the City.

(1) The completed application should be submitted to the Executive Director of Borger Economic Development Corporation (Borger, Inc.).

(2) Upon receipt of completed application, the Board of Directors of Borger, Inc. will review the application and make a non-binding recommendation for approval/denial to City Council.

Effective on: 10/20/2020

Sec. 1.08.12 Approval of Incentives:

If incentives are authorized by the City Council, before the City of Borger’s incentive grant will be made to the applicant, the applicant shall complete and fulfill all requirements specifically imposed in the economic development agreement.

Effective on: 10/20/2020

Sec. 1.08.13 Economic Development Agreements

Every project undertaken under this Program shall be agreed upon in an "economic development agreement" between the City and the applicant. The form for each economic development agreement shall be developed by the City Attorney in conjunction with the Executive Director of Borger Inc. and City staff. The application to the economic incentive program and priority lists shall be developed by the Executive Director in conjunction with the Board of Directors of Borger, Inc. and be in support of the City's Comprehensive Plan.

Effective on: 10/20/2020

CHAPTER 2 ANIMAL CONTROL*

Contents:

ARTICLE 2.01 GENERAL PROVISIONS*

ARTICLE 2.02 WILD ANIMALS, WILDLIFE, OR DANGEROUS WILD ANIMALS; PROHIBITED ANIMALS*

ARTICLE 2.03 FOWL AND RABBITS

ARTICLE 2.04 LIVESTOCK*

ARTICLE 2.05 ANIMAL PROTECTION

ARTICLE 2.06 DANGEROUS ANIMALS*

ARTICLE 2.07 IMPOUNDMENT*

ARTICLE 2.08 RABIES CONTROL*

ARTICLE 2.09 COMMERCIAL ANIMAL ENTERPRISES

ARTICLE 2.01 GENERAL PROVISIONS*

Sec. 2.01.001 Purpose

It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both people and animals with the recognition that while persons may own and keep animals within the city, the conduct of those animals should be controlled for public safety and the conditions in which they are kept should be appropriate so as to protect the animals and avoid infringement on the peace and enjoyment of surrounding property, homes, and property owners.

Sec. 2.01.002 Definitions

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

Abuse. To mistreat through intent to abuse, or the knowing or reckless neglect of any animal in a manner that causes or is likely to cause physical injury or significant physical stress to the animal.

Adoptable. An animal that exhibits sound aggression-free and inordinate temperaments, is in good health, copes medically and behaviorally with the shelter environment, and is old enough for vaccination protection but will typically be under the age of six years.

Adoption. The acquisition of a dog, cat or other animal from the city's animal shelter in accord with the provisions of this chapter.

Adult dog/cat. Any dog or cat that is one (1) year or older.

Altered or sterilized. See spayed or neutered.

Animal. Any living creature other than hominids. Unless specifically indicated otherwise, the term shall include livestock, fowl, reptiles, amphibians and wildlife as well as dogs, cats and other creatures commonly owned as pets.

Animal control authority. The chief of police of the city and, as necessary to enforce the provisions of this chapter and the laws of the state pertaining to animal control and protection, those animal control officers, animal control technicians, animal control veterinary technicians, peace officers and any such other persons as may be duly designated by the chief of police of the city.

Animal shelter. The city's animal shelter and any facility designated and operated by the city for the purpose of keeping or impounding stray, homeless, abandoned, unwanted, neglected, abused or seized animals and caring for all animals held under the authority of this chapter.

Animal welfare organization. An association, organization or nonprofit corporation which has as one of its purposes the humane care for and protection of animals of any kind.

Bite. Puncturing or tearing of human or animal skin by an animal's teeth.

Bodily injury. Any injury other than "serious bodily injury," including but not limited to physical pain, illness, or any impairment of physical condition.

Breeder. A facility, kennel or residence in which one or more specific breeds of dogs or cats are bred and raised for sale on a routine basis.

Cat. The male and female of any domesticated member of the family Felidae (felis catus).

Cattery. See kennel or cattery.

City. The City of Borger, Texas.

City limits. The corporate city limits of the City of Borger, Texas.

Commercial animal enterprise. As permitted by the zoning regulations of the city, an activity or venture, with a commercial purpose, where animals are raised, trained, boarded, harbored, maintained, groomed, displayed and/or offered for sale and shall include, but is not limited to, kennels, pet shops, grooming shops, animal clinics, animal hospitals, animal research centers, zoological parks, petting zoos, livestock auctions, guard dog or obedience training centers, horse stables or riding facilities, farms or ranches, or performing animal exhibitions as defined in this chapter.

Commercial purpose. Any display, event or activity the intended result of which is the sale, trade, barter, exchange or other transfer of possession or ownership of a live animal, whether for monetary or other pecuniary gain or not.

Companion animal. See pet.

County. Hutchinson County, Texas as designated by its geographic boundaries.

Cruel treatment. Any treatment to any animal in violation of this chapter, the Texas Penal Code or the laws of the United States.

Currently vaccinated. Vaccinated for rabies and satisfying the following criteria:

(1) The animal must have been at least four (4) months of age at the time of the vaccination;

(2) At least thirty (30) days have elapsed since the initial vaccination;

(3) Not more time than the then current interval as prescribed by rule of the state board of health or its successor agency must have elapsed since the most recent rabies vaccination.

Dangerous dog. A dog that:

(1) Makes an unprovoked attack on a person or another dog that causes bodily injury and that occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own, and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Dangerous wild animal. An animal of a species, other than a common domestic species, that poses a potential physical or disease threat to the public regardless of state and duration of captivity, including but not limited to the following:

(1) **Class aves**. Order Falconiformes (such as hawks, eagles and vultures); subdivision Ratitae (such as rheas, and cassowaries); and order Sting forms (such as owls);

(2) **Class mammalia**. Order Carnivora, family Felidae (such as lions, cheetahs, bobcats, lynxes, servals, caracals, ocelots, margays, tigers, jaguars, binturongs, leopards and cougars), except commonly accepted domesticated cats; family Canidae (such us wolves, dingoes, hyenas, coyotes, jackals or hybrids thereof), except domesticated dogs; family Mustelidae (such as weasels, skunks, martins, mink and badgers), except ferrets; family Procyonidae (raccoons); family Ursidae (such as bears); order Marsupialia (such as kangaroos and common opossums); order Edentata (such as sloths, anteaters and armadillos); order Proboscidea (elephants); order Primates (such as monkeys, chimpanzees, orangutans, and gorillas); and order Ungulata (such as deer, bison and camels except where harbored on property which is zoned “EA” for estate and agricultural use and is at least five (5) acres in area);

(3) **Class reptilia**. Family Helodermatidae (venomous lizards); family Viperidae (rattlesnakes, copperheads, cotton mouths, other pit vipers and true vipers); family Elapidae (coral snakes, cobras, mambas and other Elapid); the following listed species of family Colubridae - Dispholidus typos (Bloom slang), Hydrodynastes gigas (water cobra), Boiga (mangrove snake) and Thelotornis (African twig snake) only; order Phidia, family Doidae (racers, boas, water snakes and pythons) and order Crocodilia (crocodiles, alligators, caimans and gavials); and

(4) Other dangerous animals not listed but hereafter determined by the animal control authority, or court of competent jurisdiction to constitute a threat to public health and/or safety.

Destroy. The taking of an animal's life in an emergency situation where necessary to prevent attack, to protect against serious bodily injury, to prevent the destruction of another animal, or to end the prolonged suffering of a severely injured animal.

Dog. Any male or female domesticated member of the family Canidae but specifically excluding a wolf, jackal, coyote, fox or other dangerous wild animal of this family or hybrid thereof.

Domestic animal. Any animal normally adapted to live in intimate association with humans, or for the advantage of humans. It includes, but is not limited to, the following: dogs, cats, livestock, fowl or other tame or domesticated animal of or pertaining to the family or household which can be vaccinated against rabies with an approved rabies vaccine.

Estray. When used in this chapter, the term "estray" shall have the meaning assigned by chapter 142 of the Texas Agricultural Code as it exists on the date of adoption of this chapter or as it may hereafter be amended and includes stray livestock, stray exotic livestock or stray exotic fowl.

Estrus. A regular period of sexual excitement in many female mammals, during which the animal seeks to mate.

Exotic animal. Any animal, reptile, fish or bird born, or whose natural habitat, is considered to be outside the continental United States, and specifically including but not limited to those animals defined by the Texas Department of Parks and Wildlife as exotic.

Fowl. Birds commonly considered poultry and including, but not limited to chickens, turkeys, pheasant, quail, geese, guinea, peafowl, ducks, ostriches, emus, or similar feathered animals regardless of age, sex or breed. For purposes of this chapter, the term "fowl" shall not include canaries, parakeets, parrots, cockatiels or other birds commonly maintained in households within cages.

Gender. A word importing only the masculine or the feminine gender shall extend and be applied to and include the opposite gender and the neuter.

Guard or attack dog. Any dog professionally trained for the purpose of protecting persons or property by attacking or threatening to attack any person found within the area patrolled by the dog, and that is either securely enclosed within that area at all times or under continuous control of a trained handler. Dogs employed by a governmental agency or the military are excluded.

Harbor. Any of the following acts shall be give rise to a rebuttable presumption that an animal is being harbored by a person:

(1) To provide, shelter, food and/or water for an animal on the provider's property for a period of three (3) days or more;

(2) To provide encouragement in any form to an animal to remain on, live at, or frequently visit the property of a person for a period of time (3) days or more;

(3) To refuse the animal control authority access to property owned or controlled by the person for the purpose of seizing an animal; or

(4) A presumption that a person is harboring an animal may be rebutted by evidence that the person reported the animal to the animal control authority for removal or by overt act of the person to remove the animal from the person's property.

Herding dog or working animal. An animal specifically trained or inherently designed to assist in maintaining and working livestock, or providing assistance to any person with a disability, or providing a service to a governmental agency or private rescue and tracking organization. This does not include guard dogs for personal property.

Horse lot. The area used exclusively for quartering horses (the term "horses" shall include all equine animals) and containing at least 10,000 square feet for the first one to four horses and 2,000 square feet for each horse thereafter with a limit of eight horses per acre.

Humanely euthanize. To cause the death of an animal by a humane method which:

(1) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or

(2) Utilizes anesthesia produced by an agent that causes painless loss of consciousness, and death following such loss of consciousness.

Hutch. Any detached accessory building or shelter used for the purpose of housing fowl or rabbits.

Hybrid. The product of mating two different species of animals regardless of the number of generations born since the original mating.

Inhabited building. Any structure where humans either reside or periodically work, play or assemble, save and except structures occupied by the animal owner, his/her immediate family, employees or people under his/her direct control, but not excepting rental structures occupied by bona fide tenants.

Inoculated.

(1) A dog that is injected on an annual basis for parvo and distemper at a minimum; or

(2) A cat that is injected on an annual basis to prevent infectious feline diseases, for panleukopenia, vira rhino tracheitis, and calcivirus at a minimum.

Intact. A dog or a cat that has not been spayed or neutered.

Isolation. The separation of an animal exposed or potentially exposed to rabies.

Kennel or cattery. Any premises where any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats or other animals; and/or a facility for keeping more than six (6) animals of the same species which is located within the city limits on property zoned to permit such use as provided in the city's comprehensive zoning ordinance.

Litter. All of the offspring of one animal at one birth.

Livestock. Domestic animals including horses, mules, donkeys, burros, cattle, goats, sheep, emus, ostriches, and any member of the order Ungulata (such as antelope, deer, bison and camels) regardless of age, sex, size or breed, or any crossbreeding of such species, or any domestic animal raised for business or commercial purposes or animals commonly associated with farm and ranch enterprises. Fowl, except for emus and ostriches, and exotic animals are not included in the definition of livestock.

Local rabies control authority (LRCA). The chief of police of the city and, as necessary to enforce the provisions of this chapter and applicable state law pertaining to rabies control, those animal control officers, animal control technicians, animal control veterinary technicians, peace officers or other personnel duly designated by the chief of police of the city.

Low risk animal. A warm-blooded mammal that has a low risk of carrying the rabies disease as determined by the Texas Department of State Health Services and includes gerbils, guinea pigs, all rodents and rabbits, shrews, prairie dogs, beavers, gophers, nutria, squirrels, hamsters, opossums, and armadillos.

Microchip. An identification chip implanted under the skin of an animal for the purpose of identifying its owner.

Neglect. To disregard, ignore or overlook the care, health and well-being of an animal under a person's care and control whether that person is the owner or not. The term "neglect" shall include, but is not limited to, failure to provide adequate food, water or other substance, or failure to ensure that the animal has sufficient shelter to prevent exposure to extreme environmental conditions, or any act which a reasonable person would conclude placed the animal's health and safety at risk.

Observation period. The ten (10) day period following a bite incident during which the biting animal's health status must be monitored. The ten (10) day observation period commences with the day of the bite incident and concludes on the tenth consecutive day following that date.

Owner. Any person, partnership, corporation, association, or legal entity that harbors; shelters; maintains; controls (physically or orally); manages; displays; possesses; has care, custody, control, shared possession of or a property right in an animal; or that provides premises to which the animal returns for food, shelter or care for a period of three (3) or more consecutive days. There may be more than one person or legal entity responsible as an owner for an animal.

Pen/lot. A dedicated area or space containing 10,000 square feet for one to four head of livestock. An additional 2,000 square feet of area or space shall be provided for each head of livestock thereafter with a limit of eight livestock per acre.

Performing animal exhibition. Any display, act or event, other than circuses or rodeos, in which animals are displayed, shown, exhibited and/or perform tricks, feats, or other exhibitions of training. The term shall include, but is not limited to, dog shows, cat shows, animal exhibitions of any animal, pony rides, commercial photographic events, and educational or informative displays or exhibitions, regardless of whether sponsored or facilitated by a not for profit entity or by a for-profit entity.

Permit. An official document on the form prescribed and signed by the animal control authority, or his designated agent or representative, allowing certain activities or other events involving animals and specifying the commencement date; the expiration date; and the terms and conditions of the conduct of the permitted activity or event. Permits shall be valid for periods of time as provided in this chapter and as evidenced on the face of the permit. See also temporary permit.

Person. Any individual, firm, association, syndicate, partnership, corporation or other entity.

Pet or companion animal. Any animal kept for pleasure rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter. The term specifically includes, but is not limited to, domesticated dogs, domesticated cats, canaries, parakeets, parrots, cockatiels and other birds commonly maintained in households in cages, hamsters, gerbils, guinea pigs, rabbits, nutria, and Vietnamese potbelly or miniature pigs.

Pet shop. Any person or establishment, whether operated separately or in connection with another business enterprise (except for a licensed kennel), that offers for sale small animals such as dogs, cats, birds, fish, ferrets, and similar animals which are not dangerous wild animals or livestock, and that is located within the city limits on property zoned to permit such use as provided in the city's comprehensive zoning ordinance.

Poisonous substance. A substance having an inherent harmful property which is capable of causing the death of an animal when ingested into the system of the animal.

Potbelly or miniature pig. A variety of swine that is not more than eighteen (18) inches in height at the shoulder level when full grown and has short erect ears and a straight tail.

Prohibited animals. Any animal, the possession, harboring, keeping or other maintenance of which is prohibited by state or federal law, and including but not limited to, the following species and/or subspecies of the following animals: lions, tigers, ocelots, bobcats, lynx, cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, ferrets born in natural habitats, binturong, elephants, any member of the family Suidae (except Vietnamese potbelly pigs or miniature pigs), apes or such other nondomesticated species of animal not indigenous to nor common to the county.

Proof of rabies vaccination. Documentation from a veterinarian, licensed to practice within one of the 50 states of the United States, verifying that the animal has been vaccinated as prescribed by rule of the Texas Board of Health or its successor agency with a rabies vaccine licensed for use in that species by the United States Department of Agriculture or the Texas Department of State Health Services.

Provocation. Any purposeful act that causes all animal to bite, scratch, or attack in protection of self, the animal's owner, or the animal's owner's premises. Entrance, in any manner, into a secure enclosure (as defined in this chapter) or another area where an animal is properly under restraint in compliance with the provisions of this chapter shall be considered provocation regardless of the reason for such entrance.

Quarantine. A period of ten (10) days of strict confinement of an animal, on the order of the animal control authority or by order of the Texas Department of State Health Services or its designee, at the sole expense of the owner of the animal and on the terms specified in this chapter or otherwise ordered by the appropriate authority, for observation of the animal to determine the health status of the animal with respect to the rabies virus.

Rabies. An acute viral disease of humans and animals, which affects the central nervous system and can be transmitted by an animal bite, saliva, or other contaminated bodily fluids.

Registration. The requirement for any animal declared to be a dangerous animal, as provided herein, to be registered annually with the city, for all relevant fees to be paid, and for all such animals to exhibit at all times appropriate registration tag(s).

Restrain. To control an animal by physical means so that it remains on the premises of the owner, or when off the owner's premises, by means of a cage, or leash or rope under the direct control of a person of sufficient strength to control the animal.

Riding school or stable. Any facility that has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule, or burro; or any facility that regularly buys, sells or trains the above animals, including a racetrack or a trotting track. This definition specifically excludes rodeos.

Scratch. A scrape left by the claws or nails of an animal to a human and of sufficient severity to break the skin and draw blood.

Secure enclosure. A pen, cage, container, structure or building, or fence of sufficient strength and height to prevent the subject animal(s) from escaping there from. The enclosure must be free of defects, disrepair or any other deficiencies that would give rise to a reasonable conclusion that a dog or other animal would likely be able to escape as determined by the animal control authority.

Serious bodily injury. An injury characterized by severe bite wounds or severe ripping and tearing of muscle and/or bodily tissues that would cause a reasonably prudent person to seek treatment from a medical professional or would require hospitalization without regard to whether the person actually sought medical treatment. In addition, it means any form of injury that creates a substantial risk of death; permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ, or that causes any such condition.

Service personnel. Any person providing legitimate, authorized service to a property including, but not limited to, public safety personnel; utility technicians; letter carriers, couriers, or delivery personnel, plumbers, electricians, lawn maintenance workers, pest control professionals, or contractors; and others in comparable service professions.

Sick. Any animal that appears to be suffering from an infectious, contagious, or communicable disease or that is showing evidence of a physical injury, physical disorder, or traumatic injury or that has an elevated temperature.

Spay or neuter. The surgical removal of the reproductive organs of a dog or cat or the use of nonsurgical methods and technologies approved by the United States Food and Drug Administration or the United States Department of Agriculture to permanently render the animal unable to reproduce.

Stable. A barn, pen or any place where any horse, cow, goat or other livestock is fed and watered or kept. Also see "riding school" and "commercial animal enterprise."

Stray. An animal for which there is no identifiable owner or harborer and which is found to be running free or at-large within the corporate limits of the city.

Strict liability. The legal responsibility for damages, or injury, even if the person found strictly liable was not at fault or negligent. Control, ownership, damages, and/or injury are sufficient to hold the owner liable even without proof of specific negligent acts or omissions.

Swine. Pigs, hogs, potbellied pigs or any member of the family Suidae.

Temporary permit. An official document on the form prescribed and signed by the animal control authority, or his authorized designees, allowing certain activities or events involving animals and which specifies the commencement date and the date that the activity must cease. A temporary permit, shall not be valid for a period of more than fifteen (15) consecutive days under any circumstances.

Tether. To chain, tie, fasten or otherwise secure an animal to a fixed point so that it can move or range within certain restricted limits.

Tranquilizer. A drug injected into an animal, either by a gun designed to shoot darts, or administered by hand injection or orally, for the purpose of temporarily immobilizing said animal.

Unprovoked. Action by an animal that is not:

(1) In response to being tormented, hit, kicked, molested, abused or assaulted by any person;

(2) In response to pain or injury; or

(3) In protection of itself or its food, kennel or nursing offspring.

Vaccinated. An injection with United States Department of Agriculture-approved rabies vaccine administered as prescribed by rule of the state board of health or its successor agency by a licensed veterinarian.

Vehicle. Includes all forms of motor vehicles, bicycles, skateboards, wagons, carts, trailers and any other constructed or manufactured device utilized for carrying and moving property, persons or animals along public rights-of-way.

Veterinarian. A person duly licensed to practice veterinary medicine within the United States. Any veterinarian practicing in the state must be licensed in the State of Texas.

Wild animal or wildlife. Any nondomesticated creature (mammal, amphibian, reptile or fowl) which is of a species that is wild by nature, which is normally found in a wild state, and which is not naturally tame or gentle, or which, because of its size, vicious nature or other characteristics, constitutes a danger to human life or property including, but not limited to, all animals defined herein as prohibited animals or dangerous wild animals.

Working animal. See "herding dog."

Worming. The process by which an animal is treated for roundworms, hook worms, and tape worms.

Sec. 2.01.003 Establishment and designation of the animal control authority; the local rabies control authority; duties and enforcement authority

(a) The chief of police is hereby designated and established as the animal control authority for the city.

(b) The chief of police is hereby designated to act as the local rabies control authority for purposes of enforcement of animal health and animal control laws of the state as follows:

(1) Chapter 826 of the Texas health and Safety Code and the state rules that comprise the minimum standards for rabies control;

(2) The rules adopted by the state under the area rabies quarantine provisions of section 826.045 of the Texas Health and Safety Code; and

(3) The ordinances or rules of the city pertaining to rabies control.

(c) The provisions of this chapter may be enforced by animal control officers, animal control technicians, animal control veterinary technicians, peace officers and any such other persons as may be duly designated by the chief of police (see animal control authority). Nothing herein is intended to, nor shall be considered to, preempt or otherwise negate any statutory duty or authority of any federal, state, or other entity or official charged with animal control, animal health issues, estray, impoundment or other animal related issues.

(d) Persons authorized to enforce the provisions of this chapter are hereby authorized to issue citations for violations of this chapter. The power and authority to issue citations shall exist regardless of whether the animal made the subject of the citation has been impounded.

(e) In the exercise of authority to enforce this chapter, animal control authority personnel shall have the authority to impound animals as provided in this chapter.

(f) In the exercise of authority to enforce this chapter, animal control authority personnel shall have the authority to kill or otherwise disable an animal in order to protect themselves, a third person or another animal from attack or threat of imminent injury or to prevent an animal from enduring further pain or suffering as a result of injury or disease. The said officers and duly designated personnel shall also have the authority to tranquilize or trap any animal, fowl, livestock or wildlife in a humane manner.

(g) In the exercise of authority to enforce this chapter, animal control authority personnel shall have the authority to euthanize an animal under any of the following circumstances:

(1) If an impounded animal is suffering from injury, disease or illness without reasonable hope of recovery;

(2) If an animal is suspected of having rabies or manifests an apparent disposition to bite or attack a human or other animal and the animal control authority has made reasonable, but unsuccessful efforts to capture the dangerous animal;

(3) If an animal has been determined to be a dangerous animal as provided in this chapter and there is no reason to believe the animal has an owner;

(4) If an animal is a wild animal, as defined in this chapter or by other law, as long as such act does not violate any state or federal law specifically pertaining to such type of wild animal;

(5) If a nursing baby animal has been impounded either without the mother or under circumstances where the mother cannot or refuses to provide nutrition to the baby animal and euthanization is necessary to prevent suffering of the baby animal;

(6) If an animal's owner executes a consent and authorization, in the form prescribed by the animal control authority, surrendering ownership of and responsibility for the animal and requesting the animal be humanely euthanized by the animal control authority or his duly designated personnel;

(7) In accord with the provisions of section 2.07.006 of this chapter regarding disposition of unclaimed animals after impoundment.

(h) Nothing herein shall be construed to limit or negate the authority of the animal control authority to transfer ownership of an animal to an animal welfare organization, as defined herein, when, in the sole discretion of the animal control authority, circumstances render such transfer appropriate and in the best interest of the animal.

(i) To aid in the efficient administration of this chapter, the chief of police shall be authorized to adopt administrative policies and operational procedures consistent with the purpose and intent of this chapter.

Sec. 2.01.004 General offenses; strict liability; presumption of ownership

(a) A person commits an offense if he violates, disobeys, or fails to comply with a term or provision of this chapter. Unless specifically provided otherwise herein, an offense under this chapter does not require proof of a culpable mental state. It is the intent of this chapter to impose "strict liability" for violation or failure to comply with the provisions of this chapter.

(b) For purposes of enforcement and prosecution under this chapter, a rebuttable presumption of ownership exists with respect to each adult resident of premises upon which an animal that is the subject of a prosecution is kept, maintained, harbored or possessed on the date of the violation alleged.

(c) A person commits an offense if he interferes with, obstructs, or resists animal control authority personnel authorized to enforce this chapter while such person is in the course of his or her duties hereunder including, but not limited to, the apprehension and impoundment of animals or conducting an investigation of any violation of this chapter or other applicable state law.

(d) A person commits an offense if he takes or attempts to take from animal control authority personnel authorized to enforce this chapter, any animal in the control or custody of the officer or other personnel or from any vehicle used by the officer or other personnel to transport animals in the exercise of authority under this chapter.

(e) A person commits as offense if, with intent to deceive, he knowingly makes to the animal control authority personnel, a false report or statement, either verbal or written, which is material to an investigation of an alleged violation of this chapter. A false report or statement under this provision shall include, but not be limited to, a report of the occurrence of a violation or incident which the reporting person knows did not occur.

Sec. 2.01.005 Fees

The city council shall, from time to time, by resolution adopt fees to be assessed pursuant to the provisions of this chapter, such fees to include, but are not limited to, the fees for issuance of permits under this chapter and fees for care and expenses of animals incurred during impoundment at the animal shelter. It is the intent of this chapter that the owner of the animal(s) bear the costs of such animal's care in those circumstances in which care is provided at the animal shelter or other appropriate facility. The city shall be authorized to recover, in addition to any fines imposed in a prosecution under this chapter, all fees and costs incurred by the city for the care and welfare of the animal made the subject of the prosecution. Nothing herein shall be construed to limit or negate the authority of the animal control authority, under appropriate circumstances, to waive redemption fees or expenses where such waiver is in accord with policies and procedures adopted by the chief of police.

Sec. 2.01.006 Applicability of zoning regulations

Nothing in this chapter shall be considered to negate or supersede any provision of the comprehensive zoning ordinance of the city. In the event of a conflict between a specific provision of this chapter and a provision(s) of the comprehensive zoning ordinance, the comprehensive zoning ordinance shall control in all instances.

Sec. 2.01.007 Permits

Permits; revocation or denial of permits; appeal process.

(1) Unless specified as a temporary permit, a permit issued under the provisions of section 2.01.012 of this chapter for multiple pets, under ARTICLE 2.03 for additional fowl or rabbits, or under ARTICLE 2.09 for a commercial animal enterprise, shall be valid for a period of twelve (12) months from the date of issuance. A person desiring to renew a permit shall be required to apply for renewal and all conditions and procedures for original application shall apply to a renewal application including the right of physical inspection of the premises.

(2) Temporary permits may be issued by the animal control authority as authorized by this chapter and shall be valid for the number of days stated thereon not to exceed fifteen (15) consecutive days. No person may apply for more than three (3) temporary permits under this chapter within a twelve (12) consecutive month period.

(3) Any permit issued pursuant to this chapter may be revoked or denied at any time by the animal control authority for cause including, but not limited to, violations of this chapter or, in the determination of the animal control authority, the inability of the permit holder to keep the animals in a healthy or sanitary environment.

  (A) Notice of denial of either an annual or temporary permit shall be in writing from the animal control authority to the person who has requested such a permit;

  (B) Notice of the revocation of either an annual or temporary permit shall be in writing from the animal control authority to the permit holder; and

  (C) A notice of revocation or denial shall set forth, in general terms, the deficiencies, violations or other conditions considered in the decision to revoke or deny the permit.

(4) Persons receiving a notice of revocation or denial of permit shall have the right, within ten (10) days of the date that the notice is postmarked or hand delivered, to appeal, by written notice of appeal, the decision of the animal control authority to the chief of police. The chief of police shall have ten (10) days from the date of receipt of the written appeal to render a final determination in writing.

(5) Any person having their permit revoked may not apply for another permit under this chapter for a period of one (1) year from the date of revocation.

(6) The provisions of this chapter requiring permits shall not apply to the city's animal shelter, Borger High School's agriculture department, or Frank Phillips College's agriculture department.

Sec. 2.01.008 Registration

Any owner, who harbors an animal requiring registration within the city limits as hereinafter authorized, shall register said animal with the animal control authority and shall be subject to unannounced health and sanitation inspections.

State law reference–Registration of dogs and cats, V.T.C.A., Health and Safety Code, sec. 826.031 et seq.

Sec. 2.01.009 Penalty

Any person, partnership, corporation, association or legal entity found to have violated any provision of this chapter or to have failed to comply with any provision of this chapter shall, upon conviction, be fined in accordance with section 1.01.009 of this code. The imposition of a fine shall be in addition to all other remedies provided in this chapter. Each day that a violation exists shall constitute a separate offense.

Sec. 2.01.010 Running at-large

(a) A person commits an offense if he owns, keeps, harbors or otherwise has control over any animal within the city and allows or permits such animal to run or be at-large upon any public highway, street, alley, court, square, park, sidewalk, or any other public or private grounds not owned by the animal's owner or property within the corporate limits of the city. The terms of this section shall not apply to working or herding animals when they are in the performance of their assigned tasks.

(b) An animal, off the premises of its owner, shall be deemed to be running at-large under circumstances where the animal is not, either restrained by means of a leash, chain or other physical restraint of sufficient strength to control the animal while off the premises of its owner, or is not under the immediate control of the owner or other responsible person present with the animal and immediately obedient to that person's commands. An animal shall be deemed to be running at-large, on its owner's premises, under circumstances where the animal is not confined within a secure enclosure as defined in this chapter or is not restrained by a leash, rope, chain or other tethering device sufficient to restrain the animal to the owner's premises. An animal shall be deemed to be running at-large if the animal is left unattended in a motor vehicle or the bed of a pickup truck and is not tethered or confined, in compliance with the provisions of this chapter, so as to prevent the animal from exiting the vehicle of its own volition or posing a risk to passersby.

(c) The animal control authority may impound any animal observed to be at-large, whether the animal is on public or private property not owned by the animal's owner, subject to applicable provisions of the law. If the animal control authority observes an animal to be at-large and observes the same animal to return to the property of its owner, the animal control authority may issue a citation to the owner for the observed violation. The animal control authority is specifically authorized to enter onto private property, other than a private dwelling, for the purpose of issuance of a citation to the owner of the animal.

(d) In a prosecution under this section, evidence that an animal was found running at-large in violation of this chapter together with proof that the defendant was the owner of such animal at the time of the violation, shall constitute prima facie evidence that the defendant allowed or permitted the animal to be running at-large.

State law references–Animals at large, V.T.C.A., Local Government Code, sec. 215.026; authority to regulate the capture and impoundment of animals, V.T.C.A., Local Government Code, sec. 215.026(c).

Sec. 2.01.011 Confinement during estrus

Any female dog or cat, which has not been spayed or neutered and which is in the state of estrus shall be required to be confined during such period of time within a secure enclosure sufficient to prevent any other dog or cat to gain access to the confined animal other than may be intended for planned breeding of the animal. Owners failing to comply with the provisions of this section may be ordered by the animal control authority to place the animal, in the state of estrus, in a boarding kennel, veterinary clinic or hospital or in the animal shelter for the duration of estrus. All expenses incurred as a result of such confinement shall be the sole responsibility of the owner. Failure to comply with an order for removal of an animal pursuant to this section shall be a violation of this chapter and such dog or cat shall be subject to impoundment.

Sec. 2.01.012 Maximum number of pets; multiple pet permits

(a) Except as specifically authorized herein, a person is in violation of this chapter if he owns or harbors, on the premises of a single residence within the city, more than four (4) pets or companion animals, as defined herein, in any combination. A person commits an offense if he owns or harbors, on the premises of a single residence within the city, in addition to the permissible number of pets or companion animals, more than one (1) litter of pets or companion animals at any given time.

(b) It is an exception to prosecution under this section if the owner has been issued and possesses a valid multiple pet permit, as hereinafter described in this section.

(c) A person desiring to keep more than four (4) pets or companion animals in any combination on the premises of a single residence shall apply to the animal control authority for a multiple pet permit.

(d) The issuance of a multiple pet permit shall be within the discretion of the animal control authority and, under no circumstances, shall a permit be issued for the keeping on the premises of a single residence within the city, of more than eight (8) pets or companion animals in any combination. Under no circumstances shall a permit be issued for the keeping, on the premises of a single residence within the city, of more than three (3) litters of pets or companion animals at any given time.

(e) Nothing herein shall be construed to require the animal control authority to issue a multiple pet permit and the discretion for issuance of such permit shall rest solely with the animal control authority. The animal control authority shall be authorized to require the following in connection with the application for a multiple pet permit:

(1) The applicant must provide the complete address of the residence for which the multiple pet permit is made;

(2) The applicant must provide the animal control authority with full information concerning the breed, gender and number of animals requested to be kept on the premises of the single residence;

(3) The applicant, or any member of the applicant's household, must not have been charged with any animal control violation in the twelve-month period immediately preceding the date of the application;

(4) The applicant must permit the animal control authority, upon reasonable notice, full access to the residence and premises for the purpose of physical inspection of the premises;

(5) The animal control authority shall have the right to interview occupants of all immediately adjacent properties in connection with the request for issuance of a multi-pet permit;

(6) The premises must meet, both upon initial inspection and upon any subsequent inspection, the following minimum criteria:

(A) Facilities shall be of sufficient size as to allow each animal to move about freely. Size of the facility shall be in proportion to the size of each individual animal's height and weight;

(B) Adequate food and water must be provided so that all animals kept shall be maintained in good health and free of malnutrition and/or dehydration;

(C) The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects, and flies that could be harmful to the animal's health and/or to the health of the general public;

(D) The animals and the facility must be kept free of odor or stench so as to avoid offense to a person of ordinary sensibilities;

(E) The animals must be maintained in a manner that does not pose a danger to the health of the animals themselves or adjacent animals;

(F) The animals must not cause noise that is offensive or disturbing to a person of ordinary sensibilities on adjoining or adjacent premises; and

(G) All animals must be duly vaccinated and exhibiting vaccination tags.

(f) Multiple pet permits shall be valid for a period of twelve (12) months from the date of issuance and shall be maintained and displayed to the animal control authority or other officer upon request. Each application for renewal of a multiple pet permit shall be made in accord with the provisions of subsection (e) above.

(g) Multiple pet permits are issued to specific owners, for specific animals, and for the specific premises identified therein. An application for a new multiple pet permit will be required if:

(1) The original permit holder moves to a new residence within the city and proposes to move to that new residence more than four (4) pets or companion animals or combination thereof, or more than one (1) litter of pets or companion animals; or

(2) Ownership of the permitted premises changes and the new property owners propose to keep or maintain on the property more than four (4) pets or companion animals or a combination thereof, or more than one (1) litter of pets or companion animals at the new residence.

(h) A multiple pet permit is subject to revocation by the animal control authority for cause, including but not limited to a violation by the permit holder of provisions of this chapter, or failure of the premises upon inspection to meet the minimum criteria established herein for animal and public health and safety. Appeals from the denial or revocation of a permit shall be in accord with the provisions of section 2.01.007 of this chapter.

Sec. 2.01.013 Noise violations

(a) A person commits an offense if he keeps, harbors, possesses, or otherwise maintains an animal or animals that bark, whine, howl, crow, cackle or makes any noise excessively and continuously and such noise is such as to disturb a reasonable person of ordinary sensibilities.

(b) It is a defense to prosecution under this section that the owner of the animal eliminates the noise violation within twenty-four (24) hours of the issuance of a citation for the violation or receipt of notice of the violation and no noise violation occurs for a period of fifteen (15) days from the date of the issuance of the citation.

Sec. 2.01.014 Animal nuisances

(a) The following shall constitute nuisances subject to the issuance of a corrective notice by the animal control authority:

(1) An animal which is determined to be running at-large three (3) or more times within a twelve (12) consecutive month period;

(2) An animal which, without provocation, attacks another animal of any kind regardless of whether injury is inflicted on the other animal;

(3) An animal which damages, soils or defiles public or private properly other than property belonging to or under the control of the animal's owner;

(4) An animal which produces offensive odors or unsanitary conditions sufficient to annoy a reasonable person of ordinary sensibilities living in the vicinity; or

(5) An animal which chases pedestrians, passersby or passing vehicles, including bicycles.

(b) If the animal control authority determines that a nuisance, as provided above, exists, the animal control authority may issue to the owner of the animal a notice for correction or abatement providing reasonable requirements to correct the conduct of the animal or the circumstances or situation created by the animal and a reasonable time period for correction or abatement. The notice for correction shall be on a form prescribed by the animal control authority, which may be in the form of a warning citation, and may be served upon the owner by personal service or by certified mail, return receipt requested, with duplicate mailing by regular mail. In the event the owner of the animal refuses the notice for correction forwarded by certified mail and the notice for correction forwarded by regular mail is not returned by the United States Postal Service, it shall be presumed that the owner of the animal received the notice for correction.

(c) The owner of the animal made the subject of a notice for correction may, within ten (10) days of service of the order, file with the animal control authority a written appeal of the order clearly stating the reasons for the appeal. In the event no appeal is timely filed, an order for correction will be deemed final.

Sec. 2.01.015 Failure to abate animal nuisance

A person commits an offense if he fails to comply, within the time prescribed, with the terms of a final notice for correction or abatement of animal nuisance issued pursuant to the provisions of this section. Upon failure by the owner to abate the animal nuisance, the animal control authority may issue a citation or file a formal complaint in municipal court.

Sec. 2.01.016 Animals held pending complaint

In the event an animal has been properly impounded pursuant to this chapter for a violation of the chapter and a complaint is pending in the municipal court arising from that violation, the municipal judge may order that the animal remain impounded pending disposition of the municipal court case. In the event the owner of the animal is found guilty of the violation for which the animal was impounded, the municipal judge may, in addition to fines and court costs, assess all impoundment fees against the owner of the animal.

Sec. 2.01.017 Exemptions from chapter

(a) The provisions of this chapter shall not apply to a licensed veterinarian so long as any of the animals covered hereunder are in his custody or kept for the purpose of professional care by reason of illness.

(b) The provisions of this chapter shall not affect the lawful keeping of horses, cows, goats, or other livestock within Johnson Park, provided the owner of such animals for show, display or similar activity shall conform with rules of the department of state health serviced for cleanliness and sanitation requirements.

(c) The provisions of this chapter shall not affect the lawful keeping of swine, horses, cows, goats, or other livestock in the Borger High School and Frank Phillips College Vocational Agriculture Facilities within the city limits; however, all animals kept in these facilities shall be subject to all health, sanitation and such other requirements as the health department may deem necessary to protect the health of the citizens of the city.

(d) The provisions of this chapter do not apply to any traveling circus or show which remains within the city limits for a period not to exceed five consecutive days.

ARTICLE 2.02 WILD ANIMALS, WILDLIFE, OR DANGEROUS WILD ANIMALS; PROHIBITED ANIMALS*

Sec. 2.02.001 Wild animals, wildlife, or dangerous wild animals

(a) A person commits an offense if he owns, harbors, possesses or otherwise has care, custody or control of a wild animal or wildlife or a dangerous wild animal (as defined in this chapter) within the city except as specifically authorized herein.

(b) A person commits an offense if he transports, conveys, imports or otherwise delivers or brings into the city a wild animal or wildlife or dangerous wild animal except as specifically authorized herein.

(c) It is an exception to this section if the wild animal, wildlife or dangerous animal is within or maintained by a permitted zoological park, performing animal exhibition, circus or other duly permitted commercial animal enterprise or if the wild animal, wildlife or dangerous wild animal is exhibited or displayed at a primary or secondary school, college or university campus or facility of a governmental entity. It is an exception to this section if the person holds a valid certificate of registration issued by an animal registration agency as provided by section 822.103 of the Texas Health and Safety Code for a dangerous wild animal.

(d) It is a defense to prosecution under this section that the animal possessed or harbored within the city is an infant or injured animal which is not capable of surviving on its own and is kept within the city for only such reasonable time as is necessary to permit the transfer of the animal to an appropriate wildlife rehabilitator or back to the wild.

Sec. 2.02.002 Prohibited

A person commits an offense if he owns, harbors, possesses, or otherwise has care, custody or control of a prohibited animal (as defined in this chapter) within the city.

ARTICLE 2.03 FOWL AND RABBITS

Sec. 2.03.001 Fowl

(a) A person commits an offense if he keeps; harbors or maintains on the premises of a single residence within the city more than four (4) fowl and one litter of fowl at any one time. It is an exception to prosecution under this section that the owner has been issued and possesses a valid permit issued by the animal control authority under the provisions of section 2.01.012 authorizing the keeping of fowl in excess of the limits of this section and the owner has not exceeded the permissible number of fowl thereunder. It is an exception to prosecution that the owner of the fowl and the subject premises meet the requirements of subsection (c) below. Fowl shall be kept within pens, coops or hutches which meet the requirements of this chapter and are maintained in compliance with the provisions of this chapter. A fenced yard shall not qualify as a pen, coop, or hutch for purposes of this section.

(b) All pens, coops, or hutches for the keeping of fowl shall be maintained a minimum of 100 feet from any residence or commercial building, excluding the residence or commercial building of the person keeping or harboring the fowl, except as specifically provided herein. If the fowl kept are pigeons, registered with a recognized association of pigeon fanciers and kept for purposes of competition, the enclosures for such pigeons may be located no less than fifty (50) feet from any residence or commercial building, excluding the residence or commercial building of the person keeping or harboring the pigeons.

(c) Within a district classified by the comprehensive zoning ordinance as “EA - estate and agricultural,” a person may keep and harbor, without the necessity of a multiple pet permit, up to 150 fowl, including lifters of fowl, at any one time.

Sec. 2.03.002 Rabbits

(a) A person commits an offense if he keeps, harbors, or maintains on the premises of a single residence within the city more than four (4) rabbits and one litter of rabbits at any one time. It is an exception to prosecution under this section that the owner has been issued and possesses a valid permit issued by the animal control authority under the provisions of section 2.01.012 authorizing the keeping of rabbits in excess of the limits of this section and the owner has not exceeded the permissible number of rabbits thereunder. It is an exception to prosecution that the owner of the rabbits and the subject premises meet the requirements of subsection (d) below.

(b) Rabbits shall be kept within pens, coops, or hutches which meet the requirements of this chapter. A fenced yard shall not qualify as a pen, coop or hutch for proposes of compliance with this subsection.

(c) All pens, coops or hutches for the keeping of more than four (4) rabbits shall be maintained a minimum of 100 feet from any residence or commercial building, excluding the residence or commercial building of the person keeping or harboring the rabbits.

(d) Within a district classified by the comprehensive zoning ordinance as “EA - estate and agricultural,” a person may keep and harbor, without the necessity of a multiple pet permit, up to 150 rabbits, including litters of rabbits, at any one time.

ARTICLE 2.04 LIVESTOCK*

Sec. 2.04.001 Compliance with this article

No person shall keep livestock of any kind within the city limits except in accord with the provisions of this article.

Sec. 2.04.002 Other than horses and mules

(a) A person commits an offense if he keeps, harbors, possesses or maintains livestock, other than horses and mules as provided herein, within the city on property in a district which is zoned other than "EA - estate and agricultural; LI - light industrial; or HI - heavy industrial" under the comprehensive zoning ordinance.

(b) The following are excepted from application of this section provided their operations are conducted in accord with applicable zoning ordinances and applicable state law and regulations: animal slaughterhouses; animal processing plants; animal rendering plants; livestock auctions; livestock shows or events; rodeos; livestock related activities or businesses; and animal shelters run by governmental entities or private animal welfare organizations.

Sec. 2.04.003 Maximum number of livestock

(a) A dedicated area or space containing 10,000 square feet for one to four head of livestock. An additional 2,000 square feet of area or space shall be provided for each head of livestock thereafter.

(b) The area used exclusively for quartering horses (the term "horses" shall include all equine animals) and containing at least 10,000 square feet for the first one to four horses and 2,000 square feet for each horse thereafter with a limit of eight horses per acre.

Sec. 2.04.004 Deer, bison, and camels

A person commits an offense if he keeps, fences, stables, pastures or otherwise keeps livestock of the order Ungulata (including deer, bison and camels) on a tract or parcel of land of less than five (5) acres.

Sec. 2.04.005 Spacing from occupied structures and residential zoning districts

(a) A person commits an offense if he stables, stalls or pens livestock within one hundred (100) feet of an occupied building or structure other than a building or structure occupied or controlled by the owner of the livestock. It is a defense to prosecution for violation of this section that the occupied building or structure of a person other than the owner of the livestock was built or erected at or after the time at which the livestock was already kept, fenced, stabled or pastured on the property of the owner of the livestock.

(b) It is an exception to applicability of this subsection that the owner of the livestock had erected and existing on the owner's property a stable, stall, pen or other enclosure for livestock which was, on the effective date of this chapter, situated within one hundred (100) feet of an occupied building or structure other than a building or structure occupied or controlled by the owner of the livestock. Nothing herein, however, shall be construed to except the said existing stable, stall, pen or other enclosure from all other requirements of this chapter.

(c) A person commits an offense if he stables, stalls or pens livestock within two hundred fifty (250) feet of a property line of the nearest residence in a residential zoned district and the pen/lot contains five (5) or more acres in accordance with CHAPTER 14, zoning. It is a defense to prosecution for violation of this section that the residence of a person other than the owner of the livestock was built or erected at or after the time at which the livestock was already kept, fenced, stabled or pastured on the property of the owner of the livestock.

(d) It is an exception to applicability of this subsection that the owner of the livestock had erected and existing on the owner's property a stable, stall, pen or other enclosure for livestock which was, on the effective date of this chapter, situated within one hundred (100) feet of an occupied building or structure other than a building or structure occupied or controlled by the owner of the livestock. Nothing herein, however, shall be construed to except the said existing stable, stall, pen or other enclosure from all other requirements of this chapter.

(e) The keeping of horses and mules is specifically authorized to be kept, harbored, possessed or maintained on property within the city zoned EA - estate and agricultural; LI - light industrial; or HI - heavy industrial under the following terms and conditions:

  (1) On any tract or parcel of land of five (5) acres or more, a person may maintain no more than two (2) horses or mules (or combination thereof) for the first fenced acre of such tract and no more than one (1) horse or mule for each additional fenced acre;

  (2) Pasture fencing provided for horses and mules must be a minimum of five (5) feet in height at its lowest point and shall not extend into the front yard between the main building structure and the street or street right-of-way; and

  (3) Horses and mules kept on property shall be provided with a minimum of a three-sided roofed shelter meeting the sanitation requirements of this chapter, all applicable zoning requirements, and providing adequate protection for the animal(s) from the elements.

Sec. 2.04.006 Honeybees

A person commits an offense if he constructs, places, or maintains a beehive within three hundred (300) feet of any residence other than his own. It is a defense to prosecution under this section that the person who placed or maintained the beehive within time hundred (300) feet of the residence(s) of other persons obtains the written consent of the occupants of all such residences.

Sec. 2.04.007 Swine and pigs

A person commits an offense if he keeps, harbors, possesses or maintains swine, pigs or any member of the family Suidae within the city, except Vietnamese potbelly or miniature pigs.

ARTICLE 2.05 ANIMAL PROTECTION

Sec. 2.05.001 Animals in motor vehicles

(a) A person commits an offense if he intentionally, knowingly, recklessly or with criminal negligence leaves an animal unattended in any standing or parked vehicle in such a way as to endanger the animal's physical health, safety or immediate welfare. In the event that a person is found guilty of this offense, the municipal court shall, in addition to any fine and court costs assessed, assess any and all fees and expenses incurred pursuant to the provisions of subsection (b) below.

(b) In the event that an animal is left unattended in any standing or parked vehicle in such a way as to endanger the animal's physical health, safety or immediate welfare, an animal control officer or police officer shall make a reasonable attempt to locate the owner or person in control of the vehicle. In the event that the owner of the vehicle cannot be located after reasonable attempt, an animal control officer or police officer is authorized to use reasonable force and measures to remove the animal from the vehicle to secure the animal's physical health and safety. An animal removed from a vehicle under these circumstances shall be taken to the city's animal shelter, or to a veterinarian if the animal is determined to be in physical distress, and a written notice shall be attached to the vehicle by the animal control officer or police officer advising that of the telephone number and address of the location from which the animal may be claimed. The city shall have no responsibility for any damage sustained to a vehicle in the course of securing the safety of an animal under this section.

(c) A person commits an offense if he intentionally, knowingly, recklessly or with criminal negligence transports an animal in a motor vehicle, trailer or other conveyance, in a cruel, inhumane or unsafe manner or fails to effectively and humanely restrain the animal so as to prevent the animal from jumping from or being thrown from the vehicle, trailer or other conveyance during its normal operation.

Sec. 2.05.002 Tethering of animals

A person commits an offense if he tethers, chains or otherwise secures an animal by or under any of the following methods or circumstances:

(1) To tether an animal in such a way that it is capable of moving within 15 feet of any public right-of-way, park, or other public land, including sidewalks, or within five (5) feet of any privately or commercially owned property line when such tether or line is stretched to its full length;

(2) To tether any animal in such a manner as to cause the animal injury or pain or not to permit the animal to reach shelter, food and/or water or otherwise create an unsafe or unhealthy situation;

(3) To tether any animal in such a manner as to permit the animal to leave the owner's property;

(4) To tether any animal in a manner whereby the animal is subject to harassment, stings or bites from outdoor insects, or attacks by other animals;

(5) To tether any animal with a tether that is not equipped with swivel ends and which is not also attached to a pulley or a trolley;

(6) To tether any animal in such a manner that does not prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving its owner's property;

(7) To fail to remove waste from the area within which the animal is tethered on a reasonable basis so as to avoid a health hazard;

(8) To tether any animal without using a properly fitted collar or harness which prevents the tether from being directly wrapped around the animal's neck;

(9) To tether with a choke-type collar of any sort; and

(10) To use a tether weighing more than 1/8 of the animal's body weight.

Sec. 2.05.003 Trapping or shooting; hunting

(a) It is unlawful for a person to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel jawed, leg-hold trap to capture an animal. It is unlawful for any person, other than the animal control authority, to set or otherwise use other trapping devices, including "live traps," for the purpose of capturing any animal. Consistent with the provisions of this chapter, the animal control authority is authorized to utilize humane "live traps" and may conduct humane trapping operations and may also provide or authorize the use of humane trapping devices for use by persons within the city as may be necessary. Nothing in this provision is intended to prohibit the prudent use of traps on a person's own property to control rodents.

(b) It is unlawful for a person to hunt, shoot, intentionally injure or kill any wild bird, animal, or mammal within the city. It is unlawful for any person to hunt, shoot, kill, intentionally injure or kill any domestic bird, animal, mammal, reptile or pet in the city which animal is not owned by such person. Nothing in this provision is intended to prohibit the destruction of poisonous snakes or to prohibit the animal control authority from utilizing firearms in emergency field situations where such actions are authorized by law or policy.

(c) It is a defense to prosecution for the shooting of a domestic animal that the animal shot was a vicious animal which posed an immediate threat to personal or public safety or to the safety of livestock or a domestic pet or other domesticated animal.

(d) It is an exception to prosecution that the person engaging in hunting is on property within the city upon which state law prohibits the city's restriction of hunting rights and the hunter has a valid hunting license and is on the property with the property's owner's permission and with permission to engage in hunting.

Sec. 2.05.004 Animal fighting

(a) A person commits an offense if he intentionally, knowingly, recklessly or with criminal negligence causes, instigates or permits an animal to fight with another animal or human or allows or otherwise permits to be used property that he owns or controls for the purpose of conducting fights between animals or between animals and humans. For purposes of this section, "animal" shall mean a domesticated living creature and a wild living creature previously captured.

(b) It is a defense to prosecution under this section that the person caused a dog to fight with another dog in order to protect a person, livestock, or other property from the other dog and for no other purpose.

Sec. 2.05.005 Use of poisonous substances

A person commits an offense if he administers a poisonous substance to an animal belonging to another without express authority of that other person or the owner's effective consent for administration of the poisonous substance. A person commits an offense if he leaves exposed or accessible to domestic animals or persons any poisonous substance, whether mixed with food or otherwise.

Sec. 2.05.006 Abandonment

A person commits an offense if he abandons an animal in his custody.

State law reference–Cruelty by abandoning nonlivestock animal, V.T.C.A., Penal Code, sec. 42.092(b)(4).

Sec. 2.05.007 Cruel treatment

(a) A person commits an offense if he beats, clubs, mutilates, torments, physically abuses, mentally abuses, overloads, overworks or otherwise harms or abuses an animal.

(b) A person commits an offense if he fails to provide for animals in his ownership or control at all times adequate food, potable water, appropriate shelter, protection from inclement weather conditions and veterinary care when required to prevent suffering.

(c) A person commits an offense if he owns, keeps, shelters, or harbors any animal having a potentially life-threatening infestation of fleas, ticks or other parasites; any obvious life threatening illness; or a communicable illness transmissible to other animals or humans, and fails to seek and obtain treatment for the animal from a licensed veterinarian for such infestation or illness.

(d) A person commits an offense if he kills a dog or cat for the skin or fur of the animal.

(e) A person commits an offense if he attaches a collar or harness to an animal that is of inadequate size for the animal such that it restricts the animal's growth or causes damage to the animal's skin.

(f) A person commits an offense if he engages or permits another person to engage in any sexual act with an animal.

(g) The animal control authority shall have authority, in accord with the provisions of chapter 821 of the Texas Health and Safety Code, to obtain a warrant for seizure and impoundment of any animal that is the subject of an investigation for cruel treatment, as defined herein or as defined by chapter 821 of the Texas Health and Safety Code, pending a hearing and order by the judge of the municipal court or other court of competent jurisdiction regarding disposition of the animal. Procedures regarding the disposition of the animal(s) shall be in accord with the provisions of this chapter and chapter 821 of the Texas Health and Safety Code.

Sec. 2.05.008 Removing young from mother

Unless specifically authorized by permit issued by the animal control authority, no person may physically remove from the mother any animal less than six (6) weeks of age for the purpose of offering same for sale, trade, barter or for giving same away for commercial purposes.

Sec. 2.05.009 Sale of animals in public places

(a) In this section, the term "public place" shall mean any place to which the public or a substantial group of the public has access and includes, but is not limited to streets, highways, public rights-of-way, city parks, sidewalks, open air markets, flea markets, trade days, parking areas and parking lots, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

(b) A person commits an offense if he sells; offers for sale; barters; trades; exchanges; or gives away an animal in a public place as defined herein.

(c) Exception. It is an exception to the provisions of subsection (b) above that the person or entity is an authorized animal shelter maintained by a governmental entity or recognized animal welfare organization and offers the animals for adoption at no profit. The animal control authority is hereby authorized to enter onto premises utilized by any animal shelter or animal welfare organization for adoption of animals for the purpose of inspection of the premises for compliance with the provisions of this chapter.

(d) The animal control authority shall have authority to remove or cause to be removed from the public place on which the animal is offered for adoption any animal which, in the determination of the animal control authority, poses a risk to the health or safety of the public or of other animals.

Sec. 2.05.010 Minimum requirements for pens and enclosures; sanitary requirements

It is a violation of this chapter if a person keeps, harbors or otherwise maintains an animal in a pen, cage, enclosure, fenced area or other shelter which is not in compliance with the provisions of this section.

(1) Requirements for pens and enclosures. All pens, enclosures or cages used to confine animals shall be of sufficient size to maintain the animal(s) within in reasonable comfort and health. All pens, enclosures or cages used to confine animals shall provide protection from precipitation, inclement weather and extreme weather conditions and shall be adequately ventilated. In the event of cold temperatures, the pen, enclosure or cage must be sufficient to permit the animal to maintain its body heat.

(A) Plastic shipping containers and/or pet carriers shall not be sufficient as outdoor animal enclosures or shelters.

(B) The animal control authority shall have authority to determine the adequacy of pens, cages and enclosures under this chapter.

(2) Sanitary requirements. Owners of animals shall be required to maintain and keep all pens, cages, enclosures and fenced areas for animals in a sanitary condition which shall require, but not be limited to, the following:

(A) All animal waste shall be disposed of promptly and all pens and enclosures shall be cleaned as necessary to prevent odor, insects and vermin infestation or other nuisance;

(B) Approved spray or other treatments shall be used at reasonable intervals as necessary to maintain the premises free of flies, mosquitoes, fleas, ticks or other insects;

(C) Adequate food and water supply for the animal must be readily available to the animal in the enclosure or accessible in the area and must be maintained in a sanitary condition.

ARTICLE 2.06 DANGEROUS ANIMALS*

Sec. 2.06.001 Purpose and election to implement remedies of state law

It is the intent of this section to provide appropriate procedures and means for dealing with animals, including but not limited to, dogs which are dangerous or which, by their actions, represent a danger to the public health and safety in the future. In interpreting the provisions of this section, the animal control authority shall take into consideration the right of an individual to possess and utilize an animal for security or guard purposes and shall also take into consideration the right of the public to be free from fear of attack and injury by a dog or other animal. Further, it is the intent and purpose of this section to promote public safety with respect to dangerous wild animals while providing means for the safe exhibition of certain animals for public entertainment and education. It is the specific intent of this provision to elect adoption of Texas health and Safety Code chapter 822, subchapter D, dangerous dogs as it exists at the time of adoption of this chapter or as it may hereafter be amended.

Sec. 2.06.002 Definitions

Dangerous animal. An animal which:

(1) Makes an unprovoked attack on a person which results in bodily injury to the person and which occurs in a place other than a secure enclosure in which the animal was being kept;

(2) Commits unprovoked acts in a place other than a secure enclosure in which the animal was being kept and those acts by the animal cause a person to reasonably believe that the dog will attack and cause bodily injury to that person;

(3) Has killed or seriously injured a domestic animal without provocation while in a place other than a secure enclosure in which the attacking animal was kept;

(4) Is kept, harbored or trained for fighting or used for the purpose of fighting;

(5) Is an animal known to carry or be susceptible to the rabies virus and which cannot be effectively vaccinated against that virus with any vaccine approved by the Texas Department of State Health Services; or

(6) Is determined by the animal control authority, due to temperament, condition, training and/or observed behavior of the animal, to be a danger to persons or to other animals.

Final determination or finally determined. A written notice issued by the animal control authority, that an animal is a dangerous animal, which is not timely and properly appealed in accord with this chapter, or, the written decision of the municipal court determining, on appeal, that an animal is a dangerous animal as defined by this chapter.

Secure enclosure. A fenced area or structure to prevent the animal from leaving the enclosure of its own volition which meets the following minimum requirements:

(1) Locked;

(2) Capable of preventing the entry of the general public, including children;

(3) Capable of preventing the escape or release of the animal(s) kept therein;

(4) Clearly marked with notice that the area or structure contains a dangerous animal;

(5) Adequately lit and ventilated and maintained in a clean and sanitary condition;

(6) Of a minimum area of two (2) square feet per pound of weight of the animal to be secured; and

(7) In compliance with all requirements of this chapter, and regulations adopted pursuant to this chapter, for animal enclosures.

Sec. 2.06.003 Reporting of incidents involving dangerous animals; disposition of animals pending investigation

(a) A person shall report to the animal control authority an incident or observation of an animal potentially meeting the criteria described in the dangerous animal definition in section 2.06.002 above. The animal control authority shall investigate all such reports and shall make a determination as to whether the animal is a dangerous animal as defined herein.

(b) Pending the investigation and determination of the animal control authority as to whether the animal is a dangerous animal, the animal control authority shall have the authority to require the owner to, within twenty-four (24) hours of receipt of notice of the order, deliver the animal to the city's animal shelter (or other appropriate facility designated by the animal control authority) for impoundment in secure and humane conditions. In the event that the owner of an animal made the subject of a report under this section can not be located after reasonable effort and the animal poses a threat to the public health and safety if not immediately impounded, the animal control authority shall be authorized to impound the animal pending investigation of the report. In the event that the owner of an animal made the subject of a report under this section cannot, after reasonable effort, be located for service of written notice by the animal control authority, the animal control authority shall be authorized to humanely euthanize the animal after five (5) days.

Sec. 2.06.004 Determination of dangerous animal by animal control authority; appeal of determination

(a) The animal control authority shall investigate reports made pursuant to section 2.06.003 above. Such investigations may include the interviewing of individuals, the taking of sworn statements, examination of the animal and other review of other relevant information. If, at the conclusion of the investigation, the animal control authority determines that the animal is a dangerous animal, as defined herein, the animal control authority shall provide notice, in writing, of that determination to the owner of the animal. The written notice may be delivered in person or by certified mail, return receipt requested, with concurrent mailing by regular mail. In the event the owner of the animal refuses the written notice by certified mail, it shall be presumed that the owner received the written notice forwarded by regular mail.

(b) In the event that the animal made the subject of the investigation has not been impounded pending the investigation, upon determination by the animal control authority that the animal is a dangerous animal, the written notice of that determination shall be accompanied by a written directive from the animal control authority to deliver the animal to the animal control authority, within five (5) days of the issuance of the written notice, for agreed registration in accord with the provisions of this chapter or the determination of the municipal court regarding the disposition of the animal.

(c) In the event the owner fails to deliver the animal to the animal control authority as required by this section, the animal control authority shall request from the municipal court the issuance of warrant for seizure of the animal. The animal control authority shall, promptly upon issuance of the warrant for seizure, seize the animal and provide for its impoundment in secure and humane conditions pending the municipal court's order regarding disposition of the dog. The owner of the animal shall be responsible for all costs incurred in seizing the dog and the costs and fees for impoundment of the animal.

(d) The owner of an animal which has been determined by the animal control authority to be a dangerous animal may, within ten (10) days following issuance of the written notice of the determination as a dangerous animal, appeal the determination of the animal control authority to the municipal court by filing with that court a written notice of appeal of the determination. The written notice of appeal must plainly state the grounds of the appeal of the determination and have attached a true and correct copy of the written notice issued by the animal control authority which is appealed. A written notice of determination as a dangerous animal issued by the animal control authority and not timely appealed as provided in this section shall be considered, in all respects, final upon the 11th day following its issuance.

(e) The municipal court shall, upon receipt of a written appeal as provided above, set the matter for hearing. The hearing must be set not later than ten (10) days from the date of the filing of the written appeal. The court shall provide written notice of the date and time of the disposition hearing to: (1) the owner of the animal; (2) the animal control authority; and (3) the city attorney's office. The written determination of the animal control authority that the animal is a dangerous animal shall give rise to a rebuttable presumption that the animal is a dangerous animal. Any interested person may present competent evidence to the court to rebut the presumption of the animal's status. The municipal court shall render its decision in writing within ten (10) days of the date of the hearing. Copies of the decision shall be forwarded to the owner and to the city attorney's office. In the event the decision of the municipal court affirms the animal control's authority that the animal is a dangerous animal, the owner shall be required to comply with the registration requirements set forth below and the animal shall remain impounded pending the owner's compliance with those registration requirements.

Sec. 2.06.005 Registration of dangerous animals

(a) Not later than ten (10) days from the date of the issuance of a written notice by the animal control authority that an animal is a dangerous animal, or in the event of appeal of such written notice by the animal control authority, not later than ten (10) days from the date of a written decision of the municipal court affirming the determination that an animal is a dangerous animal, the owner of the animal shall:

(1) Register the animal with the animal control authority and obtain from the animal control authority a tag supplied by the animal control authority clearly identifying the animal as a "dangerous animal";

(2) Ensure that the identification tag is placed on and worn on the animal at all times;

(3) Provide to the animal control authority documentation confirming that the animal has been fitted with a microchip identification device registered with the microchip company and fitted by a licensed veterinarian or, alternatively, reimburse the city for the costs of the microchip device fitted by the animal control authority;

(4) Provide to the animal control authority documentation confirming that the owner has in effect liability insurance coverage in a minimum amount of $100,000.00 to cover damages resulting from an attack by the animal causing bodily injury to a person;

(5) Provide documentation to the animal control authority confirming that the animal made the subject of the written determination has been spayed or neutered or provide written consent for the spay or neuter of the animal while impounded by the city; and

(6) Permit inspection of the owner's premises where the animal is proposed to be kept for the purpose of ensuring that a secure enclosure, as defined herein, is provided for the animal.

(b) The registration required by this section is specific and valid as to only the animal made the subject of the registration and the owner identified in the registration certificate. A registration certificate issued pursuant to this section may not be transferred, sold or otherwise conveyed to another person.

(c) The registration required by this section shall be valid for a period of twelve (12) months from the date of its issuance and the owner shall be required to re-register the dangerous animal at the expiration of its registration period. Re-registration of a dangerous animal shall require compliance with each of the above provisions. In the event an owner fails to timely re-register an animal finally determined to be a dangerous animal subject to registration, the animal control authority shall be authorized, without hearing or warrant, to immediately seize the animal; notify the owner of the seizure; and impound the animal until such time as the owner properly re-registers the animal. In the event the owner fails to properly re-register a dangerous animal impounded pursuant to this provision within fifteen (15) days of its impoundment, the animal control authority shall be authorized to humanely euthanize the animal.

(d) An animal finally determined, by notice of the animal control authority or by the municipal court, to be a dangerous animal shall not be released from impoundment until each of the requirements of subsection (a) above has been met by the owner and all fees and costs incurred in connection with the care, impoundment and other required procedures for the animal have been paid to the city. A finding by the animal control authority that an owner of a dangerous animal is no longer in compliance with the provisions of this chapter shall constitute grounds for revocation of the animal's registration and seizure and impoundment of the animal as provided in subsection (b) above. In the event the owner of an animal finally determined to be a dangerous animal fails to comply with the requirements of subsection (a) above within thirty (30) days of the final written determination, the animal control authority shall be authorized to humanely euthanize the animal.

Sec. 2.06.006 Requirements for restraint of dangerous animal

The owner of an animal finally determined to be a dangerous animal shall:

(a) At all times when the animal is on the owner's property, restrain the animal on an adequate leash in the immediate control of a person eighteen (18) years of age or older, or restrain the animal in a secure enclosure as defined in this chapter; and

(b) At all times when the animal is taken off the owner's property, restrain the animal with a muzzle which will prevent it from biting any person or other animal but which will not cause injury to the animal nor interfere with its vision or respiration.

Sec. 2.06.007 Requirements for notification by owner of dangerous animal

(a) The owner of an animal finally determined to be a dangerous animal shall notify the animal control authority within twenty-four (24) hours of any of the following:

(1) The animal is running at-large;

(2) The animal has attacked a human being or other animal;

(3) The animal has died; or

(4) The animal has been sold or given away.

(b) If the owner of the dangerous animal sells or gives away the animal, the owner shall provide the animal control authority with the name, address, and telephone number of the animal's new owner. If the new owner resides within the city or if the dangerous animal is kept or maintained in the city by the new owner, regardless of the new owner's residence, the animal control authority shall notify the new owner by certified mail, return receipt requested, and by regular mail that the new owner is required to comply with the requirements of this section. Failure of the new owner to properly register the animal with the animal control authority within fifteen (15) days of the issuance of such notice to the new owner shall authorize the animal control authority to seize and impound the animal until such time as the new owner complies with the requirements of this section. In the event the new owner fails to properly register the impounded animal within fifteen (15) days of its impoundment pursuant to this provision, the animal control authority shall be authorized to humanely euthanize the animal.

Sec. 2.06.008 Offenses; defenses to prosecution

(a) Offense. A person who owns, keeps or otherwise has care, custody or control of a dangerous animal, as defined in this chapter, commits an offense if the person fails to comply with any provision of this chapter pertaining to the regulation of dangerous animals.

(b) A person commits an offense if he owns, keeps or otherwise has care, custody or control of a dangerous animal, as defined in this chapter, and the animal makes an unprovoked attack on a person or domestic animal outside the animal's secure enclosure and causes bodily injury to a person, or domestic animal.

(c) It is a defense to prosecution under subsections (a) and (b) above, that the person keeping or in care or control of the animal is a veterinarian, a peace officer, a person employed by a duly organized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals or animal control and has temporary ownership, custody or control of the animal in connection with that position.

(d) It is a defense to prosecution under subsections (a) and (b) above, that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses animals for law enforcement or correction purposes.

(e) It is a defense to prosecution under subsections (a) and (b) above, that the person is a dog trainer or an employee of a guard dog company under chapter 1702 of the Texas Occupations Code.

ARTICLE 2.07 IMPOUNDMENT*

Sec. 2.07.001 General provisions

(a) Animals found to be in violation of this chapter or found to be in circumstances in which impoundment is authorized by the provisions of this chapter shall be taken into the custody of the animal control authority and impounded at the city's animal shelter or other appropriate facility designated by the animal control authority.

(b) The owner of an impounded animal(s) is responsible for and required to pay to the city all fees, costs and expenses incurred in the seizure and impoundment of the animal. These fees, costs and expenses shall include, but not be limited to, daily impoundment fees, veterinarian fees, and costs of medications required for the animal's care while impounded.

(c) An owner of an animal may voluntarily relinquish ownership and control of the animal to the animal control authority by execution of a relinquishment document in the form prescribed by the animal control authority. Upon execution of the relinquishment document and surrender of the animal, the animal control authority shall have authority to make any disposition of the animal authorized by section 2.07.006. An owner relinquishing a sick or injured animal may be held responsible for the payment of all veterinary or medication fees incurred for the care of the animal.

Sec. 2.07.002 Tampering with shelter facilities or animal control vehicles

A person commits an offense if he, without effective consent or authority, breaks into, opens or otherwise intrudes into the city's animal shelter or other facility used by the city to impound or keep animals. A person commits an offense if he turns out, releases; causes to be turned out or released; or aids or abets the turning out or release of any animal from the city's animal shelter, any facility used by the city for impoundment of animals, or any vehicle used or utilized by the city or animal control authority for the seizure and transport of animals.

Sec. 2.07.003 Impoundment periods

An impounded animal, not exhibiting an identification tag or microchip, shall be kept for three (3) full days excluding the date of impoundment. An impounded animal exhibiting an identification tag or microchip shall be kept for five (5) full days excluding the day of impoundment during which period the animal control authority will notify the owner, if determinable, of the impoundment of the animal. If the owner of an impounded animal does not claim the animal within the prescribed period, disposition of the animal will be made as provided in section 2.07.006.

Sec. 2.07.004 Disposition of animals prior to expiration of impoundment period

In the event that a nursing baby animal is impounded without its mother or where the mother is unable to provide adequate nutrition for the baby animals causing the baby animals to suffer, the animal control authority shall have immediate authority to transfer the baby animals to a nonprofit humane organization or to humanely euthanize the baby animals. In the event that an impounded animal is suffering from injury or illness, the animal control authority shall have the authority to immediately transfer the animal to a nonprofit humane organization or animal welfare organization or to humanely euthanize the animal. If an animal subject to impoundment cannot be moved from the location where it is found due to injury or illness, the animal control authority shall be authorized to dispose of the animal in the most expedient, humane manner possible to avoid prolonging its suffering.

Sec. 2.07.005 Redemption of impounded animal

(a) Except as may be specifically provided otherwise in this chapter, the owner of an impounded animal may reclaim the animal, during normal hours of operation of the city's animal shelter, on the following conditions:

(1) Satisfactory proof of ownership of the animal;

(2) Photo identification by the person reclaiming the animal;

(3) Proof of current vaccination of the animal, if vaccination of the animal is required by the provisions of this chapter;

(4) Payment of all impoundment fees and other costs and expenses incurred by the city in keeping the animal and/or attempting to locate the owner of the animal.

(b) If an impounded dog or cat has not been spayed or neutered and has previously been impounded on four (4) or more occasions, the animal control authority may, require the animal to be spayed or neutered prior to release of the animal to the owner. If the animal control authority imposes a spay or neuter requirement, the owner will have thirty (30) days to provide the animal control authority proof that the spay or neuter requirement has been satisfied or will be in violation of this chapter.

(c) A dangerous wild animal may be reclaimed only under the following conditions:

(1) Proof that the person reclaiming the animal holds a valid certificate of registration for the animal issued by an animal registration agency in compliance with the provisions of Texas Health and Safety Code, section 822.103; and

(2) The execution of a written agreement by the owner of the animal to immediately remove the animal from the city limits.

(d) Nothing herein shall be construed to authorize the release or reclaiming of an animal subject to quarantine until completion of the quarantine period.

Sec. 2.07.006 Disposition of unclaimed animals

All impounded animals not claimed by an owner, within the periods prescribed in section 2.07.003 shall, in the sole discretion of the animal control authority, be adopted, transferred to a nonprofit humane organization, sold, or humanely euthanized.

Sec. 2.07.007 Adoption of animals

(a) Animals may be adopted from the city's animal shelter under the following conditions:

(1) The animal is classified as adoptable by this chapter and by the animal control authority;

(2) The person proposing to adopt has not been cited within the past twelve (12) months for any violations under this chapter;

(3) The person proposing to adopt has never been charged with any violation of this chapter or state law pertaining to cruel treatment of animals;

(4) The dog or cat to be adopted has to be spayed or neutered within thirty (30) days of adoption or when it is six (6) month of age;

(5) The dog or cat has received all vaccinations required by this chapter and/or state law;

(6) The person proposing to adopt has appropriate facilities to provide for the animal;

(7) All adoption fees and other fees authorized by this chapter are tendered to the city.

(b) The requirements for payment of adoption fees shall not apply where cooperative agreements exist between the city and an animal welfare group or humane organization established for the placement and care of animals; nor shall the adoption fees apply to transfers of animals made under cooperative agreements between the city and other governmental entities.

State law reference–Sterilization of dog or cat released for adoption, V.T.C.A., Health and Safety Code, ch. 828.

Sec. 2.07.008 Disposition of estray

Upon receipt by the animal control authority of a report of estray within the city or upon discovery by the animal control authority of estray within the city, the animal control authority shall, as soon as practicable, notify the sheriff of the county to report the presence of the estray, a description of the estray and the location where the estray may be found. If circumstances permit, the animal control authority shall refer the impoundment and disposition of the estray to the sheriff of the county. If circumstances do not permit such a referral, the animal control authority shall be authorized to assist the sheriff in the seizure and impoundment of the estray pending the disposition of the estray by the sheriff of the county in accord with the provisions of chapter 142 of the Texas Agriculture Code.

ARTICLE 2.08 RABIES CONTROL*

Sec. 2.08.001 General standards and procedures

Except as may be otherwise specifically provided in this chapter, the minimum standards and procedures for control of rabies set forth in chapter 826 of the Texas Health and Safety Code are hereby adopted by the city as those standards and procedures exist on the date of adoption of this chapter and as they may hereafter be amended by the legislature or the Texas Board of Health.

Sec. 2.08.002 Animal vaccinations; offense

(a) All dogs or cats four (4) months of age or older within the city shall be vaccinated against rabies. All such vaccinations shall be repeated at the intervals prescribed by rule of the state board of health or its successor agency.

(b) A person establishing residence in the city shall, within fifteen (15) days of establishing residency, comply with the provisions of this chapter regarding vaccination.

(c) A veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of the animal a vaccination certificate on a form approved by the Texas Department of State Health Services. The veterinarian shall also issue to the owner a metal tag serially numbered to correspond with the vaccination certificate and with the veterinarian's address and the year of the vaccination stamped thereon. The veterinarian shall retain a duplicate copy of the certificate of vaccination which shall contain the following information:

  (1) The name, address and telephone number of the owner of the vaccinated animal;

  (2) The date of vaccination;

  (3) The type of rabies vaccine used;

  (4) The year and number of the rabies tag issued; and

  (5) The breed, age, color and sex of the vaccinated animal.

(d) The owner of the vaccinated dog or cat shall cause to be attached to the animal's collar or harness the metal tag issued by the veterinarian in connection with the vaccination. In the event a metal tag confirming vaccination is lost, the owner of the animal shall obtain a duplicate tag and cause same to be attached to the animal's collar or harness.

(e) A person commits an offense if he owns, keep, harbors, possesses or allows any dog or cat which is not currently vaccinated in compliance with this chapter to remain upon the person's premises under his control.

(f) It is a defense to prosecution under this section that the owner provides to the municipal court a valid and current certificate of vaccination for the animal made the subject of a citation or formal complaint for violation of this section. Upon proof of current vaccination in accord with the provisions of this chapter, the case shall be dismissed upon payment of any required administrative fees imposed by the court.

Sec. 2.08.003 Vaccination of impounded animals

In the event an owner desires to reclaim from impoundment an animal required to be vaccinated by this chapter and the owner is not able to provide proof of current vaccination of the animal, the animal control authority shall have authority to cause the animal to be vaccinated against rabies and shall assess the costs of such vaccination to the owner for payment prior to reclaiming of the animal.

Sec. 2.08.004 Duty to report animal bites or rabies exposure

(a) Any person, including the owner of the animal, having knowledge of an animal bite or scratch to a human or to another animal by an animal which the person has reason to believe may be or is rabid shall report that incident to the animal control authority within twenty-four (24) hours of the occurrence of the bite or scratch incident.

(b) Any veterinarian who clinically diagnoses rabies or believes an animal has been exposed to rabies and any other person who reasonably suspects rabies in an animal or believes an animal has been exposed to rabies shall immediately report that information to the animal control authority.

(c) Any person who is bitten or scratched by an animal shall report the occurrence to the animal control authority within twenty-four (24) hours of the occurrence. If the person bitten or scratched is under the age of seventeen (17) years, the parent or guardian of the minor, if he has knowledge of the bite or scratch, shall report the occurrence to the animal control authority within twenty-four (24) hours of obtaining such knowledge.

(d) A person who owns, keeps, or harbors an animal within the city and has knowledge that the said animal has bitten a person outside of the city within the last ten (10) days shall report the bite incident to the animal control authority.

(e) A report required to be made under this section shall include, if known to the reporting person, the following information:

(1) The location within the city (or other jurisdiction) where the bite or scratch occurred;

(2) The location where the animal, which committed the act or is suspected to have rabies, may be located;

(3) The name and address of any person who was bitten or scratched;

(4) The name and address of the person who owns, keeps, harbors or has control over the premises where the animal may normally be found;

(5) The name(s) and address(es) of the person(s) who owns, keeps or harbors an animal(s) which may have been exposed to rabies.

Sec. 2.08.005 Investigation of reports

The animal control authority shall investigate reported bite and scratch incidents in accord with state law and the procedures and recommendations of the Texas Department of State Health Services.

Sec. 2.08.006 Submission of animal to quarantine; offense

(a) The owner of any dog or cat which has been reported to have inflicted a bite or scratch on any person shall, upon request by the animal control authority, immediately surrender the animal for quarantine to the animal control authority, or to a designated facility as directed by the animal control authority, in accordance with section 2.08.009.

(b) A person commits an offense if he owns, keeps, harbors, possesses or allows to remain on premises under his control an animal made the subject of quarantine notice by the animal control authority and fails to produce or surrender the animal to the animal control authority upon request. Each day a person continues to fail to produce or surrender the animal shall constitute a separate offense.

(c) Failure of an owner to surrender an animal in accord with a notice of quarantine by the animal control authority shall render the animal subject to immediate impoundment by the animal control authority for such purpose.

Sec. 2.08.007 Quarantine period

A dog or cat whose owner is known and which is required to be quarantined under this provision shall be observed for a minimum period of ten (10) days from the date of bite. The location and conditions of quarantine during this observation period shall be determined by the animal control authority in accord with the provisions of this chapter and applicable state law.

State law references–Rabies reports and quarantine, V.T.C.A., Health and Safety Code, sec. 826.041 et seq.; quarantine of animals, V.T.C.A., Health and Safety Code, sec. 826.042

Sec. 2.08.008 Quarantine period of stray animals

A stray dog or cat, or an animal whose owner cannot be located after reasonable effort, which is required to be quarantined under this provision shall be maintained by the animal control authority for a period of seventy-two (72) hours after which time, if no owner has been located, the animal may be humanely euthanized and the brain of such animal submitted for rabies examination.

Sec. 2.08.009 Terms and conditions of quarantine

(a) In the sole determination of the animal control authority, a period of quarantine under this provision may be accomplished:

(1) By quarantine in the city's animal shelter under the supervision of the animal control authority;

(2) By quarantine at an approved veterinary clinic under the supervision of a licensed veterinarian and in accord with requirements of state law;

(3) By quarantine by owner where permitted by state law and approved by the animal control authority which approval may only be granted under the following conditions:

(A) The owner provides the animal control authority with documentation of current rabies vaccination and the animal control authority determines that the owner has not been cited for any animal control violations in the city in the past twelve (12) months;

(B) The animal must be maintained within a secure enclosure (as defined in this chapter) approved by the animal control authority for such purpose and must remain therein for a minimum of ten (10) consecutive days;

(C) The animal must have no contact with other animals or people save and except those in the immediate household of the animal;

(D) The animal may not, under any circumstances, be removed from the corporate limits of the city during the quarantine period;

(E) The owner must notify the animal control authority immediately if the animal exhibits symptoms of disease or behavioral changes during the quarantine period;

(F) The owner must not permit any medical procedure, including vaccination of any sort, on the animal during the quarantine period without written consent of the animal control authority;

(G) The owner must permit the animal control authority or a licensed veterinarian to examine the animal on the first day of quarantine; upon reasonable notice, during the quarantine period; and on the final day of the quarantine period.

(b) Nothing herein shall be deemed to require or mandate the animal control authority to permit quarantine by owner. Quarantine by owner may be terminated by the animal control authority and/or the local rabies control authority at any time during the quarantine period for failure of the owner to comply with any of the requirements herein and, in such event, the animal control authority shall have the immediate right to seize the animal and effect quarantine of the animal at an appropriate designated facility at the sole cost and expense of the owner of the animal.

Sec. 2.08.010 Costs of quarantine

All costs of quarantine, regardless of where accomplished, shall be the sole responsibility of the owner of the animal subject to quarantine. In the event an animal is quarantined at the city's animal shelter, all quarantine fees and expenses shall be paid to the city prior to the animal's release to the owner.

Sec. 2.08.011 Disposition of certain animals during quarantine

In the event, that due to the conduct and behavior of the animal, it is not possible for the animal control authority to maintain the animal securely in quarantine, or if the animal has inflicted serious bodily injury on a person, or if the animal exhibits such severe symptoms of rabies as to cause distress and suffering to the animal, the animal control authority shall be authorized to immediately humanely euthanize the animal and have the animal's brain submitted for rabies testing.

Sec. 2.08.012 Interference with or interruption of quarantine period

A person commits an offense if he interrupts the quarantine period of an animal required by this provision by removing the animal from the quarantine facility or conditions. Interruption of a quarantine period shall authorize the animal control authority to immediately impound the animal and complete quarantine in accord with this provision under the supervision of the animal control authority.

Sec. 2.08.013 Release of animal from quarantine

(a) An animal which has been quarantined under these provisions may be released from quarantine under the following conditions:
    (1) The full ten (10) day observation period has expired with no indication of rabies in the animal;
    (2) The owner provides proof of current vaccination of the animal;
    (3) All applicable fees and expenses of quarantine have been paid; and
    (4) The animal is not subject to impoundment for other violations or legal proceedings.

(b) In the event all of the above terms and conditions are met save and except proof of current vaccination, the animal control authority shall cause the animal to be vaccinated, recover the costs of that vaccination from the owner and the animal may be released to the owner.

Sec. 2.08.014 Disposition of unclaimed animals

In the event the owner of an animal subject to quarantine under this provision fails or refuses to reclaim the animal upon completion of the quarantine period, the animal will be humanely disposed of in accord with this chapter and the provisions of Texas Health and Safety Code, section 826.043(d).

Sec. 2.08.015 Disposition of domestic animals potentially exposed to rabies

(a) Domestic animals currently vaccinated for rabies and potentially exposed to rabies shall, in the sole discretion of the animal control authority, either be provided a rabies vaccination booster immediately and placed in isolation under the supervision of the animal control authority for forty-five (45) days or, alternatively, the animal will be humanely euthanized.

(b) Domestic animals not currently vaccinated for rabies and potentially exposed to rabies shall, in the sole discretion of the animal control authority, either be provided a rabies vaccination immediately, placed in strict isolation for 180 days and provided rabies vaccination boosters during the third and eighth weeks following exposure; or, alternatively, be humanely euthanized.

Sec. 2.08.016 Enforcement

For purposes of discharging the duties imposed by these provisions, the animal control authority and/or any police officer of the city is authorized to enter onto private property, other than a private dwelling upon which an animal is kept or harbored and to require proof of current vaccination of such animal as required by this chapter. The owner of an animal is required to produce vaccination information for each animal in his ownership upon request by the animal control authority or a peace officer.

ARTICLE 2.09 COMMERCIAL ANIMAL ENTERPRISES

Sec. 2.09.001 Definition

As permitted by the zoning regulations of the city, a commercial animal enterprise is an activity or venture with a commercial purpose where animals are raised, trained, boarded, harbored, maintained, groomed, displayed and/or offered for sale and shall include, but is not limited to, kennels, pet shops, grooming shops, animal clinics, animal hospitals, animal research centers, zoological parks, petting zoos, livestock auctions, guard dog or obedience training centers, horse stables or riding facilities, farms or ranches, or performing animal exhibitions as defined in this chapter.

Sec. 2.09.002 General operational requirements

All commercial animal enterprises shall be operated and animals cared for in compliance with all applicable provisions of the Texas Health and Safety Code and this chapter.

Sec. 2.09.003 Permits; offense

(a) In addition to and not in lieu of compliance with all applicable zoning regulations and permit requirements under other applicable chapters, commercial animal enterprises shall be required to obtain operational permits from the animal control authority as provided herein. A person commits an offense if he operates, causes to be operated or otherwise engages in a commercial animal enterprise, for which the issuance of permit is required under this chapter, without a valid permit issued by the animal control authority for such commercial animal enterprise.

(b) Annual operational permits from the animal control authority shall be required for:
   (1) Kennels;
   (2) Private animal shelters;
   (3) Private animal fostering facilities;
   (4) Private animal boarding facilities;
   (5) Horse stables or riding facilities;
   (6) Grooming shops or facilities;
   (7) Pet stores or shops; and
   (8) Private petting zoos.

(c) Temporary operational permits from the animal control authority shall be required for:
   (1) Performing animal exhibitions;
   (2) Animal amusement vendors;
   (3) Circuses or carnivals with acts involving animals; or
   (4) Any other transitory or temporary commercial animal enterprise seeking to do business in the city.

(d) In addition to all other applicable requirements of this chapter or state law, private animal shelters, private animal fostering facilities, and private animal boarding facilities for dogs and/or cats must comply with the following criteria as a condition of issuance and maintenance of an annual operational permit:
   (1) All animals must be maintained on a nonporous or sealed surface which provides for proper drainage, sanitation and disposal of waste;
   (2) All animals must be provided access to an enclosure consisting of at least three (3) sides and capable of providing shade and protection from the elements;
   (3) All animal enclosures must be adequately ventilated; and
   (4) All animal enclosures must be supplied with facilities for daily washing and sanitation of the premises.

Sec. 2.09.004 Exceptions to permit requirements

The following facilities and enterprises are exempt from the requirement of an operational permit by the animal control authority, same being subject to regulation and oversight by other appropriate agencies and organizations:

(1) Animal hospitals;

(2) Veterinary clinics, including temporary sites set up by a licensed veterinarian to provide low cost vaccinations or other treatment;

(3) Private or governmental research facilities where animals are maintained;

(4) Education facilities where animals are maintained;

(5) Animal shelters, impounds or facilities maintained by governmental entities, political subdivisions of the state or governmental agencies;

(6) Rodeos and rodeo-affiliated livestock shows;

(7) Livestock auction facilities;

(8) Equestrian or cutting horse events sponsored by a recognized association or organization;

(9) Facilities maintained by nonprofit humane or animal welfare organizations, including but not limited to the American Humane Society and the Society for Prevention of Cruelty to Animals; and

(10) The seasonal sale of brooder rabbits, chicks, ducklings or other fowl by feed stores or agricultural supply enterprises for agricultural purposes where such activity is otherwise authorized by applicable zoning ordinances and state health regulations.

Sec. 2.09.005 Issuance of permits; conditions; revocation; appeals

The provisions of section 2.01.007 of this chapter shall control, in conjunction with all terms and conditions of this article, regarding the issuance, denial or revocation of operational permits. Nothing herein shall be construed to supersede any provision of any applicable zoning regulation or permit requirement of any other applicable municipal code.

Sec. 2.09.006 Inspections

The animal control authority shall, in connection with the application for and issuance of permits pursuant to this article, have the authority to inspect all premises on which commercial animal enterprises subject to permit are or will be conducted. Additionally, the animal control authority shall have the authority to enter upon and inspect, at all reasonable times, any premises on which a permitted commercial animal enterprise is conducted.

Sec. 2.09.007 Revocation of operational permit; offense

(a) If the animal control authority determines that any term or condition of an operational permit issued under this article has been violated, the animal control authority shall be authorized to revoke the operational permit. Notice to the permit holder shall be provided in accord with the provisions of section 2.01.007.

(b) A person commits an offense if he continues, causes to continue or otherwise engages in a commercial animal enterprise after final revocation of an operational permit previously issued for that enterprise. Each day that a person continues to engage in a commercial animal enterprise after final revocation of an operational permit shall constitute a separate offense.

(Ordinance O-002-12 adopted 4/3/12)

CHAPTER 3 BUILDING REGULATIONS

Contents:

ARTICLE 3.01 GENERAL PROVISIONS

ARTICLE 3.02 BUILDING CODE*

ARTICLE 3.03 ENERGY CONSERVATION CODE*

ARTICLE 3.04 ELECTRICITY

ARTICLE 3.05 MECHANICAL CODE

ARTICLE 3.06 PLUMBING*

ARTICLE 3.07 FUEL GAS CODE

ARTICLE 3.08 MOVING AND DEMOLITION OF BUILDINGS*

ARTICLE 3.09 PROPERTY MAINTENANCE CODE

ARTICLE 3.10 RESIDENTIAL CODE

ARTICLE 3.11 SUBSTANDARD BUILDINGS*

ARTICLE 3.12 FLOOD DAMAGE PREVENTION*

ARTICLE 3.13 REPEALED

ARTICLE 3.14 REPEALED

ARTICLE 3.15 STREETS AND SIDEWALKS*

ARTICLE 3.16 SHIPPING, CARGO, AND STORAGE CONTAINERS

ARTICLE 3.17 WIRELESS COMMUNICATION FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

ARTICLE 3.01 GENERAL PROVISIONS

Contents:

Sec. 3.01.001 Building standards commission

Sec. 3.01.002 Reserved

Sec. 3.01.003 Building lots

Sec. 3.01.004 Containment and disposal of trash and debris at construction sites

Sec. 3.01.005 Registration of contractors; homeowner exemption; and requirements

Sec. 3.01.006 Authority to withhold and suspend contractor registrations, permits, and inspections

Sec. 3.01.007 Appeals regarding contractor registrations

Sec. 3.01.008 Offense

Sec. 3.01.001 Building standards commission

(a) Members; terms of members; duties.

(1) There is hereby created a building standards commission to be composed of seven members who shall live within the corporate limits of the city. They will hold office for a period of four years with staggered terms, or until their successors are appointed. As near as practicable, all members of the commission will be qualified in one or more of the fields of engineering, building construction, electrical construction, and plumbing construction and at least one of the members will possess a valid master or journeyman plumbing license as issued by the state. A city employee in the respective department or division of the city, who shall be designated by the city manager, shall be authorized to act as a substitute for the head of their department as an ex officio member of the commission. (1998 Code, sec. 150.47; Ordinance adopting Code)

(2) The building standards commission will serve in an advisory capacity to the city council on proposed ordinance amendments to the building, plumbing, mechanical, electrical and fire codes of the city; hold hearings pertaining to substandard and/or dangerous buildings or structures, recommending the repair or demolition thereof; and hold hearings on appeals and requests for variances from the regulations or provisions of the building, plumbing, mechanical, electrical and fire codes of the city.

(b) Administrative official. The city manager shall designate the administrative official, who shall serve as secretary to the commission and as liaison between the commission, the public and the city council. The designated administrative official shall keep minutes of all meetings in a well-bound book, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; shall conduct all official correspondence; shall compile the required records of its examinations and other official actions; shall maintain the necessary files; and shall generally supervise the clerical work of the commission.

(c) Rules; meetings. The building standards commission shall adopt rules to govern its proceedings; however, such rules shall not be inconsistent with the Code of Ordinances of the city or with the statutes of the state. Meetings shall be held once each month or at the call of the chairman, and at such other times as the building standards commission may deem necessary in order to conduct its duties. The chairperson, or, in his absence, the vice-chairperson or acting chairperson, shall conduct all meetings and hearings of the commission and may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(d) Appeals from decisions of inspectors. The building standards commission is authorized to hear and decide appeals upon the basis of the provisions of the building, plumbing, mechanical, electrical and fire codes of the city in cases where it is alleged that an order, requirement or decision of a city inspector in the enforcement of said codes is erroneous. Such appeals shall be made in writing within 15 days after the order or decision has been rendered by the inspector, by filing with the secretary of the building standards commission a notice of appeal and specifying the grounds thereof. An appeal shall stay all proceedings or actions appealed from unless the inspector from whom the appeal is taken certifies to the commission that a stay would, in his opinion, cause imminent peril to life or property; in such cases, proceedings shall not be stayed unless the building standards commission determines upon investigation that a stay is justified. The building standards commission shall set a reasonable time for the hearing of an appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may appeal in person or by attorney or by agent.

(e) Variances. The building standards commission may authorize upon appeal, in specific cases, such variances from the terms of the building, plumbing, mechanical, electrical and fire codes as will not be contrary to the public interest or under special conditions, where a literal enforcement of the provisions of said codes will result in unnecessary hardship, with the intent that the spirit of the codes shall be observed and substantial justice done, but subject to appropriate conditions and safeguards. In hearing an appeal, the commission shall not have the power to waive or set aside the requirements of said codes, but shall have the power to interpret their provisions, and, in cases of alternate type of construction or material, shall determine whether or not such alternate type of

material is, in fact, equal to the city's codes, considering adequacy, stability, strength, sanitation and safety to the public.

(f) Right of appeal. Any person, firm or corporation who may be aggrieved by the decision of the commission shall have a right of appeal to the city council within ten days from the rendition of such decision, order or requirement by the commission. Said appeals shall be submitted by written notice of appeal to the city council requesting a hearing before the city council, and the action of the city council thereon shall be final. Due process shall not be denied and further appeal may be made to the court of proper jurisdiction.

(1998 Code, sec. 150.47)

Sec. 3.01.002 Reserved

Editor's note–Former section 3.01.002 pertaining to liability insurance for persons engaged in construction, alteration or repair of buildings and deriving from the 1998 Code, sec. 150.01, was deleted in its entirety by Ordinance O-002-19 adopted 3/5/19.

Sec. 3.01.003 Building lots

No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, building tract or building lot has been created in compliance with one of the following conditions:

(1) The lot or tract is described as a separate lot or tract by a plat of record, properly approved by the planning and zoning commission and city council and filed in the plat of records of the county.

(2) The plot, tract or lot faces upon a dedicated street and was separately owned prior to February 21, 1967, or prior to annexation to the city, whichever is applicable, in which event only one main building may be constructed, and a permit issued therefor, on such original.

(1998 Code, sec. 150.02)

Sec. 3.01.004 Containment and disposal of trash and debris at construction sites

Each person engaged in the construction, alteration or repair of any building or appurtenance thereto shall be responsible for all trash, debris and unused material from construction placed or collected on the construction lot or site. Such person shall be responsible for placing all trash and debris, including that which is capable of being wind blown, in a covered container or enclosure until disposed of or removed from the construction lot or site. The building inspector may cause all inspections to be withheld or work to be stopped if uncollected or uncontained trash, debris or unused material from construction is evident on the construction lot or site or on adjacent property. (1998 Code, sec. 150.03)

Sec. 3.01.005 Registration of contractors; homeowner exemption; and requirements

(a) Reference to other chapters. ARTICLE 3.02 building code, ARTICLE 3.04 electricity, ARTICLE 3.05 mechanical code, ARTICLE 3.06 plumbing, ARTICLE 3.07 fuel gas code, Article 3.14 signs, specify the requirements for who may obtain permits in each of these respective disciplines. Notwithstanding all other application and permit requirements of those chapters, the requirements of this section specify the license and registration requirements for contractors in those respective disciplines.

(b) Registration required. No person engaged as a contractor in any one of the categories listed in this section shall build, enlarge, alter, repair, improve, or convert any building or structure, or the appurtenant equipment and systems for a building or structure, for which a permit is required within the corporate limits of the city until such person has registered as a contractor with the city, presented either a bond, or an insurance certificate to the city, or both, and paid the associated fees, all in accordance with this section. When required to be licensed or registered by the state to perform as a contractor in any of the categories listed in this section, proof of the appropriate state license or registration is also required at the time of registration and upon renewal of that registration.

(c) Homeowner exemption: A person who owns a single-family dwelling and has either established the same as his or her legal place of residence, or intends to do so subsequent to completing the work for which a permit is requested, may perform work on that dwelling and on other accessory buildings and structures on the same building site without being registered as a contractor under any of the contractor categories listed in this section. A homeowner shall apply for a homeowner permit and shall complete an affidavit of ownership and residency upon application for a homeowner permit.

A tenant, lessee, landlord, speculative builder, developer, or other nonresident owner shall not be considered a homeowner under this exemption. A person who, within any two (2) year period, applies for any permit as a homeowner for work at four (4) different addresses shall be denied permits as a homeowner at the fourth and any subsequent addresses until two (2) years have elapsed between completion of work at one address and initiation of work at another for which a permit is requested.

(1) Residential landlord policy: If a residential landlord plans to paint, repair and renovate a one, two, or three family unit without hiring any contractor(s) for the project:

(A) If the proposed work involves projects that do not require a permit as determined by the city, the landlord is not required to be registered.

(B) If the proposed work involves projects that require a minor permit as determined by the city, prior to any commencement of work, the landlord is required to register as a contractor with the city and will be exempt from certificate of insurance, bond and insurance requirements and contractor registration fee.

(C) If the proposed work involves major construction activities as determined by the city, the landlord is required to register with the city under the “residential remodel contractor” category of the contractor registration.

(D) Landlord could be prosecuted if evidence is discovered of work being completed by unregistered contractor(s) on the jobsite

(2) Proof of ownership will be required by the building official for utilization of this policy. If the building official suspects the owner has hired a contractor or is not the owner of the property; the landlord category cannot be used as a basis to be considered for exemption under the contractor registration.

(d) Contractor categories. Registration and registration of State licenses, endorsements and certifications: Contractors in the following categories are required to be registered with the city in accordance with this section:

(1) General contractor. An individual, firm, corporation or partnership who performs work requiring either a building or a demolition permit on a building or structure, other than a one (1) or two (2) family residence or residential accessory building or structure, shall be registered with the city.

(2) Electrical contractor and master electrician. An individual, firm, corporation or partnership who performs electrical work on a building or structure that requires an electrical permit shall be licensed by the state as an electrical contractor and shall register his state license with the city. To be licensed as an electrical contractor with the state, that person must be either a master electrician licensed by the state or shall employ a master electrician licensed by the state. The master electrician shall also be separately registered with the city.

(3) Heating, ventilating, and air conditioning (HVAC) contractor. An individual, firm, corporation or partnership who performs HVAC work for which a permit is required by this code shall be licensed by the state as either a class A or B air-conditioning contractor, shall register their State license with the city, and shall only perform HVAC work commensurate with the class of state license he or she holds.

EXCEPTIONS:

(A) An individual, firm, corporation or partnership who performs boiler, refrigeration and other mechanical construction and installations regulated by this code but not regulated as heating and air conditioning work requiring a class A or B air-conditioning contractor license by the state shall register with the city as a general contractor.

(B) A registered plumbing contractor may obtain permits for, and install nonducted, fuel fired unit heaters.

(C) A registered electrical contractor may obtain permits for and install nonducted, electrical unit heaters and nonducted, packaged air-conditioning units.

(4) Landscape irrigator or irrigation technician. An individual, firm, corporation or partnership who performs any landscape irrigation installation for which a permit is required by this code shall be licensed as a landscape irrigator or irrigator technician with the state and shall register such license with the city.

EXCEPTION: A plumbing contractor licensed by the state and registered with the city in accordance with this article may perform the work of a landscape irrigator or irrigation technician.

(5) Medical gas installation contractor. An individual, firm, corporation or partnership who installs or performs work on any medical gas system in the city shall be licensed by the state as a plumbing contractor with a medical gas endorsement and shall register his license and endorsement with the city.

(6) Moving contractor. An individual, firm, corporation or partnership who shall move, or cause to be moved, any house, building or structure of any kind over or along any street, highway, alley or public way located in the city shall register with the city.

(7) New residential contractor. An individual, firm, corporation or partnership who builds a new one (1) or two (2) family residence for which a building permit is required shall register with the city.

(8) Plumbing contractor. An individual, firm, corporation or partnership who performs plumbing work regulated by this code and for which a permit is required shall be licensed by the state as a plumbing contractor and shall register his license with the city. The responsible master plumber for the plumbing contractor shall also register his state license with the city.

(9) Residential addition and remodeling contractor. An individual, firm, corporation or partnership who performs alterations, repairs, and additions on one- and two-family dwellings, multiple single-family dwellings (townhouses) not more than three (3) stories above grade and any associated accessory structures regulated by the International Residential Code shall register with the city.

(10) Roofing contractor. An individual, firm, corporation or partnership engaged in the business of roofing who erects, constructs, enlarges, alters, repairs, removes, improves, converts or demolishes any roof or roof

structure for which a permit is required within the corporate limits of the city shall register with the city under the provisions of this section.

(11) Sign contractor and master sign electrician. An individual, firm, corporation or partnership engaged in the erection, construction, reconstruction, installation, painting, repairing or replacing of any sign for which a permit is required within the corporate limits of the city shall register with the city under the provisions of this section. A sign contractor who constructs signs that have any electrical component integral with the sign shall also employ a master sign electrician licensed by the state. The master sign electrician shall also register his state license with the city.

EXCEPTIONS: Registration as a sign contractor is not required for a property owner or business owner that may obtain a permit for a temporary sign which he or she proposes to construct or install on property under his or her control.

(12) Swimming pool and spa contractor. An individual, firm, corporation or partnership engaged in the business of construction, alteration, relocation, repair, or maintenance of pools, spas, hot tubs, or any other aquatic vessel as regulated by the International Swimming Pool Code, shall register with the city under the provisions of this section.

(13) Water treatment equipment installation contractor. An individual, firm, corporation or partnership engaged in the business of installing, altering, repairing, relocating or replacing any residential water treatment equipment shall be certified by the Texas Department of Health to install, exchange, service and repair residential water treatment facilities, and shall register with the city under the provisions of this section.

(14) Fire protection alarm system contractor. An individual, firm, corporation or partnership engaged in the business of installing, altering, repairing, relocating or replacing any fire protection alarm system shall be certified by the Texas Department of Insurance to install, exchange, service and repair fire protection alarm system, and shall register with the city under the provisions of this section.

(15) Fire protection sprinkler system contractor. An individual, firm, corporation or partnership engaged in the business of installing, altering, repairing, relocating or replacing any fire protection sprinkler system shall be certified by the Texas Department of Insurance to install, exchange, service and repair fire protection sprinkler system, and shall register with the city under the provisions of this section.

(e) Application. An applicant for any contractor registration shall make a written application upon forms furnished by the department of planning and development. The applicant shall complete all information requested on the application or an explanation of the omissions shall be provided. When a state license, endorsement, or certification is required of a contractor, a copy of the original of the same shall be submitted with the application. When a contractor is required by the state to have a responsible master licensee in a respective trade, that master licensee shall also register separately with the city.

(f) Registration fee. There shall be a fee assessed to become a registered contractor under this chapter. The fees for contractor registration are established and enumerated in ARTICLE 1.07 schedule of charges and fees. All registrations under this Section shall expire one (1) year from the date of registration.

(g) Bond and insurance requirements. No person engaged as a contractor required to be registered by this section shall be issued a permit for work in the respective category until he has made, executed and delivered to the building official either a license and permit surety bond, or a certificate of insurance, or both, further described as follows:

(1) License and permit surety bond.

(A) A good and sufficient corporate surety bond, license and permit surety bond, in the amount shown in table 3-1-002 payable to the city for the use and benefit of either the city, or the property owner, for damages as a result of any act or neglect of the principal or his agents or employees; or by reasons of failure to repair any defective work, material or installation; or for failure to pay any fees or other

charges due the city; or for failure to remedy any defects or faulty workmanship or material within the time prescribed by the building official for the completion of such remedial work, without additional cost to the person for whom the work was done; and guaranteeing compliance with the requirements of the applicable construction codes of all work installed by the principal, his agents or employees.

(B) Claim upon such bond may be filed by either any person damaged by reason of the principal's failure to perform his obligations under the bond, or the city for violation of applicable construction codes.

(C) Suspension or revocation of the registration of the principal shall not by itself affect the liability of either the principal or the surety on such bond.

EXCEPTION: Residential landlord - The owner of any one-, two- or three-family home that is rented or leased per living unit to a single person or family intended to be used as living quarters.

Landlords performing work as a residential remodeling contractor or a residential roofing contractor will be exempt from the requirement of being required to have a license and permit surety bond. They will still be required to obtain permits to perform the work and have city inspections performed.

(2) Certificate of insurance.

(A) Contractors who are required by the state to be licensed and to maintain liability insurance for that license, must present a copy of their certificate of insurance showing compliance with state regulations. When the state requires liability insurance, no other insurance or bond shall be required by the city to be registered as a contractor under this section.

(B) Contractors who are not required by the state to maintain liability insurance, but who are required by this chapter to maintain liability insurance, shall provide a certificate of insurance showing the levels of liability insurance coverage in accordance with table 3-1-002, contractor registration requirements.

EXCEPTION: Residential landlord - The owner of any one-, two- or three-family home that is rented or leased per living unit to a single person or family intended to be used as living quarters.

A residential landlord that plans to paint, repair and renovate a one-, two-, or three-family unit without hiring any contractor(s) will be exempt from the requirement of being required to have certificate of insurance. They will still be required to obtain permits to perform the work and have city inspections performed.

(h) Table of contractor registration requirements. The specific requirements for each contractor category are as listed in the following table 3-1-002, contractor registration requirements.

Table 3-1-002 Contractor Registration Requirements

Contractor Categories	State License or Registration Required	City Registration in Addition to State License or Registration	License and Permit Surety Bond	General Liability Insurance
Building contractor				
General contractor (fn. 1)	No	Yes	none	$300,000.00
New residential contractor (fn. 2)	No	Yes	none	$300,000.00
Residential remodeling contr. (fn. 3)	No	Yes	$20,000.00	$300,000.00
Additional requirements for building demolition	No	any of the above	lot clearance cash bond (fn. 4)	Yes (fn. 5)
Electrical contractor, master electrician license (fn. 6)	State lic.	Yes	none	State required min.
HVAC contractor, A and B (fn. 7)	State lic. (fn. 7)	Yes	none	State required min.
Landscape irrigator or irrigation technician	State lic.	Yes	$10,000.00	$300,000.00
House moving contractor	No	Yes	$10,000.00	$300,000.00
Plumbing contractor, master plumber license (fn. 7)	State lic.	Yes	none	State required min.
With medical gas endorsement (MGE) (fn. 8)	MGE	Yes	none	State required min.
Commercial roofing contractor	No	Yes	$50,000.00	1,000,000 (fn. 12)
Residential roofing contractor	No	Yes	$30,000.00	$300,000.00 (fn. 11)
Sign contractor				
Electrical sign contractor (fn. 9)	State lic.	Yes	None	State required min.
Nonelectrical sign contractor (fn. 10)	No (fn. 10)	Yes	$10,000.00	None
Swimming pool and spa contractor	No	Yes	$10,000.00	None
Water treatment equipment installation contractor	State lic.	Yes	$10,000.00	None
Fire protection alarm system contractor	State lic.	Yes	None	State required min.
Fire protection suppression system contractor	State lic.	Yes	None	State required min.

Table 3-1-002 Contractor Registration Requirements

Contractor Categories	State License or Registration Required	City Registration in Addition to State License or Registration	License and Permit Surety Bond	General Liability Insurance

Footnotes:

1. A General contractor who is not registered as a residential contractor and does not post a license and permit surety bond, may only work on commercial projects, including the installation of commercial kitchen exhaust hoods, and boilers used only for providing process heat. Makeup air and environmental air systems associated with a commercial kitchen hood must be installed by a State licensed air conditioning contractor. Boilers installed for environmental heating must be included on a heating and air conditioning permit issued to a State licensed air conditioning contractor. Boilers used for domestic and service water heating must be included on a plumbing permit issued to a state licensed master plumber.
2. A contractor registered as a residential contractor but who does not post a license and permit surety bond may work on new residential construction, and any commercial project, but may not work on residential remodels and additions.
3. A building contractor who is registered as a residential contractor, and who posts a license and permit surety bond and carries the prescribed general liability insurance in table 3-1-002 as required for a residential additions and remodeling contractor may work in any of the three (3) building contractor categories.

   Typical permittable items for remodel permits:

   Generally, cosmetic work to a house such as repainting or carpeting does not require a remodel permit. Replacing shingles on a roof for a house does not require a permit (if it is under 700 sq. ft.) unless the decking is replaced. Replacing an existing window doesn't require a permit but cutting a hole or enlarging for a new window generally does. This includes skylights and new doors. If you're installing new or removing existing plumbing, a permit is probably required. Any job that includes installing new electrical service to your home will also require a permit. Any project involving changes to the support system of the home requires a permit. This may include changes to load-bearing walls, decks, balconies and porches. Masonry siding requires a permit for siding projects. If you want to replace your water heater, you will need a permit. You may also need a permit for ventilation system changes. If you plan to install insulation or sheetrock, wallboard, plasterboard, gypsum wallboard, or most commonly drywall in a large area (over 500 sq. ft. of wall or ceiling space), add or remove walls in the aforementioned square footage, you will probably need a permit.

   Remodels/renovations that may not require a permit include:

   a. Painting or wallpapering.
   b. Installing hardwood floors or carpeting.
   c. Minor electrical repairs that do not involve new branch circuits or moving existing electrical devices.
   d. Installing new countertops.
4. See demolition permit requirements for the amount of lot clearance cash bond. A twenty thousand dollar ($20,000.00) license and permit surety bond may serve in lieu of a cash lot clearance deposit.
5. Where any building that is to be demolished is not set back a distance from the street property lines equal to its height, there first shall be filed with the Building Official approved public liability insurance, minimum limits of liability: Two hundred fifty thousand dollars ($250,000.00) per person; five hundred thousand dollars ($500,000.00) per occurrence; one hundred thousand dollars ($100,000.00) property damage per occurrence.
6. State laws require an electrical contractor to be either licensed as a master electrician or employ a master electrician. Both are required to register their licenses with the city although the registration fee only applies to the contractor.
7. A licensed master plumber may also install nonducted, unit heaters and wall heaters without having a separate HVAC license.
8. Installation of medical gas systems may only be done by a licensed master plumber who also has a medical gas endorsement.
9. Signs having any electrical components must be constructed, installed, and maintained by a state licensed electrical sign contractor. The contractor must either himself be, or he must employ a licensed master sign electrician. Both must register their licenses with the city although the registration fee only applies to the contractor.
10. A sign contractor who constructs, installs, and maintains only signs that have no electrical components is not required to be licensed as an electrical sign contractor with the state, but is required to comply with city requirements for contracting.
11. General liability insurance requirements for contractors. Prior to being registered, and prior to each registration renewal period, each contractor must provide a standard insurance certificate to the department of planning and development that demonstrates liability insurance coverage in the following amounts, and that otherwise complies with the following:
    a. Minimum of three hundred thousand dollar ($300,000.00) per occurrence (combined for property damage and bodily injury);
    b. Minimum of six hundred thousand dollar ($600,000.00) aggregate (total amount the policy will pay for property damage and bodily injury coverage); and
    c. Minimum of three hundred thousand dollar ($300,000.00) aggregate for products and completed operations.
    d. The certificate of insurance must contain a clause requiring the company to give the city thirty (30) day cancellation notice of the policy.
    e. Insurance must be provided by an admitted company, surplus lines carrier or other insurer authorized by law to issue liability insurance in the state, with minimum financial reserves of not less than one hundred million dollars ($100,000,000.00) in reported capital, surplus, and conditional reserve funds. Any insurer or re-insurer which is rated shall have an A.M. Best Company rating of B+ or higher or an equivalent rating by another insurance rating company.

    A registered contractor shall furnish to any customer who requests it: the name of the insurance carrier, policy number, and the name, address, and telephone number of the insurance agent with whom the contracting company is insured.
12. General liability insurance requirements for commercial roofing contractors. Prior to being registered, and prior to each registration renewal period, each commercial roofing contractor must provide a standard insurance certificate to the department of planning and development that demonstrates liability insurance coverage in the following amounts, and that otherwise complies with the following:
    a. Minimum of one million dollars ($1,000,000.00) per occurrence (combined for property damage and bodily injury coverage);
    b. Minimum of two million dollars ($2,000,000.00) aggregate (total amount the policy will pay for property damage and bodily injury coverage);
    c. Minimum of one million dollars ($1,000,000.00) aggregate for products and completed operations; and
    d. The certificate of insurance must contain a clause requiring the company to give the city thirty-day cancellation notice of the policy; and
    e. Insurance must be provided by an admitted company, surplus lines carrier or other insurer authorized by law to issue liability insurance in the state, with minimum financial reserves of not less than one hundred million dollars ($100,000,000.00) in reported capital, surplus, and conditional reserve funds. Any insurer or re-insurer which is rated shall have an A.M. Best Company rating of B+ or higher or an equivalent rating by another insurance rating company. A registered contractor shall furnish to any customer who requests it: the name of the insurance carrier, policy number, and the name, address, and telephone number of the insurance agent with whom the contracting company is insured.

Editor's note–Former section 3.01.005 pertaining to trench safety and deriving from the 1998 Code, sec. 150.04 and Ordinance adopting Code, was deleted in its entirety by Ordinance O-002-19 adopted 3/5/19.

Sec. 3.01.006 Authority to withhold and suspend contractor registrations, permits, and inspections

(a) Under the following conditions, the building official is authorized to deny registration of, to suspend the registration of, and to withhold renewal registration of a contractor who:

(1) Fails to correct a defect, error or deficiency in work installed under the authority of a permit within thirty (30) calendar days after written notification from the building official or his authorized agents;

(2) Has an expired permit issued under this chapter;

(3) Fails to pay any indebtedness, when due, to the city for inspection fees, permit fees or registration fees;

(4) Allows unlicensed construction trades persons, who are required to be licensed by the State, to perform work in their respective trade on a building structure or construction site; or

(5) Has an expired state license, or city registration requirements have not been maintained in accordance with this chapter.

(b) The building official is authorized to withhold and suspend permits and inspections to any contractor who(se):

(1) Is either not registered with the city, or whose registration with the city has expired in accordance with this chapter. This does not allow the building official to withhold inspections on expired permits to comply with section (a)(2) above;

(2) License and permit surety bond or certificate of insurance required by this section has expired.

(3) License, license endorsement, or certification with the state in the respective trade has expired, has been suspended, or which has become invalid for any reason;

(4) Fails to correct a defect, error or deficiency in work installed under the authority of a permit within thirty (30) calendar days after written notification from the building official or his authorized agents;

(5) Fails to pay any indebtedness, when due, to the city for inspection fees, permit fees or registration fees;

(6) Allows unlicensed construction trades persons, who are required to be licensed by the state in their respective trade, to perform work in that trade on a building, structure, or construction site.

Sec. 3.01.007 Appeals regarding contractor registrations

A person may appeal decisions of the building official regarding contractor registration in accordance with section 3.01.001.

Sec. 3.01.008 Offense

Unless specifically excepted, it is an offense punishable in accordance with section 1.01.009 of this code, either to perform any construction without being registered, or to otherwise not comply with the requirements of this article. The purpose of this article is to preserve public health, safety, and welfare.

(Ordinance O-002-19 adopted 3/5/19)

ARTICLE 3.02 BUILDING CODE*

Division 1. International Building Code

Sec. 3.02.001 Adopted

From and after the effective date of Ordinance O-004-20, the International Building Code, 2018 edition, published by the International Code Council, regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the city, is hereby adopted by reference as though set out completely in detail. A copy of said International Building Code shall be filed with the City Secretary and Building Official, such copy to be open for public inspection during normal business hours.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.02.002 Amendments

The International Building Code, 2018 edition, published by the International Code Council, Inc., is hereby amended, as applicable to the city in the following sections, paragraphs and sentences to read as follows:

101.1 Title, Insert "City of Borger"

> Add Paragraph (A) 101.4.8 Electrical. The provisions of the National Electrical Code, as adopted and amended, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto. Any reference to electrical code shall mean National Electrical Code.

105.1.2, Annual permit records is hereby deleted and reserved.

109.2, Fees is hereby amended by adding the following paragraph as follows:

> Before any building permit shall be issued under the provisions of this code, the applicant shall pay to the city a fee in such amount as specified in Article 5 of the Fee Schedule listed in the Code of Ordinances of the City of Borger, Texas.

Section 111, Certificate of Occupancy, paragraph (A) 111.2, Certificate issued, items 7, 11, and 12 are hereby deleted.

901.5, Acceptance test, second sentence, is hereby amended to read as follows:

> Where required, the test shall be conducted in the presence of the Fire Marshal.

901.6.4, Group H, is hereby amended to read as follows:

> When approved by the Fire Marshal, on-site monitoring at a constantly attended location shall be permitted provided that notifications to the fire department will be equal to those provided by an approved supervising station.

1507.8.1, Deck requirements, is hereby amended to read as follows:

> Wood shingles shall be installed on solid sheathing.

Table 1507.8.5, Wood shingle material requirements, Applicable minimum grades column is hereby amended by deleting 2 and 3.

1507.9.1, Deck requirements is hereby amended to read as follows:

Wood shakes shall be installed on solid decking.

1809.5, Frost protection item 1, is hereby amended to read as follows:

Extending 6 inches below the frost line of the locality.

2701.1, Scope, is hereby amended to read as follows:

The provisions of the most recently adopted National Electrical Code shall govern the design, construction, erection and installation of the electrical components, appliances, equipment and systems used in buildings and structures covered by this code and shall govern the use and maintenance of electrical components, equipment and systems.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.02.003 Appendix chapters

(a) The following appendices of the International Building Code, 2018 edition, as published by the International Code Council are hereby deleted and reserved:

Appendix A, Employee Qualifications

Appendix B, Board of Appeals

Appendix D, Fire Districts

(b) Appendix H, H109.1, Height restrictions, is hereby amended to read as follows:

The structural frame of a ground sign where made of combustible or noncombustible material shall not be higher than 50 feet above the surface of the ground.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Secs. 3.02.004–3.02.030 Reserved

Division 2. Existing Building Code

Sec. 3.02.031 Adopted

From and after the effective date of Ordinance O-004-20, the International Existing Building Code, 2018 edition, published by the International Code Council, regulating and controlling the design, construction, quality of materials, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems of existing buildings in the city, and providing for the issuance of permits and collection of fees therefor, is hereby adopted by reference as though set out completely in detail. A copy of said International Existing Building Code shall be on file with the City Secretary and Building Official, such copies to be open for public inspection during normal business hours.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.02.032 Amendments

The International Existing Building Code, 2018 edition, published by the International Code Council, Inc. is hereby amended as applicable to the city, in the following sections, to read as follows:

101.1, Title, is hereby amended to read as follows:

> These regulations shall be known as the existing building code of the City of Borger, hereinafter referred to as "this code."

105.1.1, Annual permit is hereby deleted in its entirety.

105.1.2, Annual permit records, is hereby deleted in its entirety.

406.1.1, Receptacles, is hereby amended to read as follows:

> Replacement of electric receptacles shall comply with the applicable requirements of NFPA 70 Section 406.3(D) and in dwelling units with NFPA 70 Section 406.11 for in dwelling units.

702.6, Materials and methods, is hereby amended to read as follows:

> All new work shall comply with materials and methods requirements in the National Electrical Code, International Building Code, International Energy Conservation Code, International Mechanical Code, and International Plumbing Code, as applicable, that specify material standards, detail of installation and connections, joints, penetrations, and continuity of any element, component, or system in the building.

808.1, New installations, Exception, is hereby amended to read as follows:

> Electrical equipment and wiring in newly installed or opened existing walls, partitions and ceilings shall comply with all applicable requirements of CHAPTER 3, BUILDING REGULATIONS, ARTICLE 3.04, ELECTRICITY, Division 2, Electrical Code, Code of Ordinances of the City of Borger and NFPA 70 (National Electric Code).

808.3.8, Arc Fault Circuit Interruption, is hereby added to read as follows:

> All electrical circuits in a dwelling unit, except kitchen, bathroom and garage, shall be arc fault protected in accordance with Section 210.12(B) of NFPA 70 (National Electric Code).

1007.3, Service upgrade, is hereby amended to read as follows:

> Where the occupancy of an existing building or part of an existing building is changed, electrical service shall be upgraded to meet the requirements of the Code of Ordinances of the City of Borger, Texas, CHAPTER 3, BUILDING REGULATIONS, ARTICLE 3.04, ELECTRICITY, Division 2, Electrical Code, and where the electrical service of an existing building or the electrical demand is increased, the electrical service shall be upgraded to current NFPA 70 (National Electrical Code) and the requirements of the electric service provider.

1402.1, Location on the lot, is hereby amended by adding a second sentence to read as follows:

> The building shall be located on a lot or recorded tract in accordance with the Zoning Ordinance of the City of Borger, Texas.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

ARTICLE 3.03 ENERGY CONSERVATION CODE*

Sec. 3.03.001 Adopted

From and after the effective date of Ordinance O-004-20, the International Energy Conservation Code, 2018 edition, published by the International Code Council, is hereby adopted by reference as though set out completely in detail. A copy of said International Energy Conservation Code shall be filed with the City Secretary and Building Official, such copy to be open to public inspection during normal business hours.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.03.002 Amendments

The International Energy Conservation Code is hereby amended in the following sections:

C101.1, Title, is hereby amended to read as follows:

> These regulations shall be known as the Energy Conservation Code of the City of Borger, hereinafter referred to as "this code."

C104.2, Schedule of permit fees, is hereby amended to read as follows:

> Before any permit shall be issued under the provisions of this code, the applicant shall pay to the city a fee in such amount as specified in Article 5 of the Fee Schedule listed in the Code of Ordinances of the City of Borger, Texas.

105.2, Required inspections, is hereby deleted and replaced with the following:

> C105.2. Required inspections. The following components of the building or structure shall be inspected as needed to ascertain compliance with this code. These inspections are in addition to those required by other sections of this code.
>
> > C105.2.1. Foundation, basement and floor slab insulation. Foundation, basement, and floor slab insulation shall be inspected after it is installed but prior to it being concealed by other materials. Depending upon where the insulation is placed, partial inspections may be required either prior to or after placement of concrete, or both. Insulation located on the exterior or foundation walls and slab edges may be inspected at the exterior wall insulation stage following the framing inspection.
> >
> > C105.2.2. Exterior wall, crawl space, floor and roof insulation. Exterior walls, vapor barriers, exterior insulating sheathing, exterior weather resistive barriers, crawl spaces and floors other than concrete slabs on grade, and roof insulation if used, shall be inspected after the framing inspection, but prior to being concealed by other materials.
> >
> > C105.2.3. Ceiling insulation, penetrations of the building envelope and fenestration. Ceiling insulation, penetrations of the building exterior envelope, and fenestration (windows, doors, and skylights) shall be inspected after installation. These may be inspected all at one time, or individually as necessary.
> >
> > > C105.2.3.1. Ceiling insulation. Either ceiling insulation depth markers, or certification markers, or both, shall be present upon inspection.

C105.2.3.2. Penetrations of the building envelope. Penetrations of the building envelope shall be inspected to ascertain whether they have been appropriately sealed to limit uncontrolled air leakage (infiltration and exfiltration). Interior wall and ceiling substrates or finish material, materials, and subflooring, if used, shall be in place, and penetrations sealed. Secondary construction such as furred-out spaces, cabinets, fixtures, and similar components shall not conceal penetrations of the building envelope (exterior walls and ceilings) until those penetrations have been sealed and the inspection is approved.

C105.2.3.3. Fenestration. Fenestration (windows, doors, and skylights) shall be in place, sealed around their perimeters where they are attached to the frame, and voids in the rough framing shall be insulated. Fenestration U-factor labels or documentation.

C105.2.4. Mechanical systems and lighting. Mechanical systems, including those required for comfort heating and cooling, service water heating and swimming pool heating equipment, and lighting systems shall be inspected for compliance with energy conservation measures at the same time as the rough-in, top-out, and final inspections normally required for electrical, heating and air-conditioning and plumbing permits under the respective codes.

C105.2.5. Final inspection. Upon completion of a project requiring a permit the energy conservation measures and components shall be inspected for compliance at the same time as the final inspections normally required for building, electrical, heating and air-conditioning and plumbing permits under the respective codes.

Table R402.1.2, INSULATION AND FENESTRATION REQUIRMENTS BY COMPONENT, is hereby deleted and replaced with the following:

TABLE R402.1.2
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT[a]

Climate Zone	Fenestration U-Factor[b]	Skylight[b] U- Factor	Glazed Fenestration SHGC[b,e]	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value	Floor R-Value	Basement[c] Wall R-Value	Slab[d] R-Value & Depth	Crawl Space[c] Wall R-Value
1	NR	0.75	0.25	30	13	3/4	13	0	0	0
2	0.40	0.65	0.25	38	13	4/6	13	0	0	0
3	0.35	0.55	0.25	38	20 or 13+5[h]	8/13	19	5/13[f]	0	5/13
4 except Marine	0.35	0.55	0.40	40	15 or 13+1[h]	8/13	19	10/13	5, 12 in	10/13
5 and Marine 4	0.32	0.55	NR	49	20 or 13+5[h]	13/17	30[g]	15/19	10, 2 ft	15/19
6	0.32	0.55	NR	49	20+5 or 13+10[h]	15/20	30[g]	15/19	10, 4 ft	15/19
7 and 8	0.32	0.55	NR	49	20+5 or 13+10[h]	19/21	38[g]	15/19	10, 4 ft	15/19

Footnotes shall remain unchanged

Table R402.1.4, EQUIVALENT U-FACTORS, is hereby deleted and replaced with the following:

TABLE R402.1.4
EQUIVALENT U-FACTORS[a]

Climate Zone	Fenestration U-Factor	Skylight U-Factor	Ceiling U-Factor	Frame Wall U-Factor	Mass Wall U-Factor[b]	Floor U-Factor	Basement Wall U-Factor	Crawl Space Wall U-Factor
1	0.50	0.75	0.035	0.084	0.0197	0.064	0.360	0.477
2	0.40	0.65	0.030	0.084	0.165	0.064	0.360	0.477
3	0.35	0.55	0.030	0.060	0.098	0.047	0.091[c]	0.136
4 except Marine	0.35	0.55	0.028	0.070	0.098	0.047	0.059	0.065
5 and Marine 4	0.32	0.55	0.026	0.060	0.082	0.033	0.050	0.055
6	0.32	0.55	0.026	0.045	0.060	0.033	0.050	0.055
7 and 8	0.32	0.55	0.026	0.045	0.057	0.028	0.050	0.055

Footnotes shall remain unchanged.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

ARTICLE 3.04 ELECTRICITY

Division 1. Generally

Sec. 3.04.001 Exemptions from article

(a) The provisions of this article shall not apply to electric light, heat and power companies, telephone companies and telegraph companies, normally operating or operating under franchise or state laws in the installation, maintenance, removal or repair of wires or other equipment used in connection with their business as producers to supply consumer service, and street lighting, illumination of public ways, alleys, parks or communications.

(b) The provisions of this article shall not apply to the fire, police and traffic signal installations, or other similar installations installed and maintained by the city.

Sec. 3.04.002 Approval of materials

All wiring materials, wiring devices such as switches, fuses, panels, lighting fixtures, ballast, transformers, conductors, appliances, and circuit breakers, and signal devices must bear the stamp of approval of the National Board of Fire Underwriters or “UL” label.

Sec. 3.04.003 Recommendations by building standards commission

The building standards commission shall submit to the city council written recommendations and suggestions for the improvement, enforcement and administration of the provisions of this article.

Sec. 3.04.004 Supervision of apprentices, trainees or helpers

(a) Apprentices, trainees or helpers shall be adequately supervised by a master electrician or a journeyman electrician.

(b) Apprentices, trainees or helpers shall be limited to two apprentices, trainees or helpers for each master or journeyman electrician during the installation of electrical systems.

Secs. 3.04.005–3.04.030 Reserved

Division 2. Electrical Code*

Sec. 3.04.031 Adopted

The latest published edition of the National Electrical Code as approved by the National Fire Protection Association is hereby adopted as the minimum standard for the installation of all electrical wiring devices and equipment in the city and said National Electrical Code is hereby made a part of this article as fully and to the same extent as if copied herein in full. In the event of any conflict between the provisions of this article and the National Electrical Code, the provisions of this article shall govern.

Sec. 3.04.032 Amendments

The National Electrical Code, as adopted by section 3.04.031, is hereby amended in the following sections:

Annex H. Administration and Enforcement.

SECTION 80.9, Application, paragraph (C), additions, alterations or repairs, is hereby amended to read as follows:

> In a building, structure or residence which is altered, remodeled, added onto, or converted, the electrical installation within such portion shall conform to the requirements of ARTICLE 3.04 of the Borger Code of Ordinances and the National Electrical Code. When a portion of a residence is converted to another use and the area of the use exceeds 10% of the area of the residence, the electrical installation of the converted portion shall be separate from that of the remaining residence. All wiring shall be installed in approved raceways, and the electrical installation in the converted portion shall conform to the requirements of ARTICLE 3.04 of the Borger Code of Ordinances and the National Electrical Code.

SECTION 80.15, Electrical board, is hereby deleted and reserved.

SECTION 80.19, Permits and approvals, paragraph D, annual permits, is hereby deleted.

SECTION 80.23, Notice of violation, penalties, paragraph B(3), is hereby amended to read as follows:

> Any person, firm or corporation who shall willfully violate any of the applicable provisions of this code shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by fine as set forth in section 1.01.009 of the Borger Code of Ordinances. Each day that a violation continues after due process shall be deemed a separate offense.

SECTION 80.25, Connection to electricity supply, paragraph (C), notification, is hereby deleted and reserved.

SECTION 80.25, Connection to electricity supply, paragraph (E), disconnection, second sentence, is hereby amended to read as follows:

> If, upon subsequent inspection, it is found that the installation is not in conformity with the provisions of this code, the electrical inspector shall notify the person, firm or corporation making the installation to rectify the defects and, if such work is not completed within ten business days, the electrical inspector shall have the authority to cause disconnection of the portion of the installation that is not in conformity.

SECTION 80.27, Inspector's qualifications, is hereby deleted and reserved.

SECTION 80.29, Liability for damages, is hereby amended to read as follows:

> Article 80 shall not be construed to affect the responsibility or liability of any party owning, designing, operating, controlling or installing any electric equipment for damages to persons or property caused by a defect therein, nor shall the city or any of its employees be held as assuming any such liability by reason of the inspection, reinspection or other examination authorized.

SECTION 80.35, Effective date, is hereby amended to read as follows:

> Article 80 shall take effect 14 days after passage by the city council and publication.

Article 210, Branch circuits, paragraph 210.23(C), 40- and 50-ampere branch circuits, is hereby amended by adding the following to read as follows:

> The minimum conductor size shall be no. 6 THW copper. A range receptacle shall be on a minimum 50-ampere rated circuit. Wall-mounted ovens and countertop cooking units shall have individual branch circuits with a minimum conductor size of no. 10 AWG.

Article 210, Branch circuits, section III, required outlets, paragraph 210.52(B), receptacle outlets served, is hereby amended by adding the following:

No more than four receptacle outlets shall be allowed in any kitchen and other rooms specified in 210.52(B)(1). Dishwasher and garbage disposals shall be installed on separate branch circuits.

Article 210, Branch circuits, section III, required outlets, paragraph 210.52 (F), laundry areas, is hereby amended by adding a second sentence to read as follows:

Dryers shall be provided a separate circuit from other loads. The minimum conductor size shall be no. 10 THW copper. A dryer receptacle shall not be rated less than 30 amperes.

Article 230, Services, section I, general, is hereby amended by adding the following:

230.11. Overhead service drop provisions. When alterations, changes or modifications are made to an existing service drop the following provisions shall apply:

(A) When a new electrical installation is to be served with an overhead service drop, a means of attachment shall be provided by the master electrician or the homeowner at the location that will allow the service drop to comply with the National Electrical Code. When an electrical installation is started before the electric company facilities are placed, it shall be the responsibility of the electric company to determine the location of the facility from which the service drop for the electrical installation will be installed. The means of attachment shall be a clamp on a service mast or a galvanized “hook” bolt or “eye” bolt, minimum size 3/8 inch, rigidly attached to rafter or stud to give adequate support to the service drop.

(B) When an addition is to be made to an existing building that requires that the service entrance be relocated to the new portion of the building, the service entrance shall comply with the rules established for all new installations.

(C) When the meter loop is changed on an existing installation, the installation shall be made to comply as nearly as possible with this section and the National Electrical Code.

(D) The master electrician or homeowner shall provide for and install facilities to accommodate metering of an electrical installation in accordance with uniform practices established by the electric company. The meter enclosure shall be mounted on the outside of a building near the point of contact between the electrical installation and the electric company service lines at a location that does not subject the enclosure to physical damage and will cause the meter to be readily accessible to representatives of the electric company for installing, replacing, removing, inspecting, testing and reading. Exceptions to the outside location may be made only by specific agreement with the electric company and with the approval of the electrical inspector.

(E) Should an addition to or alteration of any building enclose the metering installation such that it will no longer be in an accessible outside location, the metering installation shall be relocated to a point outside the addition or alteration, maintaining strict conformance to the provisions of ARTICLE 3.04 of the Borger Code of Ordinances and the National Electrical Code.

(F) Existing metering installations which are located inside a building shall be removed to an outside location at such time that changes, alterations or additions are made to the service entrance of the electrical installation.

(G) All disconnecting switches accessible to the general public under 200 amperes shall have rain-tight and dead-front panels. All disconnecting switches 200 amperes or over that are exposed or accessible to the general public shall have rain-tight and locked or bolted closed panels.

Article 230, Services, section VI, service equipment disconnecting means, paragraph 230.70(A)(1), readily available location, is hereby amended to read as follows:

> The service disconnecting means shall be a minimum three-wire, 120/240 volt and have a capacity of not less than 100% of the load that it is supplying. The service disconnect shall be located in the open outside nearest the point of entrance of the service conductors and shall conform to the requirements of 230.71.

Article 250, Grounding and bonding, section III, ground electrode system and ground electrode conductor, paragraph 250.52(5)(6), rod and pipe electrodes, is hereby amended to read as follows:

> Electrodes shall be copper clad, 5/8-inch O.D. and eight feet in length.

Article 250, Grounding, paragraph 250.64(B), securing and protecting from damage, the second sentence is hereby deleted.

Article 250, Grounding, paragraph 250.64(B), securing and protection against physical damage, the third sentence is hereby amended to read as follows:

> A 6 AWG grounding conductor shall be in rigid metal conduit, intermediate metal conduit, rigid nonmetallic conduit, electrical metallic tubing or cable armor with such protection securely fastened to the construction and outside the structure.

Article 310, Conductors for general wiring, table 310.106(A), minimum size of conductors, is hereby amended as follows:

> Conductor voltage rating (Volts) 0–2000, minimum conductor size (AWG) copper 12.

Sec. 3.04.033 Variances

The building standards commission may authorize upon appeal, in specific cases, such variances from the terms of the electrical code as provided in section 3.01.001(e).

Secs. 3.04.034–3.04.060 Reserved

Division 3. Licenses

Sec. 3.04.061 Adoption of state law

The city hereby adopts the procedures for licensing of electricians and the regulations for electrical work contained in the Texas Electrical Safety and Licensing Act, V.T.C.A., Occupations Code, chapter 1305.

Secs. 3.04.062–3.04.090 Reserved

Division 4. Permits and Inspections

Sec. 3.04.091 Work requiring permit

No person using electric power as a consumer shall begin any electrical installation or begin any work of installing, erecting or altering material, wiring fixtures or any other apparatus to be used for the utilization of electricity for light, heat and/or power in or on any building or premises in the city without first securing a permit therefor from the office of the electrical inspector; provided, however, that no permit shall be required for minor work such as repairing flush or tumbler switches, replacing fuses, or changing lamp sockets and receptacles; provided further that this section shall not apply to maintenance and repairs on the premises of a person regularly employing a qualified maintenance electrician for that purpose.

Sec. 3.04.092 Persons to whom permits may be issued

Nothing contained within this division shall be construed to prevent the issuance of permits to owners of dwellings for electrical repair work in such dwellings. Electrical permits shall be issued to any responsible master electricians for any type of new residential or commercial construction.

Sec. 3.04.093 Application for permit; issuance of permit

Homeowners and licensed master electricians desiring a permit required under the provisions of this division shall make applications therefor to the planning and zoning department. After payment of the required inspection fees, the electrical inspector or his representative shall issue the applicant a permit for the proposed work.

(Ordinance O-003-14 adopted 4/1/14)

Sec. 3.04.094 Fees

Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay all associated fees as listed in the ARTICLE 1.07, division 6. (Ordinance O-008-18 adopted 9/18/18)

Sec. 3.04.095 Duty to notify inspector upon completion of work

Upon the completion of electrical work which has been authorized by the issuance of a permit under the provisions of this division, it shall be the duty of the person holding such permit to immediately notify the electrical inspector thereof, who shall inspect such electrical work within 24 hours after such notice, exclusive of Sundays and holidays.

Sec. 3.04.096 Concealed wiring

Installations wherein there is wiring to be concealed shall be inspected before concealment. The person installing such wires shall notify the electrical inspector thereof and the wires shall not be covered or concealed until the electrical inspector has approved same. Any person covering or concealing wires before inspection shall be deemed guilty of a misdemeanor.

Sec. 3.04.097 Final inspection and authorization of connection of service

If the work is found to be in compliance with the provisions of this article, the electrical inspector, subject to other applicable provisions of this code, shall issue an electrical permit number to the public utility company furnishing electrical service or the person supplying the energy, which electrical permit number shall authorize connection of such approved work to the source of energy of the electrical service, the turning on of current and the use of the installation. No connection shall be made until such authorization is issued.

Sec. 3.04.098 Tampering with installation

No person shall molest in any way or tamper with wires installed in any residence, building or other structure. No person shall place any material except incombustible insulation material within one inch of any wire after it has been inspected and approved by the electrical inspector.

Secs. 3.04.099–3.04.120 Reserved

Division 5. Electrical Inspector

Sec. 3.04.121 Office created

There is hereby created in and for the city the office of electrical inspector, in charge of which shall be the electrical inspector, and within which may be assistant electrical inspectors.

Sec. 3.04.122 Qualifications

The electrical inspector shall be a competent person of good moral character, shall have an adequate knowledge of current and approved methods and practices relating to electrical installations, and shall have passed the examination for journeyman electrician within 90 days of employment or appointment as electrical inspector.

Sec. 3.04.123 Appointment

The electrical inspector shall be appointed by the city manager with the approval of the city council and shall hold office until his successor is appointed and duly qualified. Assistant inspectors may be appointed by the city manager whenever occasion demands.

Sec. 3.04.124 Removal from office

The city manager may remove from office the electrical inspector or any of his assistants for incompetence or neglect of duty.

Sec. 3.04.125 Nonliability of inspectors

The building inspector, electrical inspector, or their authorized representatives charged with the enforcement of this code, acting in good faith and without malice in the discharge of their duties, shall not thereby render themselves personally liable for any damage that may accrue to persons or property as a result of any act or omission in the discharge of their duties.

Sec. 3.04.126 Duties as to inspection and testing

The electrical inspector shall inspect and test electrical installations and systems in all consumer installations when the same are installed, repaired or constructed, and he shall further make inspections of such installations when he has reason to believe the same are unsafe, improper, and do not comply with applicable provisions of this code, state law and city ordinances, rules and regulations.

Sec. 3.04.127 Correction of deficiencies

(a) The electrical inspector shall, upon determining that unsafe, improper or unlawful consumer installations exist upon any premises or within any building within the city, immediately notify the owner of such premises or building or his agent, and/or the electrician performing work on such premises or within such building, in writing, specifying the exact deficiency existing, and shall allow such parties a reasonable time to correct such deficiency.

(b) If corrective action is not begun immediately, or if the deficiency is not corrected within the prescribed time, then the electrical inspector shall, if he believes the public welfare endangered, order the electricity supply or service to such premises or building discontinued.

Sec. 3.04.128 Right of entry

The electrical inspector and his assistants, when in the performance of their duties, and as far as may be necessary for the performance of their duties, shall have the right to enter any consumer's building at all reasonable hours for the purpose of making any tests or inspections of the electrical wiring and appliances therein contained.

Sec. 3.04.129 Records

The electrical inspector shall keep or cause to be kept a record of permits, licenses, and inspections required under this article, and shall also keep a record of all condemnations of electrical installations.

Sec. 3.04.130 Termination of work

(a) The electrical inspector shall stop the installation, alteration, operation or repair of any electrical work on or in any consumer's premises whenever, in the inspector's opinion, the work is being done in a reckless, careless or unsafe manner or in a manner which violates the provisions of this code, state law or city ordinances, rules or regulations relating to electrical work.

(b) Upon determining that any particular work should stop, the inspector shall post a notice to that effect on the consumer's premises and thereafter no person shall proceed with the installation until the inspector has cancelled the stop-work notice.

ARTICLE 3.05 MECHANICAL CODE

Sec. 3.05.001 Adopted

From and after the effective date of Ordinance O-004-20, the International Mechanical Code, 2018 edition, published by the International Code Council, is hereby adopted by reference as though set out completely in detail. A copy of said International Mechanical Code shall be filed with the city secretary and building official, such copy to be open to public inspection during normal business hours.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.05.002 Amendments

The International Mechanical Code is hereby amended in the following sections:

101.1, Title, is hereby amended to read as follows:

> These regulations shall be known as the existing building code of the City of Borger, hereinafter referred to as "this code."

103, Department of Mechanical Inspections, is hereby amended to read as follows:

> 103. Mechanical Inspections.

103.1, General, is hereby deleted.

106.1.1 Annual Permit, is hereby deleted

106.1.2 Annual Permit Records, is hereby deleted

106.3, Application for permit, last sentence, is hereby deleted.

106.4.1, Approved construction documents, second sentence, is hereby amended to read as follows:

> Such approved construction documents shall not be changed, modified or altered without authorization from the code official, architect or engineer.

106.4.4, Extensions, second sentence, is hereby amended to read as follows:

> The code official shall extend the time for action by the permittee for a period not exceeding ninety (90) days if there is reasonable cause.

106.5.1, Work commencing before permit issuance, is hereby amended to read as follows:

> When work for which a permit is required by this code is begun or performed prior to obtaining said permit, the fee shall be doubled. Payment of such double fee shall not relieve any person from fully complying with the requirements of this code in execution of the work or from any penalties prescribed herein.
>
> Exception: A person who owns or occupies a single-family dwelling or manufactured housing dwelling unit will not be charged double for permits on such dwelling if the required permit has been applied for by the end of the following work day after notification by the code official of the need for a permit.

106.5.2, Fee schedule, is hereby amended to read as follows:

> Fee amounts are specified in Article 5 of the Fee Schedule listed in the Code of Ordinances of the City of Borger, Texas

106.5.2.1 is hereby added to read as follows:

106.5.2.1. Permit exemption. The city, county, state and federal government, or any subdivision thereof, shall be exempt from paying fees as provided herein.

106.5.3, Fee refunds (2 & 3) is hereby amended to read as follows:

2. Not more than fifty (50) percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. Not more than fifty (50) percent of the plan review fee paid where an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

106.5.4 is hereby added to read as follows:

106.5.4. License and registration. Any individual, firm, corporation or partnership who performs mechanical work in the city which is regulated by this code shall be licensed and registered prior to obtaining a permit for such work, provided, however, that a person who owns a single-family dwelling and has established his/her legal place of residence may perform work on heating, ventilating and air conditioning equipment within said dwelling without a state license for such work. Said person may be required to submit an affidavit of ownership and residency upon application for a homeowner's permit to perform such work. A tenant, lessee, landlord or other nonresident owner may not obtain a permit as a homeowner.

106.5.5 is hereby added to read as follows:

106.5.5. License requirements. Heating and air conditioning construction and installation which are regulated by this code or V.T.C.A., Occupations Code, chapter 1302, or both, shall require such work to be performed by a person who has either a class A or class B air conditioning contractor's license issued by the state. Such air conditioning contractor shall perform heating and air conditioning work appropriate to the class of license held.

106.5.6 is hereby added to read as follows:

106.5.6. Registration of air conditioning license. An individual, firm, corporation or partnership who holds a valid state air conditioning contractor's license, and who performs such work within the corporate limits of the city, shall register such license, along with copy of required insurance, with the Planning and Development Department of the City. Registration shall be in January of each year through a process specified by the city. Any fee specified by the Article 5 of the Fee Schedule contained in the Code of Ordinances of the City of Borger, Texas shall accompany such registration.

108.4, Violation penalties, is hereby amended to read as follows:

108.4. Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine as provided in Section 1.01.009 of the Code of Ordinances of the City of Borger, Texas. Each day that a violation continues shall constitute a separate offense.

108.5, Stop work orders, last sentence, is hereby deleted.

109.1, Application for appeal, last sentence, is hereby amended to read as follows:

The application shall be in writing and forwarded to the Building Standards Commission within ten (10) days after the notice was received from the Building Official.

109.2, Membership of board, is hereby deleted.

109.2.1, Qualifications, is hereby deleted.

109.2.2, Alternate members, is hereby deleted.

109.2.5, Secretary, is hereby deleted.

109.5, Postponed hearing, is hereby amended to read as follows:

> When four members of the Building Standards Commission are not present to hear an appeal, the board shall not hear an appeal and another hearing date shall be scheduled.

109.6.1, Resolution, is hereby deleted.

201.3, Terms defined in other codes, is hereby amended to read as follows:

> Where terms are not defined in this code and are defined in other adopted codes, such terms shall have meanings ascribed to them as in those codes.

Appendix B is hereby deleted.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

ARTICLE 3.06 PLUMBING*

Sec. 3.06.001 Code adopted

From and after the effective date of Ordinance O-004-20, the International Plumbing Code, 2018 edition, as published by the International Code Council, regulating installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within the city, is hereby adopted by reference as though set out completely in detail. A copy of said International Plumbing Code shall be on file with the City Secretary and Building Official, such copy to be open for public inspection during normal business hours.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.06.002 Amendments to code

The International Plumbing Code is hereby amended by the following:

101.1 Title. Insert "City of Borger"

103, Department of plumbing inspection, is hereby amended to read as follows:

Section 103. Inspections.

103.1, General, is hereby amended to read as follows:

The building official shall be the responsible party in charge of plumbing inspections.

104.1, General, is hereby amended to read as follows:

The building official shall enforce all the provisions of this code and shall act on any questions relative to the installation, alteration, repair, maintenance or operation of all plumbing systems, devices and equipment except as otherwise specifically provided by the state plumbing license law.

104.2, Applications and permits, is hereby amended to read as follows:

The building official or appointed assistants shall receive applications and issue permits for the installation and alteration of plumbing, inspect the premises for which permits have been issued, and enforce compliance with this code, amendments thereto and state law.

104.5, Identification, is hereby deleted.

106.1, When required, is hereby amended by adding the following sentences to read as follows:

A homeowner shall be issued a permit, on his or her homestead, for plumbing work requiring a permit to be done by the homeowner on his or her single-family residence, mobile home, manufactured home or accessory building associated with the homestead, which are located on the same property. The homeowner may be required to furnish proof of ownership and residence. A tenant, lessor, speculative builder, developer or nonresident shall not be issued a homeowner permit.

106.1.1 Annual Permit, is hereby deleted

106.1.2 Annual Permit Records, is hereby deleted

106.5.3, Expiration, is hereby amended to read as follows:

106.6.1, Work commencing before permit issuance, is hereby amended to read as follows:

1. When work for which a permit is required by this code is begun or performed prior to obtaining said permit, the fee specified shall be doubled. The payment of such double fee shall not relieve any person from fully complying with the requirements of this code in the execution of the work or from any other penalties prescribed herein.

Exception: A person who owns a single-family dwelling, mobile home or manufactured home will not be charged double permit fee as stated above for permits for work on such dwelling if the required permit fee has been paid by the end of the next work day after notification of need for a permit.

2. The city, county, state, or federal government or any subdivision thereof shall be exempt from payment of permit fees.

106.6.2, Fee schedule, is hereby adopted to read as follows:

Fee amounts are specified in Article 5 of the Fee Schedule listed in the Code of Ordinances of the City of Borger, Texas

When additional or reinspection's are required due to plumbing installations not being complete or not meeting code requirements, a reinspection shall be conducted. The applicant or applicant's agent shall notify the building official that such work is ready for reinspection and pay the reinspection fee as set forth in the fee schedule.

106.6.3, Fee refunds, item 2, is hereby amended to read as follows:

2. A permit may be canceled at any time, but in such cases a minimum as listed in Article 5 of the Fee Schedule listed in the Code of Ordinances of the City of Borger, Texas will be retained.

106.6.3, Fee refunds, item 3, is hereby deleted.

106.6.3, Fee refunds, last sentence, is hereby amended to read as follows:

The building official shall not authorize the refunding of any fee paid except upon written request filed by the original permittee not later than 90 days after the date of fee payment.

107.2, Required inspections and tests, is hereby amended by adding item 4 as follows:

4. In accordance with state laws requiring a water service inspection by the water purveyor prior to initiating water service, the property owner shall allow the property to be inspected for possible cross connections or other illegal plumbing practices. These inspections shall be conducted prior to initiating water service or after any changes to the plumbing system which require a permit and inspections. The property owner shall be notified in writing of any cross connection or illegal plumbing practice which has been identified during the inspection. The property owner shall immediately have any cross connections, illegal plumbing installations or illegal plumbing practices repaired. Failure to do so will result in the water purveyor ceasing water service to the residence or establishment.

108.4, Violation penalties, is hereby amended to read as follows:

Any person who shall violate a provision of this code or fail to comply with any requirements thereof or who shall erect, install, alter or repair plumbing work in violation of approved construction documents or directives of the building official, or a permit issued under provisions of this code, shall be guilty of a misdemeanor, punishable by fine as set forth in Section 1.01.009 of the Code of Ordinances of the City of Borger, Texas. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

In addition, failure to comply with backflow prevention devices when required at the service connection may result in either termination of service or the city properly installing, testing, and maintaining an appropriate backflow prevention device at the service connection. The customer of record shall be responsible for any expenses associated with enforcing these regulations.

108.5, Stop work orders, fifth sentence, is hereby amended to read as follows:

> Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as set forth in paragraph 108.4 above.

109.1, Application fee appeal, first sentence, is hereby amended to read as follows:

> Any person shall have the right to appeal a decision of the Building Official to the Building Standards Commission.

109.1, Application for appeal, third sentence, is hereby amended to read as follows:

> The application shall be filed in writing to the Building Standards Commission within ten days after the notice from the building official.

109.2, Membership of board, is hereby deleted.

109.2.1, Qualifications, is hereby deleted.

109.2.2, Alternate members, is hereby deleted.

109.2.3, Chairman, is hereby deleted.

109.2.4, Disqualification of member, is hereby deleted.

109.2.5, Secretary, is hereby deleted.

109.2.6, Compensation of members, is hereby deleted.

109.4.1, Procedure, is hereby deleted.

109.5, Postponed hearing, is hereby amended to read as follows:

> When four members are not present to hear an appeal, either the appellant or the appellant's representative shall be granted a postponement of the hearing.

109.6, Board decision, is hereby amended to read as follows:

> The board shall modify, uphold, or reverse the decision of the building official by a majority vote.

109.6.1, Resolution, is hereby deleted.

301.4, Connections to water supply, is amended to read as follows:

> Every plumbing fixture or appliance requiring or using water for its proper operation shall be directly connected to the water supply system in accordance with this code and state and local requirements.

304.3, Meter boxes, is hereby amended to read as follows:

> Only meter boxes approved by the utilities department shall be installed. The meter boxes shall be installed to prevent rodents from entering a structure by way of the water service piping.

305.4, Freezing, second sentence, is hereby amended to read as follows:

> Water, soil and waste pipes shall not be installed outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other place subjected to freezing temperatures unless adequate provision is made to protect such pipes from freezing by insulation or heat or both. Exterior water supply system piping shall be installed not less than 18 inches below grade. Where water service piping is installed less than 18 inches, the water service piping shall be protected from freezing by an approved method.

305.4.1, Sewer depth, is amended to read as follows:

Building sewers on private sewage disposal systems shall be a minimum 12 inches below finish grade at point of attachment to the septic tank. Building sewers shall be a minimum of 12 inches below grade.

305.6, Protection against physical damage, second sentence, is amended to read as follows:

Protective shield plates shall be a minimum of 0.062-inch-thick steel, shall cover the area of the pipe where the member is notched or bored, and shall extend a minimum of two inches either side of the notch or bore.

312.2, Drainage and vent water test, is hereby amended to read as follows:

A water test shall be applied to the drainage system either in its entirety or in sections. If applied to the entire system, all openings in the piping shall be tightly closed, except the highest opening, and the system shall be filled with water to the point of overflow. If the system is tested in sections, each opening shall be tightly plugged except the highest openings of the section under test, and each section shall be filled with water, but no section shall be tested with less than a 5 foot (1524 mm) head of water. In testing successive sections, a lowest opening head test at each floor level if multiple floors shall be tested at the plumbing rough-in inspection. This test shall be held for not less than 15 minutes.

403.2, Separate facilities, Exception 1, is hereby amended to read as follows:

Exceptions:

1. Separate facilities shall not be required for residential or private installations.

412.6, Hose connected outlets, is hereby amended by adding the following:

Faucets and fixture fittings with hose connected outlets shall be protected against backflow in accordance with section 608.

503.1, Cold water line valve, third sentence, is hereby amended to read as follows:

The required shutoff valve shall be accessible and within three feet of the water heater or hot water storage tank it serves.

605.4, Water service pipe, fourth sentence, is hereby deleted.

606.4, Valve identification, is hereby amended to read as follows:

Source and hose bib valves shall be identified when installed in commercial, industrial and institutional type occupancies. All other valves installed in the water supply piping serving commercial, industrial and institutional type occupancies not adjacent to the fixture or appliance shall be identified, indicating the fixture or appliance served.

701.2, Connection to sewer required, is hereby amended to read as follows:

Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer, where available, or an approved private sewage disposal system in accordance with the Texas Department of State Health Services.

(Ord. # O-004-20, 04/07/2020; Ord. # O-008-24, 09/17/2024)

Effective on: 10/11/2024

Sec. 3.06.003 Appendix chapters of code

Appendix A, Plumbing permit fee schedule, is hereby deleted.

Appendix B, Rates of rainfall for various cities, is hereby adopted in its entirety and the City of Amarillo shall be the referenced city for the City of Borger.

Appendix C, Vacuum drainage system, is hereby adopted in its entirety.

Appendix D, Degree day and design temperatures, table D101, Degree Day and Design Temperatures for Cities in the United States, is hereby adopted in its entirety.

Appendix E, Sizing of water piping systems, is hereby adopted in its entirety.

Appendix F, Structural safety, is hereby adopted in its entirety.

Sec. 3.06.004 Plumbing inspector

(a) The person or persons appointed or otherwise selected by the administrative authority of the city as plumbing inspector or assistant plumbing inspector shall hold and keep in force a state plumbing inspector's license issued by the state board of plumbing examiners. The plumbing inspector shall not work for or be associated with any master plumber, plumbing company, plumbing manufacturer, wholesale plumbing and supply company, or do any plumbing work while employed as a plumbing inspector. It shall be the duty of the plumbing inspector or assistant plumbing inspector to receive all applications for permits, collect fees and inspect construction and installation of plumbing work as required by and set forth in the International Plumbing Code, as adopted, including amendments thereto, within the corporate limits of the city; and to issue certificates of approval for such installations or work, or if not approved, to direct by written order the corrections or replacement which would cause such construction and installations to be acceptable for approval.

(b) The plumbing inspector shall have the authority, where any building, premises, installation or construction contains improper or defective plumbing, or where the same was constructed, installed, altered or repaired without a permit as required by this code, to give prompt written notice to the utility involved to cut off the water or gas supply until such improper or defective plumbing work shall be made to comply fully with the provisions of the provisions of the International Plumbing Code, including amendments, and a certificate of approval shall have been passed by the plumbing inspector.

Sec. 3.06.005 Licensing of plumbers

(a) All persons who engage in or work at the installation, alteration, repair and renovating of plumbing shall possess either a master or journeyman plumber license or apprentice registration card in accordance with the plumbing license law (V.T.C.A., Occupations Code, chapter 1301). Such license and certificate of insurance shall be submitted yearly during the month of January to the planning and zoning department. No registration fee is required.

(b) The word "plumbing" as used in the state plumbing license law means and shall include:

(1) All piping fixtures, appurtenances and appliances for supply or recirculation of water, gas, liquids, and drainage or elimination of sewage, including disposal systems or any combinations thereof, for all personal or domestic purposes in and about buildings where a person or persons live, work or assemble; all piping, fixtures, appurtenances and appliances outside a building connecting the building with the source of water, gas, or other liquid supply, or combinations thereof, on the premises or the main in the street, alley or at the curb; all piping, fixtures, appurtenances, appliances, drain or waste pipes carrying wastewater or sewage from or within a building to the sewer service lateral at the curb or in the street or alley or other disposal or septic terminal holding private or domestic sewage; or

(2) The installation, repair, service, and maintenance of all piping, fixtures, appurtenances and appliances in or about buildings where a person or persons live, work or assemble, for a supply of gas, water, liquids, or any combination thereof, or disposal of wastewater or sewage.

(c) The following acts, work and conduct shall be expressly permitted without a master plumber license:

(1) Plumbing work done by a property owner in a building owned or occupied by him as his homestead.

(2) Plumbing work done by anyone who is regularly employed as or acting as a maintenance person or maintenance engineer, incidental to and in connection with the business in which he is employed or engaged, and who does not engage in the occupation of a plumber for the general public; construction, installation and maintenance work done upon the premises or equipment of a railroad by an employee thereof who does not engage in the occupation of a plumber for the general public; and plumbing work done by persons engaged by any public service company in the laying, maintenance and operation of its service mains or lines to the point of measurement and the installation, alteration, adjustment, repair, removal and renovation of all types or appurtenances, equipment and appliances, including doing all that is necessary to render the appliances useable or serviceable; appliance installations and service work done by anyone who is an appliance dealer or is employed by an appliance dealer, and acting as an appliance installation man or appliance service man in connecting appliances to existing piping installation; water treatment installations, exchanges, services or repair; provided, however, that all work and service herein named or referred to shall be subject to inspection and approval with the terms of all local valid city ordinances.

(3) Plumbing work done by a licensed irrigator or licensed installer when working and licensed under V.T.C.A., Water Code, chapter 37. A person holding a valid license from the state board of plumbing examiners shall not be required to be licensed by any other board or agency when installing or working on a lawn irrigation system.

(4) Plumbing work done by an LP gas installer when working and licensed under chapter 113, Natural Resources Code, as amended.

Sec. 3.06.006 Insurance requirements

Any person who is a licensed master plumber in the state and performs plumbing installations within the corporate limits of the city; or is a licensed landscape irrigator in the state and performs any landscape irrigation installation within the corporate limits of the city; or is certified by the department of state health services to install, exchange, service and repair residential water treatment facilities and perform such services within the corporate limits of the city, shall submit a certificate of insurance provided the issuance:

(1) Is written by a company licensed to do business in the state;

(2) Provides for commercial general liability insurance for claims for property or bodily injury, regardless of whether the claim arises from negligence or on a contract claim; andIs in a coverage amount of not less than $300,000.00 for all claims arising in any one-year period.

ARTICLE 3.07 FUEL GAS CODE

Sec. 3.07.001 Adopted

From and after the effective date of Ordinance O-004-20, the International Fuel Gas Code, 2018 edition, regulating design, installation, maintenance, alteration and inspection of fuel gas systems within the corporate limits of the city, is hereby adopted by reference as though set out completely in detail. A copy of said International Fuel Gas Code shall be on file with the City Secretary and Building Official, such copy to be open for public inspection during normal business hours.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.07.002 Amendments

From and after the effective date of Ordinance O-004-20, the International Fuel Gas Code, as published by the International Code Council, 2018 edition, is hereby amended in the following chapters and paragraphs as follows:

101.1, Title, is hereby amended to read as follows:

> These regulations shall be known as the Fuel Gas Code of the City of Borger, hereinafter referred to as "this code."

103, Department of inspection, is hereby amended to read as follows:

> Section 103. Inspections.

103.1, General, is hereby amended to read as follows:

> The Planning and Development Department is hereby charged with the enforcement, implementation, securing the intent thereof and designating an official to enforce the provisions of this code. The official thereof shall be known as the Building Official.

104.1, General, is amended to read as follows:

> The Building Official shall enforce the provisions of this code and shall act on any question relative to the installation, alteration, repair, maintenance or operation of systems, except as otherwise specifically provided for by statutory requirements or as provided for in paragraphs 104.2 through 104.8.

106.1.1 Annual Permit, is hereby deleted

106.1.2 Annual Permit Records, is hereby deleted

106.3, Application for permit, is hereby amended to read as follows:

> Each application for a permit, with the required fee, shall be filed with the building official on a form furnished for that purpose. The permit shall be signed by the owner, authorized agent or licensed master plumber.

106.5.4 (IFGC), Extensions, second sentence, is hereby amended to read as follows:

> The Building Official may extend the time for action by the permittee for a period not exceeding 90 days, if there is reasonable cause.

106.6.2, Fee schedule, is hereby amended to read as follows:

> Fee amounts are specified in Article 5 of the Fee Schedule listed in the Code of Ordinances of the City of Borger, Texas

106.6.3, Fee schedule, item 2 and item 3, are hereby deleted.

108.4, Violation penalties, is hereby amended to read as follows:

> Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or shall erect, install, alter or repair work in violation of the approved construction documents or directive of the building official, or of a permit issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine as set forth by Section 1.01.009 of the Code of Ordinances of the City of Borger, Texas.

108.5, Stop work orders, fifth sentence, is hereby amended to read as follows:

> Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor as set forth in Section 108.4 above.

109.1, Application for appeal, is hereby amended to read as follows:

> A person shall have the right to appeal a decision of the Building Official to the Building Standards Commission. A request for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The request for an appeal shall be in written form and presented to the building official within ten days after notice was served.

109.2, Membership of board, is hereby amended to read as follows:

> The Building Standards Commission shall consist of seven members appointed by the governing authority.

109.2.1, Qualifications, is hereby amended to read as follows:

> The Building Standards Commission shall consist of seven members with qualifications and term limits as prescribed in Section 3.01.001 of the Code of Ordinances of the City of Borger, Texas.

109.2.2, Alternate members, is hereby deleted and reserved.

109.2.6, Compensation, is hereby deleted and reserved.

109.5, Postponed hearing, is hereby amended to read as follows:

> When four members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right for a postponement of the hearing.

109.6.1, Resolution, is hereby deleted and reserved.

109.7, Court review, is hereby amended to read as follows:

> Any person, firm or corporation who may be aggrieved by the decision of the Building Standards Commission shall have a right of appeal to the City Council within ten days of the rendition of such decision, order or requirement by the Building Standards Commission. Said appeals shall be submitted by written notice of appeal to the City Council requesting a hearing before the City Council and the action of the City Council thereon shall be final. Due process shall not be denied, and further appeal may be made to the court of proper jurisdiction.

201.3, Terms defined in other codes, is hereby amended to read as follows:

> Where terms are not defined in this code and are defined in the National Electrical Code, International Building Code, International Residential Code, International Fire Code, International Mechanical Code or International Plumbing Code, such terms shall have meanings ascribed to them as in those codes.

202, General definitions, is hereby amended by adding the following:

Building Official. The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

305.4, Private garages, is hereby amended to read as follows:

Appliances located in private garages shall be installed a minimum of eight feet above finish floor height. Where motor vehicles exceed six feet in height and are capable of passing beneath the appliance, the appliance shall be installed a minimum of two feet higher above the floor than the height of the tallest vehicle.

307.2, Fuel-burning appliances, first sentence, is hereby amended to read as follows:

Liquid combustion byproducts of condensing appliances shall be collected and discharged to an approved plumbing fixture or other approved disposal area.

404.12, Minimum burial depth, is hereby amended to read as follows:

Underground piping systems shall be installed a minimum depth of 18 inches below grade, or, because of location and ground conditions, a shallower depth may be approved by the administrative authority.

404.12.1, Individual outside appliances, is hereby amended to read as follows:

Individual lines to outside lights, grills or other appliances shall be installed a minimum of 18 inches below finish grade, or, because of location and ground conditions, a shallower depth may be approved by the administrative authority.

404.14, Piping underground beneath buildings, is hereby amended to read as follows:

Piping installed underground, beneath buildings, is prohibited.

406.4.1, Test pressure, is hereby amended to read as follows:

The test pressure to be used shall be 15 pounds air pressure or six ounces mercury gauge.

406.4.2, Test duration, is hereby amended to read as follows:

Test duration shall be not less than one-half hour for each 500 cubic feet of pipe volume or fraction thereof. When testing a system having a volume less than ten cubic feet or a system in a single-family dwelling, the test duration shall be permitted to be reduced to 15 minutes. For piping systems having a volume of more than 24,000 cubic feet of pipe volume, the duration of the test shall not be required to exceed 24 hours.

409.3.2, Individual buildings, is hereby amended to read as follows:

In a common system serving one building, shutoff valves shall be installed outdoors, readily accessible and be within three feet of the piping entrance to the building.

412.8, Private fueling of motor vehicles, second sentence, is hereby amended to read as follows:

In addition to the requirements in the International Fire Code, self-service LP gas dispensing systems shall be provided with an emergency shutoff switch located within 75 feet of, but not less than 25 feet from, dispensers, and the owner of the dispensing facility shall ensure the safe operation of the system and the training of users.

614.8.3, Transition ducts, is hereby amended to read as follows:

Clothes dryer transition ducts used to connect the appliance to the exhaust duct system may be metal and limited to a single length, not to exceed six feet in length, and shall be listed and labeled for the appliance.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

ARTICLE 3.08 MOVING AND DEMOLITION OF BUILDINGS*

Sec. 3.08.001 Permits required for moving buildings

(a) It shall be unlawful for any person, firm or corporation to move any building into, within, or out of the city limits without first filing with the city a bond as required herein and making application for and obtaining a moving permit and a foundation permit for each separate building and any other permits that may be required to ensure compliance with the code.

(b) A foundation permit shall not be required when a building is to be moved out of the city limits.

Sec. 3.08.002 Insurance requirements for persons moving buildings

(a) Any person, firm or corporation engaged in the business of moving buildings, structures or houses into or within the corporate limits of the city shall execute and deliver to the planning and zoning department proof of general liability insurance in the amount of $300,000.00 for the use and benefit of the city, the property owner or any person injured or damaged by any act or neglect of the principal or his agents or employees, or by reasons of failure to repair any damages, defective work, device or installation, or for failure to remedy any defects, damages or faulty workmanship or material within the time prescribed by a city inspector for the completion of such remedial work without additional cost to the individual for whom the work or moving was done and guaranteeing compliance with the requirements of this code, of all work done by the principal, his agents or employees. Suspension or revocation of a permit of the principal shall not affect the liability of the principal or the insurance underwriter. Said insurance shall further save, indemnify and keep harmless the city against all judgments, costs and expenses which may in any way accrue against the city in consequence of the granting of a permit.

(b) No permit for the moving or relocation of any building shall be issued until the certificate of insurance has been filed with the city as required herein.

Sec. 3.08.003 General requirements for moving buildings; issuance of moving permit

(a) Buildings or structures moved into or within the city shall comply with the provisions of this code.

(b) Any person, firm or corporation desiring to move a building into or within the city limits shall make application for a moving permit on the forms provided to the planning and zoning department. A moving permit may be issued when the following have been complied with:

(1) That an inspection of the building to be moved within or into the city has been made by the building inspector to determine if the building complies with the building, plumbing, electrical and other applicable codes of the city and that the inspector's report is on file with the city and a copy has been received by the owner. The inspector's report shall specify the repairs and/or changes if any which must be accomplished in order for the building to be in compliance with City Codes. Any permits required for such repairs and/or changes shall be obtained prior to the issuance of a moving permit and such repairs shall be completed within 180 days of the date of issuance of the moving permit. An inspection of the building shall not be required for buildings being moved out of the city.

(A) Any building, structure or portion thereof if determined to be substandard as defined in this code shall not be moved within or into the city.

(B) A moving permit may be issued for an existing building or structure to be moved within or into the city provided such building or structure was constructed in conformance with the city building code in effect at the time of construction and the electrical wiring, plumbing and mechanical equipment was installed in conformance with all applicable ordinances or codes in effect at the time of installation and the structure, electrical wiring, plumbing, and mechanical equipment have been maintained in good condition and are being used in a safe manner.

(2) That the lot is described by a plat of record as required by this code, that a site plan has been filed with the city, showing the proposed location of the building on the lot, property lines, streets, alleys, setbacks, and the location of any existing buildings on the lot, and that the building and proposed occupancy comply with the zoning regulations of the district in which the building is to be located.

(3) That a foundation permit has been issued and such foundation has been inspected and is complete and ready for the building to be moved within or into the city.

(Ordinance O-003-14 adopted 4/1/14)

(4) A cash bond as listed in the ARTICLE 1.07, division 6 is required to insure lot cleanup and the removal of the foundation off of the lot from which the building is to be moved. The cash bond will be refunded when the lot has been cleared, all excavations and low areas have been filled with approved material, the sewer line has been plugged, and the other utilities disconnected to the satisfaction of the building inspector. A cash bond will not be required for buildings being moved into the city limits. (Ordinance O-008-18 adopted 9/18/18)

(5) That the proper permits have been obtained from the state department of transportation and that the proposed route for moving the building has been approved by the appropriate city official. No building or portion thereof shall be moved from one site to another or through the city along any public way within the city if such moving requires the removal or moving of a traffic signal mast arm.

(6) That any person, firm or corporation desiring to move into the city limits a building or structure of new construction containing more than 120 square feet shall comply with subsection (b)(1) of this section prior to the issuance of a moving permit. in lieu of an inspection as required in subsection (b)(1), a letter from the building inspector of the city where the building was constructed certifying that the building was constructed in compliance with that city's building ordinances, or a letter from a registered professional architect or engineer certifying that the building complies with the provisions of a recognized building code, plumbing and mechanical code, and electrical code, will be accepted.

(Ordinance O-003-14 adopted 4/1/14)

Sec. 3.08.004 Permit and inspection fees for moving buildings

Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay all associated fees as listed in the ARTICLE 1.07, division 6. (Ordinance O-008-18 adopted 9/18/18)

Sec. 3.08.005 Demolition of buildings

(a) Permit required; standards for work. It shall be unlawful for any person, firm or corporation to demolish any building or structure or cause the same to be demolished within the city without first making application for and obtaining a demolition permit from the planning and zoning department and complying with the following:

(1) Provide protection for adjoining property and pedestrians in compliance with the provisions of the International Building Code and request approval of the protection provided from the building inspector prior to beginning any demolition work. The building inspector may require additional or lesser protection depending upon the circumstances or the degree of hazard to adjoining properties or pedestrians.

(2) All utilities shall be disconnected by the utility companies prior to the issuance of the demolition permit with the exception of the sewer lateral which shall be plugged as directed by the building inspector after the building has been demolished.

(Ordinance O-003-14 adopted 4/1/14)

(3) A cash bond as listed in the ARTICLE 1.07, division 6 is required to insure lot cleanup and the removal of the foundation off of the lot. The cash bond will be refunded when the lot has been cleared, all excavations and

low areas have been filled with approved material and the lot will drain properly. (Ordinance O-008-18 adopted 9/18/18)

(b) Permit fee; expiration of permit. No fee shall be required for a demolition permit; however, each permit shall expire within 90 days from the date of issuance and all demolition and lot cleanup shall be completed by the expiration date. The building inspector may grant an extension of not more than 30 days when weather conditions or other circumstances in the opinion of the inspector justify the granting of an extension.

(c) Forfeiture of bond. Failure to comply with the provisions of this section within ten days of a written notice to the permittee by the building inspector shall result in the cash bond being forfeited and used to complete the demolition and lot cleanup.

ARTICLE 3.09 PROPERTY MAINTENANCE CODE

Sec. 3.09.001 Adopted

From and after the effective date of Ordinance O-004-20, the International Property Maintenance Code, 2018 edition, as published by the International Code Council, is hereby adopted by reference as though set out completely in detail. A copy of said International Property Maintenance Code shall be filed with the City Secretary and the Building Official, such copy to be open to public inspection during normal business hours.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.09.002 Amendments

101.1 Title. Insert "City of Borger"

102.3, Application of other codes, is hereby amended to read as follows:

> Repairs, alterations or additions to a structure, or changes of occupancy, shall be done in accordance with procedures and provisions of other applicable codes as legally adopted and amended by the city council.

Section 107, Notices and orders is hereby amended by adding the following:

> 107.1.1 Citations. The building official and/or code enforcement officer may exercise the option of serving the owner, or person in control of the property, with a citation to appear in Municipal Court.

111.1, Application for appeal, first sentence, is hereby amended to read as follows:

> Any person directly affected by a decision of the Code Official or a notice or order issued under this code shall have right of appeal to the Building Standards Commission, provided a written application for appeal is filed within ten days after the day the decision, notice or order was served.

111.2, Membership of board, first sentence, is hereby amended to read as follows:

> The Building Standards Commission shall consist of a minimum of seven members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction.

111.2.1, Alternate members, is hereby deleted and reserved.

111.2.5, Compensation of members, is hereby deleted and reserved.

111.5, Postponed hearing, is hereby amended to read as follows:

> When a quorum of four members is not present to hear an appeal, the meeting shall be postponed until the next regular scheduled meeting date or not earlier than ten days from the date of the postponed meeting.

111.7, Court review, first sentence, is hereby amended to read as follows:

> Any person aggrieved by the decision of the Building Standards Commission may make appeal to the City Council. Further appeal may be to the court of jurisdiction to hear such appeals.

304.14, Insect screens, is hereby amended to read as follows:

> Every door, window, screened porch or patio fitted with screens shall be provided with screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

402.1, Habitable spaces, second sentence, is hereby amended to read as follows:

The minimum total glazed area for every habitable space shall be 1/20 (5 percent) of the floor area of such room.

403.3, Cooking facilities, Exceptions, is hereby deleted.

502.3, Hotels, is hereby amended to read as follows:

Where private water closets, lavatories and bathing facilities are not provided, then the number of such facilities shall comply with the International Plumbing Code and have access from a public hallway.

505.4, Water heating facilities, second sentence, is hereby amended to read as follows:

A gas burning water heater shall not be located in any bathroom, toilet room, or bedroom unless the water heater is located in an approved enclosure as required in the International Plumbing Code.

602.3, Heat supply, is hereby amended to read as follows:

Every owner or operator of any building who rents, leases or lets one or more dwelling units, rooming units, or dormitory or guest rooms on terms, either expressed or implied, shall furnish necessary heating facilities to the occupants thereof. The supply shall maintain a temperature of not less than 65° F in all habitable rooms, bathrooms and toilet rooms.

602, Heating facilities, Exceptions, is hereby deleted.

602.4, Occupiable work spaces, is hereby amended to read as follows:

Indoor occupied workspaces shall be supplied with heat to maintain a temperature of 65° F during the time the workspace is occupied.

604.2, Service, is hereby amended to read as follows:

The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code. Dwelling units shall be served by a three-wire, 120/240-volt, single phase service having a rating of 100 amperes.

605.2, Receptacles, is hereby amended to read as follows:

Every habitable space in a dwelling unit shall contain the number and spacing requirements of receptacles in accordance with the National Electrical Code. Every bathroom shall contain at least one ground fault circuit interrupter receptacle.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.09.003 Penalty

Any person, firm, corporation or partnership violating any provisions of this article, or failing to comply therewith, or with any requirements thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof be punished according to Section 1.01.009.

ARTICLE 3.10 RESIDENTIAL CODE

Sec. 3.10.001 Adopted

From and after the effective date of Ordinance O-004-20, the International Residential Code for One- and Two-Family Dwellings, 2018 edition, published by the International Code Council, regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the city, is hereby adopted by reference as though set out completely in detail. A copy of said International Residential Code for One- and Two-Family Dwellings shall be filed with the City Secretary and the Building Official, such copy to be open for public inspection during normal business hours.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

Sec. 3.10.002 Amendments

The International Residential Code for One- and Two-Family Dwellings, 2018 edition, published by the International Code Council, Inc., is hereby amended to read as follows:

R101.1 Title, Insert "City of Borger"

R103, Department of building safety, is hereby amended to read as follows:

Section R103. Building Official.

R104.5 is hereby deleted and reserved.

R104.8, Liability, first sentence is hereby amended to read as follows:

The Building Official, members of the Building Standards Commission or any employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not be rendered liable personally and are hereby relieved from personal liability for any damages incurred to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

R105.2, Work exempt from permit, item 1, is hereby amended to read as follows:

1. One-story detached accessory structures, provided the floor area does not exceed 120 square feet.

R105.3, Application for permit, item 2, is hereby amended to read as follows:

2. No permit for the alteration or construction of a building or buildings upon any tract or lot shall be issued until a building site, building tract or lot has been created in compliance with one of the following conditions:

a) The lot or tract is described as a separate lot or tract by a plat of record, properly approved by the Planning and Zoning Commission and City Council and filed in the plat records of the county; or

b) The plot, tract or lot faces upon a dedicated street and was separately owned prior to February 21, 1967, or prior to annexation to the city, whichever is applicable, in which event only one main building may be constructed, and a permit issued therefor, on such original.

R108.6, Work commencing before permit issuance, is hereby deleted and replaced as follows:

> When any work requiring a permit as authorized by this chapter is commenced prior to the issuance of a permit by any contractor, such fee for the permit shall be doubled and an administrative fee as listed in the Fee Schedule of the Code of Ordinances of the City of Borger, Texas shall be assessed. The double permit fee or administrative fee shall not be assessed for a homeowner permit if such permits is obtained within 24 hours of notification by the building official that the need for a permit is required.

R108.5, Refunds, is hereby deleted and replaced as follows:

> Any permit may be cancelled at any time, but in such case the minimum permit fee as listed in the Fee Schedule in the Code of Ordinances of the City of Borger, Texas shall be retained.

R110.3, Certificate issued, items 7, and 8, are hereby deleted.

R112.1, General, is hereby amended to read as follows:

> In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this code, there shall be and is hereby created the Building Standards Commission. The Building Official shall be an ex officio member of the commission but shall have no vote on any matter before the commission. The Building Standards Commission shall be appointed by the governing body. The commission shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

R112.2, Limitations on authority, last sentence, is hereby deleted.

Table R301.2(1), Climatic and Geographical Design Criteria, is amended to read as follows:

TABLE R301.2 (1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

GROUND SNOW LOAD	WIND DESIGN				SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP	ICE BARRIER UNDERLAY-ERMENT REQUIRED	FLOOD HAZARD	AIR FREEZING INDEX	MEAN ANUAL TEMP
	Speed	Topo-graphic effects	Special wind debris zone	Wind-borne debris zone		Weather-ing	Frost line depth	Termite					
20psf	115mph	NO	NO	NO	B	Moderate	18"	Moderate to heavy	20°	NO	Article 3.12	31 1	57.2°

R310.1.1, Minimum opening area, Exception, is hereby amended to read as follows:

> Every sleeping room shall have at least one operable emergency escape and rescue window or exterior door opening for emergency escape and rescue.

R310.1.3, Minimum opening width, is hereby amended to read as follows:

> The minimum net clear opening width shall be 24 inches.

R313, Automatic Fire Sprinkler Systems, is deleted and reserved.

R315.2.2 Alterations, repairs and additions, exemption 2 is hereby amended to read as follows:

> 2. Installation, alteration or repairs of plumbing systems when all such work occurs on the exterior of the dwelling, such as water or sewer lines, or lawn irrigations systems.

R315.3 Location, is hereby amended to read as follows:

> Carbon monoxide alarms in dwelling units shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms. Where a fuel-burning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom. Approved alarms shall be installed in accordance with manufacturers' installation instructions or located on the wall or ceiling at a height 42 inches above floor, avoiding locations near heating/cooling vents or areas which provide turbulent airflow, and minimum 36 inches away from openings to areas of high humidity. Avoid installing CO alarms in kitchens or above fuel-burning appliances.

R319.1, Address identification, is hereby amended to read as follows:

> Buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be spelled out. Each character shall be not less than 4 inches (102mm) in height with a stroke width of not less than 0.5 inch (12. 7mm). Where required by the building official, address identification shall be provided in additional approved locations facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

R322, Flood-Resistant Construction, is hereby deleted with the exception of 322.1.1, which is amended to read as follows:

> R322.1 General, All structures constructed within a Special Flood Hazard area as designated by Article 3.12, Flood Damage Prevention, of the Code of Ordinances of the City of Borger, Texas shall comply with Article 3.12 and other applicable sections of this code.

R401.2 Requirements, is hereby amended to read as follows:

> Foundation construction shall be capable of accommodating all loads according to Section R301 and of transmitting the resulting loads to the supporting soil. Fill soils that support footings and foundations shall be designed, installed and tested in accordance with accepted engineering practice. Gravel fill used as footings for wood and precast concrete foundations shall comply with Section R403. Concrete foundations will be designed by registered design professional licensed in the State of Texas or constructed in compliance with most recent version of the Panhandle Residential Foundation Manual.

Table 402.2, Minimum Specified Compressive Strength of Concrete, Moderate Weathering Potential column, is hereby amended to read as follows:

3,000	3,000	3,000	3,000

Table R403.1, Minimum Width of Concrete or Masonry Footings, 3,000-pound column, is hereby amended to read as follows:

10, 12, 12	12, 12, 12	12, 12, 24

R404.4 Retaining walls, is hereby amended by adding the following sentence:

> Retaining walls measuring more than 48" from the top of the wall to the lowest adjacent grade, and retaining walls bearing a surcharge, or impounding Class L II, or III-A liquids shall be designed by a Texas licensed professional engineer.

R405.1 Concrete or masonry foundations, is hereby amended to read as follows:

Drains shall be provided around all concrete or masonry foundations that retain earth and enclose habitable or usable spaces located below grade. Drainage tiles, gravel or crushed stone drains, perforated pipe or other approved systems or materials shall be installed at or below the area to be protected and shall discharge by gravity or mechanical means into an approved drainage system. Gravel or crushed stone drains shall extend at least 1 foot (305 mm) beyond the outside edge of the footing and 6 inches (152 mm) above the top of the footing and be covered with an approved filter membrane material. The top of open joints of drain tiles shall be protected with strips of building paper. Perforated drains shall be surrounded with an approved filter membrane or the filter membrane shall cover the washed gravel or crushed rock covering the drain. Drainage tiles or perforated pipe shall be placed on a minimum of 2 inches (51mm) of washed gravel or crushed rock at least one sieve size larger than the tile joint opening or perforation and covered with not less than 6 inches (152 mm) of the same material.

Exception: A drainage system is not required when the foundation is installed on well drained ground or sand-gravel mixture soils according to the Unified Soil Classification System, Group I Soils, as detailed in Table R405. l or constructed in accordance with the most recent version of the Panhandle Residential Foundation Manual.

R602.5, Interior nonbearing walls, first sentence, is hereby amended to read as follows:

Studs shall be no. 1 or no. 2 standard or stud grade lumber. Interior nonbearing walls shall be permitted to be constructed with 2-inch by 4-inch studs spaced 24 inches on center or when not on a braced wall line, 2-inch by 4-inch flat studs space at 16 on center.

R802.11, Roof tie-down, is hereby amended by adding an exception to read as follows:

Exception: Roof tie-downs shall be required on structures where the mean height of the roof is 45' and in Exposure C as defined in paragraph R301.2.1.4, Exposure category.

R905.7.1, Deck requirements, is hereby amended to read as follows:

Wood shingles shall be applied on solid sheathing.

Table R905.7.4, Wood Shake Material Requirements, is hereby amended to read as follows:

TABLE 4905.8.5 WOOD SHAKE MATERIAL REQUIREMENTS		
MATERIAL	**MINIMUM GRADES**	**APPLICABLE GRADING RULES**
Wood shakes of naturally durable wood	1	Cedar Shake and Shingle Bureau
Taper Sawn shakes and shingles of naturally durable wood	1	Cedar Shake and Shingle Bureau
Preservative-treated shakes and shingles of naturally durable wood	1	Cedar Shake and Shingle Bureau
Fire-retardant-treated shakes of naturally durable wood	1	Cedar Shake and Shingle Bureau
Preservative-treated taper sawn shakes of Southern pine treated in accordance with AWPA Standard U1 (Commodity Specification A, Use Category 3B and section 5.6)	1 or 2	Forest Products Laboratory of the Texas Forest Services

Table R905.7.5, Wood Shingle Weather Exposure and Roof Slope, is hereby amended by adding footnote (a) to read as follows:

a. Only grade no. 1 wood shingles are allowed for roof coverings.

Table R905.8.6, Wood Shake Weather Exposure and Roof Slope, is hereby amended by adding footnote (b) to read as follows:

b. Only grade no. 1 wood shakes are allowed.

R908.3.1.1 Roof recover not allowed, is hereby amended to read as follows:

A roof recover shall not be installed without first removing existing roof coverings where any of the following conditions occur:

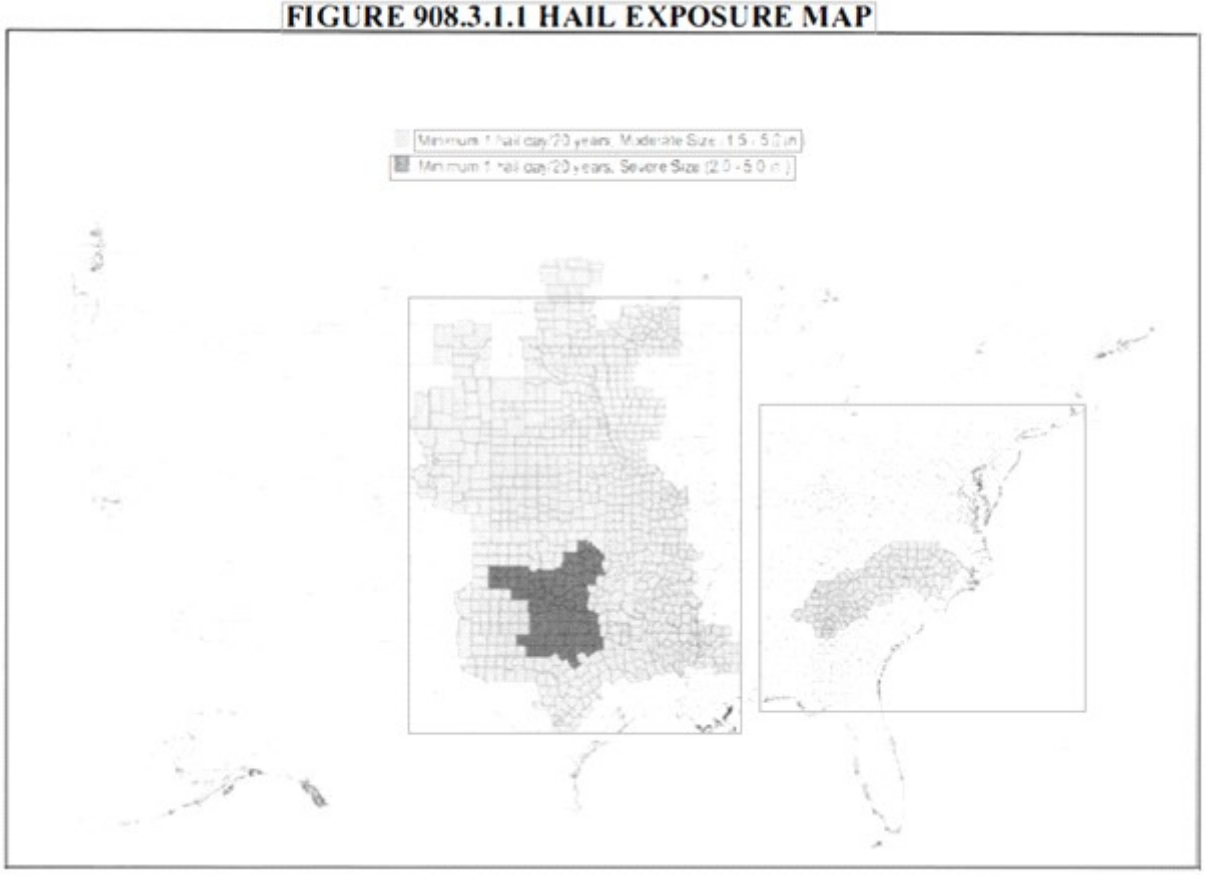
1. Where the existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.

2. Where the existing roof covering is wood, slate, clay, cement or asbestos-cement tile.

3. Where the existing roof has two or more applications of any type of roof covering.

4. For asphalt shingles, when the building is located in an area subject to moderate or severe hail exposure according to Figure R908.3.1.

FIGURE 908.3.1.1 HAIL EXPOSURE MAP



R1001.10, Hearth extension dimensions, second sentence, is hereby amended to read as follows:

Where the fireplace opening is 8 square feet or larger, the hearth extension shall extend at least 20 inches in front of and at least 12 inches beyond each side of the fireplace opening.

G2417.4.1, Test pressure, first sentence, is hereby amended to read as follows:

The test pressure to be used shall be not less than one and one-half times the proposed maximum working pressure, or no less than 5 psi gauge.

G2417.4.2, Test duration, is hereby amended to read as follows:

The test duration shall not be less than 15 minutes.

P2603.6.1, Sewer depth, is hereby amended to read as follows:

Building sewers that connect to private sewage disposal systems shall be a minimum 24 inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum 18 inches below grade.

P2903.9.1, Service valve, first sentence, is hereby amended to read as follows:

Each residential dwelling unit may have an accessible main shutoff valve near the entrance of the water service.

P2903.9.1, Service valve, is hereby amended to read as follows:

Each multifamily dwelling served by one water meter shall have an accessible main shutoff valve near the entrance of the water service.

P3103.1, Roof extensions, is hereby amended to read as follows:

All open vent pipes which extend through a roof shall be terminated at least six (6) inches above the roof or six (6) inches above the anticipated snow accumulation, except where a roof is to be used for any purpose other than weather protection, the vent extension shall be at least seven (7) feet above the roof.

E3406.3, Minimum size of conductors, first sentence, is hereby amended to read as follows:

The minimum size of conductors for branch circuits shall be no. 12 copper. The use of aluminum conductors is prohibited.

E3601.6.2, Service disconnect location, first sentence, is hereby amended to read as follows:

The service disconnecting means shall be located outside the structure and be maximum of six (6) feet from the meter and within sight of the meter.

E3603.2, Underground service conductors for accessory buildings and structures, Exception, is hereby amended to read as follows:

1. For loads consisting of not more than 2 two-wire branch circuits, the minimum size shall be no. 8 copper.

2. For loads limited by demand or by source supply, the minimum size shall be no. 8 copper.

3. For limited loads of single branch circuit, the minimum size shall be no. 12 copper.

E3604.2.2, Vertical clearance from grade, Number 1, first sentence, is hereby amended to read as follows:

1. For service drop cable supported on and cabled together with a grounded bare messenger wire, the minimum vertical clearance shall be 12 feet at the electric service entrance to buildings, at the lowest point of the drip-loop of the building electrical entrance, and above areas of sidewalks accessed by pedestrians only.

E3610.1, Continuous, is hereby amended by adding the following sentence to read as follows:

A no. 6 or larger grounding conductor shall be in rigid metal conduit, rigid nonmetallic conduit, electrical metallic conduit or cable armor and be securely fastened in place.

E3610.2, Securing and protection against physical damage, first sentence, is hereby amended to read as follows:

A grounding electrode enclosure shall be securely fastened to the surface on which it is carried.

E3610.2, Securing and protection against physical damage, second sentence, is hereby deleted.

E3610.2, Securing and protection against physical damage, third sentence, is hereby amended to read as follows:

> A minimum no. 6 AWG grounding conductor shall be in rigid metal conduit, rigid nonmetallic conduit, electrical metallic conduit or cable armor and be securely fastened in place.

E3610.2, Securing and protection against physical damage, fourth sentence, is hereby deleted.

E3610, Grounding electrode conductors, second paragraph, is hereby deleted.

Appendix E, Manufactured Housing Used as Dwellings, section AE304, Fees, paragraph AE304.2, Plan review fees, is hereby deleted.

Appendix E, Manufactured Housing Used as Dwellings, section AE304, Fees, paragraph AE304.3.1, Expiration of plan review, is hereby deleted.

Appendix H, Patio Covers, is hereby adopted in its entirety.

Appendix J, Existing Buildings and Structures, is hereby adopted in its entirety.

Appendix L, Permit fees, is hereby deleted and reserved.

Appendix M, Home Day Care - R-3 Occupancy, is hereby adopted in its entirety.

Appendix N, Venting Methods, is hereby adopted in its entirety.

Appendix Q, Tiny Houses, is hereby adopted in its entirety.

(Ord. # O-004-20, 04/07/2020)

Effective on: 4/7/2020

ARTICLE 3.11 SUBSTANDARD BUILDINGS*

Sec. 3.11.001 Definitions

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

Building. Any structure, either temporary or permanent, having a roof or other covering, that is designed or used for the shelter or enclosure of any person, animal, or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes of a building.

Building inspector. The building official and the building inspector designated to inspect buildings or construction or designated to enforce the provisions of this article.

Dangerous building, unsafe building or unfit dwelling. Any structure or building located within the incorporated limits of the city that is:

(1) In such a state or condition of repair or disrepair that all or any of the following conditions exist:
   (A) Walls or other vertical structural members list, lean, or buckle;
   (B) Damage or deterioration exists to the extent that the building is unsafe;
   (C) Load on floors or roofs are improperly distributed or the floors or roofs are of insufficient strength to be reasonably safe for the purposes used;
   (D) Damage by fire, wind, or other cause has rendered the building or structure dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city;
   (E) The building or structure is so dilapidated, substandard, decayed, unsafe, unsanitary or otherwise lacking in the amenities essential to decent living or use that the same is unfit for human habitation or occupancy or is likely to cause sickness, disease or injury or otherwise to constitute a detriment to the health, morals, safety or general welfare of those persons assembled, working, or living therein or is a hazard to the public health, safety and welfare;
   (F) Light, air, and sanitation facilities are inadequate to protect the health, morals, safety, or general welfare of persons who assemble, work, or live therein;
   (G) Stairways, fire escapes, and other facilities of egress in case of fire or panic are inadequate;
   (H) Parts or appendages of the building or structure are so attached that they are likely to fall and injure persons or property;

(2) Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare of the city's residents;

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

(4) Boarded up, fenced or otherwise secured in any manner if:
   (A) The building constitutes a danger to the public even though secured from entry; or
   (B) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building to the extent it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children.

Demolish. To tear down the building or structure and remove all building materials and debris from the property leaving the property in a clean and sanitary condition so as to receive the approval of the building official.

Dwelling. The entirety or any portion of any building that is not an apartment house or lodging house, and that contains one or more dwelling units or guest rooms that are used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or which are occupied, for living purposes.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Occupant. Any person who rents, leases or appears to reside in, rent or lease a building, structure or property through custody of the premises or who has the legal right to possession of such premises.

Owner. Any person who holds any interest in the legal title of a building, structure or property or who has the legal right of possession thereof.

Person. An individual human, partnership, copartnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns.

Repair. The reconstruction, renovation, or renewal of any part of an existing building for the purpose of its maintenance. This term shall not apply to any change or construction, alteration, or additions to a building other than for the purpose of reconstruction, renovation, or renewal.

Responsible party. The owner or occupant, including the person in custody of the building, property or structure and any mortgagee or lienholder.

(Ordinance adopting Code)

Sec. 3.11.002 Violations; penalty

(a) The responsible parties for any unsafe building, unfit dwelling or dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish said building or structure, such notice or order given by the authority of the board of appeals or the city council, shall be guilty of a misdemeanor.

(b) Any responsible party in possession of any unsafe building, unfit dwelling or dangerous building who fails to comply with any notice or order to vacate such building and fails to repair such building in accordance with an order given by the board of appeals or the city council shall be guilty of a misdemeanor.

(c) Any person removing a posted notice of any unsafe building, unfit dwelling or dangerous building from any building that is posted pursuant to posting notice requirements of this article shall be guilty of a misdemeanor.

(d) The violation of any provision of this article shall be unlawful and a misdemeanor offense punishable by a fine as provided in section 1.01.009 of this code. Each day a violation of this article continues shall constitute a separate offense.

(Ordinance adopting Code)

Sec. 3.11.003 Prima facie evidence of responsibility for violation

In any prosecution charging a violation of this article governing the failure to comply with any notice or order to repair, vacate, remove, or demolish any building or structure, proof that the particular property described in the complaint was substandard in violation of this article, together with proof that the defendant named in the complaint was, at the time of such notice or order, the registered owner of such property shall constitute in evidence a prima facie presumption that the registered owner of such property was the person who failed to comply with the notice or order to repair, vacate, remove, or demolish, and for the time during which, such violation occurred. (Ordinance adopting Code)

Sec. 3.11.004 Adoption of state law; prohibition; declaration of nuisance

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

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

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

(d) The building inspector shall enforce the provisions of this article.

(Ordinance adopting Code)

Sec. 3.11.005 Inspections; duties of building inspector

The building inspector shall inspect, or cause to be inspected, every building, or portion thereof, reported to be unsafe. If such building, or any portion thereof, is determined to be unsafe, the building inspector shall give the responsible parties notice in accordance with the notice requirements set forth in this article. The building inspector shall further:

(1) Inspect or cause to be inspected, when necessary, any building or structure within the incorporated limits of the city, including public buildings, schools, halls, churches, theaters, hotels, tenements, apartments, multifamily residences, single-family residences, garages, warehouses, and other commercial and industrial structures of any nature whatsoever, for the purpose of determining whether any conditions exist which render such places a “dangerous building” as defined herein.

(2) Inspect any building, wall or structure about which complaints have been filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.

(3) Report to the board of appeals any noncompliance with the minimum standards set forth in this article. The building inspector shall obtain from the secretary of the board of appeals a hearing date for a public hearing by the board of appeals on any structure believed to be a dangerous building and shall provide the secretary of the board of appeals with copies of the written notice to persons with interests in the property as provided for in section 3.11.006 hereof.

(4) Appear at all hearings conducted by the board of appeals and testify as to the conditions of dangerous buildings within the city.

(5) Place a notice on all dangerous buildings reading as follows: “This building has been found to be a dangerous building by the city building inspector. This notice is to remain on this building until it is repaired, removed, vacated, or demolished in accordance with the notice which has been given to the owner(s), occupant(s) and person(s) with interests in the property. It is unlawful to remove this notice until such notice is complied with.”

(6) Perform the other requirements with respect to notification of public hearings as are set forth more specifically in this article.

(Ordinance adopting Code)

Sec. 3.11.006 Notice to repair

(a) Written notice required; contents. Should the building inspector determine that any building or structure within the incorporated limits of the city is a dangerous building or unsafe building, he/she shall cause written notification to be sent, by certified mail or personal delivery, to the owner and all other persons having an interest in the building after a diligent effort to discover each owner, mortgagee, and lienholder. Such notice shall be served upon the responsible parties as set out in this article and shall contain:

(1) A description of the building or structure deemed unsafe and its location;

(2) A statement of the particular violation which makes the building or structure a dangerous building;

(3) Notice of the date and time of a public hearing before the board of appeals to determine whether the building complies with the standards set out in this article;

(4) A statement that the owner, lienholder, mortgagee, or persons with a legal interest in the building will be required to submit at the hearing proof of the scope of any work that may be required to comply with this article and the amount of time it will take to reasonably perform the work.

(b) Sufficiency of notice. Notwithstanding any other term or provision of this article or the code, notice given pursuant to this article shall be sufficient and deemed properly served upon the responsible parties if a copy thereof is:

(1) Served upon him/her personally;

(2) Sent by registered or certified mail, return receipt requested, to the last known address of such person as shown on the records of the city and the tax appraisal district;

(3) Publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county if personal service cannot be obtained and the owner's post office address is unknown; or

(4) Posted on or near the front door of the building affected by the notice if personal service cannot be obtained and the owner's post office address is unknown.

(c) Posted notice on dwelling. Where the building is a dwelling, the posted notice shall include the following statement: "THIS DWELLING IS UNFIT FOR HUMAN HABITATION; THE USE OF THIS DWELLING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL."

(d) Compliance with notice. The responsible parties of the dangerous building shall have ten (10) days from the date of service of the notice to bring the unfit dwelling into compliance with the provisions of this article.

(e) Further occupancy restricted. Once the occupants of a dwelling which is condemned have been notified and a placard declaring the building unfit for human habitation is in place, no person shall again use said premises for human habitation until approval is secured from and such placard is removed by the building inspector. The building inspector shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(f) Refused or unclaimed mail. All mailed notices shall be deemed sufficient and delivered even if returned "refused" or "unclaimed."

(Ordinance adopting Code)

Sec. 3.11.007 Search of records for address of persons with legal interests

Notices sent pursuant to this article shall be sent to the address of the owner, lienholder, mortgagee or persons with legal interests in the building as determined by a reasonable search of records, to include:

(1) County real property records;

(2) Appraisal district records;

(3) Records of the secretary of state, if the property owner or lienholder is a corporation, partnership, or other business association;

(4) Assumed name records;

(5) Tax records; and

(6) Utility records of the city.

(Ordinance adopting Code)

Sec. 3.11.008 Duties and procedures of board of appeals

The board of appeals, as such term is used herein, shall mean the board of adjustments and appeals, and such board shall:

(1) Hearings. Schedule and hold a hearing and hear testimony from the building inspector, the owner and other persons having an interest in the dangerous building and any person desiring to present factual evidence relevant to the dangerous building. Such testimony shall relate to the determination of the question of whether the building or structure in question is a dangerous building and the scope of any work that may be required to comply with this article and the amount of time it will take to reasonably perform the work. The owner or a person having an interest in the dangerous building shall have the burden of proof to demonstrate the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work.

(2) Voting and issuance of order. Upon conclusion of the hearing, the board of appeals shall determine by majority vote whether the building or structure in question is a dangerous building. Upon a determination that the building or structure in question constitutes a dangerous building, the board of appeals shall issue a written order:

   (A) Containing an identification of the building and the property on which it is located, which is not required to be a legal description;

   (B) Making written findings of the violations of the minimum standards that are present at the building;

   (C) Containing a statement of the particular violation which makes the building or structure a dangerous building;

   (D) Requiring the owner and persons having an interest in the building to repair, vacate, or demolish the building within thirty (30) days from the issuance of such order, unless the owner or a person with an interest in the building establishes at the hearing that the work cannot reasonably be performed within thirty (30) days, in which instance the board of appeals shall specify a reasonable time for the completion of the work; and

   (E) Containing a statement that the city will vacate, secure, remove or demolish the dangerous building and remove the occupants of the building if the ordered action is not taken within the time specified by the board of appeals.

(3) Notice of order. If repair or demolition is ordered, the board of appeals shall send a copy of the order by certified mail to the owner and all persons having an interest in the property, including all identifiable

mortgagees and lienholders, within ten (10) days after the hearing. Within ten (10) days after the date that the order is issued, the city shall:

(A) File a copy of the order in the office of the city secretary; and

(B) Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:

(i) The street address or legal description of the property;

(ii) The date of the hearing;

(iii) A brief statement indicating the results of the order (may be a copy of the order); and

(iv) If not provided in the notice, instructions stating where a complete copy of the order may be obtained.

(C) If repair or demolition is ordered and notice of public hearing was not filed in the official public records of real property of the county, the city may file and record a copy of the order in such records of the county.

(4) Securing of property. If the board of appeals allows the owner or a person with an interest in the dangerous building more than thirty (30) days to repair, remove, or demolish the building, the board of appeals in its written order shall establish specific time schedules for the commencement and performance of the work and shall require the owner or person to secure the property in a reasonable manner from unauthorized entry while the work is being performed. The securing of the property shall be in a manner found to be acceptable by the city building inspector.

(5) Time limit for completing work; extension of time. The board of appeals may not allow the owner or person with a legal interest in the dangerous building more than ninety (90) days to repair, remove, or demolish the building or fully perform all work required to comply with the written order unless the owner or person:

(A) Submits a detailed plan and time schedule for the work at the hearing; and

(B) Establishes at the hearing that the work cannot reasonably be completed within ninety (90) days because of the scope and complexity of the work.

(6) Compliance with time schedules. If the board of appeals allows the owner or person with an interest in the dangerous building more than ninety (90) days to complete any part of the work required to repair, remove, or demolish the building, the board of appeals shall require the owner or person to regularly submit progress reports to the board of appeals to demonstrate that the owner or person has complied with the time schedules established for commencement and performance of the work. The written order may require that the owner or person with an interest in the building appear before the city building inspector to demonstrate compliance with the time schedules.

(Ordinance adopting Code)

Sec. 3.11.009 Appeal to city council

Any owner or person having a legal interest in a building or structure who is aggrieved by the decision of the board of appeals may appeal such decision to the city council within ten (10) days from the date of the decision appealed. In such event, the city council shall set a time and date for hearing such appeal and hold such hearing within thirty (30) days from the date of the appeal or as soon as practicable.

(1) Notice of public hearing. In the event the board of appeals has determined that demolition of a residential structure is the proper action and such decision is appealed, written notice of such public hearing shall be sent to owners of real property lying within two hundred feet (200') of the property on which the appeal is made not less than ten (10) days before the date set for the hearing. Such notice may be served by depositing the same properly addressed and postage paid in the United States post office. All other public hearings on appeals shall be noticed as provided in chapter 551 of the Tex. Gov't Code. Notice shall also be given by publishing the same prior to the date set for the hearing, which notice shall state the time and place of such hearing.

(2) Purpose of public hearing. The purpose of the public hearing of the appeal shall be to determine whether or not the building is an unsafe building or a dangerous building in accordance with the standards set forth in this article and to uphold, reverse or modify the decision of the board of appeals.

(3) Conduct of public hearing. The matter shall be set for hearing before the city council at the earliest practicable date, and notice of said hearing shall be served on the responsible parties, each known mortgagee and lienholder, and the building inspector not less than ten (10) days prior to date of said hearing. All interested persons shall have the opportunity to be heard and may introduce evidence to the city council for its consideration.

(4) Findings. After the public hearing, the city council shall make such findings and orders as it shall deem appropriate. Following the public hearing determining that a building or structure is unfit for human habitation, the city council shall immediately adopt a resolution condemning the building or structure and requiring the occupants to vacate the building or structure.

(5) Order. After the public hearing, if a building is found in violation of standards set out in this article, the city council may order that the decision of the board of appeals be affirmed, reversed or modified and, in the latter instance, that the building be vacated, secured, repaired, removed or demolished by the owner within a reasonable time. The city council also may order that the occupants be removed within a reasonable time. The city secretary shall send to each identified mortgagee and lienholder a notice containing:

   (A) A legal identification and/or address of the building and the property on which it is located;

   (B) A description of the violation of the Code of Ordinances (if any) that is found by the city council to be present at the building; and

   (C) A statement that the city will vacate, secure, remove, repair, or demolish the building or remove the occupants of the building if the ordered action is not taken within a reasonable time, or that the city will take no action.

(6) Alternative procedure. As an alternative to the procedure prescribed by subsection (5), described above, the city council shall make a diligent effort to contact each mortgagee and lienholder before conducting the public hearing and shall give them a notice of, and an opportunity to comment at, the hearing. If the city proceeds under this subsection, the order issued by the city council shall specify a reasonable time for the building to be vacated, secured, repaired, removed or demolished and an additional reasonable time for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner or other responsible person fails to comply with the order within the time provided for action. Under this subsection, the city is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner or other responsible party fails to timely take the ordered action.

(Ordinance adopting Code)

Sec. 3.11.010 Assessment of expenses and penalties

(a) Order. If an appeal has been made to the city council by any interested party, and if the city council has held a hearing pursuant to section 3.11.009(3) and the time allotted for the repair, removal or demolition of a building under section 3.11.009(5) or section 3.11.009(6) has expired, then the city council may, in addition to the authority granted under chapter 214, Local Government Code, and the foregoing sections of this article:

(1) Order the repair of the building at the city's expense and assess the expenses on the land on which the building stands or to which it is attached;

(2) Assess a civil penalty of up to $1,000.00 per day against the responsible party for failure to repair, remove or demolish the building;

(3) The city building inspector shall invite at least two (2) or more building contractors to make estimates pertaining to the needed repair, removal or demolition of a building. The building inspector shall cause to be made an assessment of expenses or civil penalty based on such estimates. The building inspector shall endeavor to minimize the expenses of any building repair, removal or demolition order pursuant to this article; and

(4) Authorize and take such other action as contemplated by this article, or chapter 214, as is necessary or advisable in the judgment of the city council to protect the public health, safety or welfare.

(b) Abatement by city authorized. In the event the owner or a person with an interest in a dangerous building fails to comply with the order within the time specified therein, the city may cause any occupants of the dangerous building to be removed, and may cause the dangerous building to be secured, removed, or demolished at the city's expense. The city may assess the expenses on, and the city has a lien against, unless it is a homestead as protected by the state constitution, the property on which the dangerous building was located. The lien is extinguished if the property owner or a person having an interest in the building reimburses the city for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk. The notice of lien must contain the name and address of the owner of the dangerous building, if that information can be determined by a diligent effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the city, and the balance due. Such lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property.

(c) Repair by city. In addition to the authority set forth in subsection (b) above, after the expiration of the time allotted in the order for repair, removal or demolition of a dangerous building, the city may repair the building at its expense and assess the expenses on the land on which the building stands or to which it is attached. The repairs contemplated by this section may only be accomplished to the extent necessary to bring the building into compliance with the minimum standards established by this article, and to the extent such repairs do not exceed minimum housing standards. This subsection (c) shall be applicable only to residential buildings with ten (10) or fewer dwelling units. The city shall follow the procedures set forth in subsection (b) above for filing a lien on the property on which the building is located.

(d) Filing of lien. The city shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the state constitution, to secure the payment of the repair, removal or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the city shall file for record, in recordable form, in the office of the county clerk, a written notice of the imposition of the lien. The notice shall contain a legal description of the land.

(e) Priority of lien. The city's lien to secure the payment of a civil penalty or the costs of repair, removal or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the city's lien attaches if the mortgage lien was filed for record in the office of the county clerk before the date the civil penalty is assessed or the repair, removal or demolition is begun by the city. The city's lien is superior to all other previously recorded judgment liens. If the notice is given and the opportunity to repair, remove or demolish the building is

afforded to each mortgagee and the lienholder as provided herein, the lien is a privileged lien subordinate only to tax liens attached to the real property to which the city's lien attaches.

(f) Interest on penalties and assessments. Any civil penalty or other assessment imposed under this section accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full. The city may further file with the district clerk a copy of an ordinance assessing a civil penalty pursuant to this article.

(g) Attorney fees and other costs of judicial proceedings. In any judicial proceeding regarding enforcement of the city's rights under this section, if the decision of the city is affirmed or not substantially reversed, but only modified, the city shall be entitled to all attorney fees and other costs and expenses incurred by it.

(h) Homestead exception for persons 65 years of age and older. A lien acquired under this section by the city for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.

(Ordinance adopting Code)

ARTICLE 3.12 FLOOD DAMAGE PREVENTION*

Division 1. Generally

Sec. 3.12.001 Statutory authorization

The legislature of the state has, in Tex. Water Code section 16.315, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. (1998 Code, sec. 152.01)

Sec. 3.12.002 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.

(1998 Code, sec. 152.02)

Sec. 3.12.003 Statement of purpose

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize the expenditure of public money for costly flood-control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

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

(7) Ensure that potential buyers are notified that the property is in a flood area.

(1998 Code, sec. 152.03)

Sec. 3.12.004 Methods of reducing flood losses

In order to accomplish its purposes, this article uses the following methods:

(1) Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;

(4) Controlling filling, grading, dredging and other development which may increase flood damage;

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(1998 Code, sec. 152.04)

Sec. 3.12.005 Definitions

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

Alluvial fan flooding. Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and 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.

Area of shallow flooding. A designated AO, AH, or VO zone on a community's flood insurance rate map (FIRM) with a 1% chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. 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 ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AE, AH, AO, A1-99, VO, V1-30, VE and V.

Base flood. The flood having a 1% chance of being equaled or exceeded in any given year.

Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

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

Development. Any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building.

(1) A nonbasement building:

(A) Built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor or, in the case of a building in zones V1-30, VE or V, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and

(B) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

(2) In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zone V1-30, VE or V, "elevated building" also includes a building otherwise meeting the definition of elevated building even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of 44 CFR 60.3(e)(5) of the National Flood Insurance Program regulations.

Existing construction. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood insurance rate map (FIRM). The official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, and the water surface elevation of the base flood, as well as the flood boundary-floodway map.

Flood or flooding. The 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 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 areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Floodplain or floodprone area. Any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management regulations. 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.

Floodproofing. Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (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.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

  (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 manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of 44 CFR 60.3 of the National Flood Insurance Program 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 National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction. For the purposes 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 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.

Start of construction. For other than new construction or substantial improvements under the Coastal Barrier Resources Act, being 16 USC 3501 et seq., 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. 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 includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance. A grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (For full requirements, see 44 CFR 60.6 of the National Flood Insurance Program regulations.)

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(1998 Code, sec. 152.05)

Sec. 3.12.006 Lands to which article applies

This article shall apply to all areas of special flood hazard within the jurisdiction of the city. (1998 Code, sec. 152.06)

Sec. 3.12.007 Basis for establishing areas of special flood hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency on its flood hazard boundary map (FHBM), Community No. 480374A, dated June 28, 1974, revised February 2, 1996, and any revisions thereto are hereby adopted by reference and declared to be a part of this article. (Ordinance O-003-14 adopted 4/1/14)

Sec. 3.12.008 Compliance

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this article and other applicable regulations. (1998 Code, sec. 152.08)

Sec. 3.12.009 Abrogation and greater restrictions

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (1998 Code, sec. 152.09)

Sec. 3.12.010 Interpretation

In the interpretation and application of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(1998 Code, sec. 152.10)

Sec. 3.12.011 Warning and disclaimer of liability

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder. (1998 Code, sec. 152.11)

Secs. 3.12.012–3.12.040 Reserved

Division 2. Permits

Sec. 3.12.041 Development permit required

A development permit shall be required to ensure conformance with the provisions of this article. (1998 Code, sec. 152.25)

Sec. 3.12.042 Application

(a) The application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but shall not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations and existing and proposed structures and the location of the foregoing in relation to areas of special flood hazard.

(b) Additionally, the following information is required:

(1) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 3.12.072(2);

(4) A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(5) [The floodplain administrator shall] maintain a record of all such information in accordance with section 3.12.102(1).

(1998 Code, sec. 152.26)

Sec. 3.12.043 Approval or denial

Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities, such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(10) The relationship of the proposed use to the comprehensive plan for that area.

(1998 Code, sec. 152.27)

Secs. 3.12.044–3.12.070 Reserved

Division 3. Flood Hazard Reduction

Sec. 3.12.071 General standards

In all areas of special flood hazard, the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the systems;

(6) New and replacement sanitary sewer systems shall be designed to minimize or eliminate the infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(1998 Code, sec. 152.40)

Sec. 3.12.072 Specific standards

In all areas of special flood hazard where base flood elevation data have been provided as set forth in section 3.12.007, 3.12.073(c), or 3.12.102(8), the following provisions are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in section 3.12.042(a), is satisfied.

(2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the 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 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 purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(B) Require that manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites:

(i) Be on the site for fewer than 180 consecutive days;

(ii) Be fully licensed and ready for highway use; or

(iii) In an expansion to an existing manufactured home park or subdivision or 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 is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(C) Require that manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, and AE on the community's FIRM that are not subject to the provisions of subsection (4) of this section be elevated so that either:

(i) The lowest floor of the manufactured home is at or above the base flood elevation; or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) Recreational vehicles. Require recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM either:

(A) Be on the site for fewer than 180 consecutive days;

(B) Be fully licensed and ready for highway use;

(C) Meet the permit requirements of section 3.12.042(a), and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(1998 Code, sec. 152.41)

Sec. 3.12.073 Standards for subdivision proposals

(a) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with sections 3.12.002 through 3.12.004.

(b) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet the development permit requirements of sections 3.12.041, 3.12.042 and 3.12.043 and the provisions of sections 3.12.071 through 3.12.073.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which are greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 3.12.007 or section 3.12.102(8).

(d) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

(1998 Code, sec. 152.42)

Sec. 3.12.074 Standards for areas of shallow flooding

Located within the areas of special flood hazard established in section 3.12.007 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

(2) All new construction and substantial improvements of nonresidential structures:

(3) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified). (1998 Code, sec. 152.43)

(A) 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 or effects of buoyancy. (1998 Code, sec. 152.43; Ordinance adopting Code)

(B) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 3.12.042(a), are satisfied.

(4) Require within zone AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(1998 Code, sec. 152.43)

Sec. 3.12.075 Floodways

Floodways are located within areas of special flood hazards established in section 3.12.007. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development, within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 3.12.071 through 3.12.073.

(3) Under the provisions of 44 CFR 65.12 of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

(1998 Code, sec. 152.44)

Secs. 3.12.076–3.12.100 Reserved

Division 4. Administration and Enforcement

Sec. 3.12.101 Designation of floodplain administrator

The director of the planning and zoning department is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management. (1998 Code, sec. 152.55)

Sec. 3.12.102 Duties and responsibilities of floodplain administrator

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.

(2) Review permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by the adoption of this article.

(4) Review permits for proposed developments 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, being 33 USC 1344) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the state commission on environmental quality, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data have not been provided in accordance with section 3.12.007, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from federal, state or other source in order to administer the provisions of sections 3.12.071 through 3.12.073.

(9) When a regulatory floodway has been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) Under the provisions of 44 CFR 65.12 of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, and AH on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA.

(1998 Code, sec. 152.56)

Sec. 3.12.103 Variance procedures

(a) The zoning board of adjustment shall hear and render judgment on requests for variances from the requirements of this article. (1998 Code, sec. 152.57; Ordinance adopting Code)

(b) The zoning board of adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this article.

(c) Any person or persons aggrieved by the decision of the zoning board of adjustment may appeal such decision in the courts of competent jurisdiction.

(d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places without regard to the procedures set forth in the remainder of this article.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 3.12.043 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above and the intent of this article, the zoning board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (section 3.12.003).

(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) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(1) The criteria outlined in subsections (a) through (i) above are met; and

(2) The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(1998 Code, sec. 152.57)

ARTICLE 3.13 REPEALED

(Ord. # O-006-22, 07/19/2022)

Effective on: 8/9/2022

ARTICLE 3.14 REPEALED

(Ord. # O-006-22, 07/19/2022)

Effective on: 8/9/2022

ARTICLE 3.15 STREETS AND SIDEWALKS*

Division 1. Generally

Secs. 3.15.001–3.15.030 Reserved

Division 2. Curbs†

Sec. 3.15.031 Handicap ramps required

(a) Section 228 of the Highway Safety Act of 1973, being 23 USC 402(b)(1)(D), was amended to read as follows:

(D) Provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the state.

(1998 Code, sec. 96.15; Ordinance adopting Code)

(b) Pursuant to that act, and to be in accord with both federal and state guidelines for the installation of handicapped access ramps, the city sets forth the following requirements:

(1) Curbs constructed after June 30, 1976, with accompanying sidewalks shall have curb ramps (depressions in the sidewalks and curb to accommodate a wheelchair user).

(2) Curbs constructed after June 30, 1976, without accompanying sidewalks will not require curb ramps, but ramps will be required if sidewalks are added later.

(3) Curbs constructed prior to June 30, 1976, are not required to have ramps even though sidewalks are constructed after June 30, 1976. However, should a curb constructed before June 30, 1976, require altering after June 30, 1976, to fit new construction, then curb ramps shall be installed.

(4) If a property owner or his representative chooses to extend or install a driveway curb across the sidewalk, the walk shall be ramped.

(c) A permit shall be obtained for removal of a curb for the installation of handicapped access ramps as required in section 3.15.032(a). New commercial buildings or developments shall be required to install handicapped access ramps. Ramps shall be installed according to construction details furnished by the building inspector's office.

(1998 Code, sec. 96.15)

Sec. 3.15.032 Permits for curb removal

(a) Permit required. It shall be unlawful for any person to remove any curb from a street located in the city without obtaining a permit from the building inspector.

(b) Application for permit. Any person desiring to remove a portion of curb on a public street shall make application to the building inspector's office for a permit. The purpose for the curb removal, the location and length of the proposed curb removal, and such other information as may be determined necessary by the building inspector for enforcement of this division shall be indicated on the permit. If adequate access to the property exists or the proposed driveway would increase the hazard, or result in a hazard, to the safe movement of traffic, the building inspector has the authority to prohibit the removal of a curb in a requested location for a driveway. If the driveway is part of new construction, the driveway permit may be considered as part of the building permit.

(1998 Code, sec. 96.16)

(c) Bond required. A permit shall not be issued for the removal of any curbing until the property owner or contractor making application for a permit has executed a performance or cash bond in favor of the city to insure compliance with the requirements of this division. The amount of the bond shall be as listed in the ARTICLE 1.07, division 6. After the provisions of this division have been complied with and so authorized by the building inspector, the performance or cash bond shall be returned to the property owner or contractor. (Ordinance O-008-18 adopted 9/18/18)

Sec. 3.15.033 Removal generally

The removal of any curb pursuant to the provisions of this division shall be done in such a manner as prescribed by the building inspector. Damage to the curb greater than that necessary to prepare it for the desired opening shall not be permitted. Such damaged curb shall be replaced to the satisfaction of the building inspector. Failure to comply with the above shall be deemed a violation of this code. (1998 Code, sec. 96.17)

Sec. 3.15.034 Removal at intersection or turn

It shall be unlawful to remove any portion of a curb at any point on a radius of an intersection or turn, except for the authorized replacement thereof or the installation of ramps to provide access for physically handicapped persons, for which a permit has been obtained as required in section 3.15.032(a). (1998 Code, sec. 96.18)

Sec. 3.15.035 Notice prior to slab installation

The property owner or contractor shall notify the building inspector of the proposed pouring of concrete immediately prior thereto whereby such inspector may determine that the provisions of this division are being complied with. (1998 Code, sec. 96.19)

Sec. 3.15.036 Slab installation at curb removals

The area between the curbline and property line of the adjacent property shall be concreted the width which such curb is removed. The minimum distance shall be ten feet. The concrete installed shall be elevated to curb height at a point between the property line and the curbline with a sloping decrease in the direction of the street from which the curb was removed and such concrete area shall have a curb on both sides thereof to prevent side drainage. Sidewalks shall be ramped where the driveway curb is extended across the walk such that it will provide safe movement of the physically handicapped. Care shall be taken to assure a uniform grade on the ramp with no short grade changes. The concrete shall be 2500 psi concrete and reinforced with six-inch by six-inch no. 10 welded wire mesh. Residential driveways shall have a minimum thickness of six inches at the back of the curb, a minimum thickness of four inches at the property line and shall be placed on well-compacted soil. Commercial driveways shall have a minimum thickness of six inches. Curb removal for residential driveways shall be limited to a maximum of 30 feet per opening with a minimum distance along the curb between openings on each lot of 20 feet. Curb removal for commercial driveways shall be limited to a maximum of 45 feet with a minimum distance along the curb between openings of 25 feet. (1998 Code, sec. 96.20)

Sec. 3.15.037 Permits and slab installation for curb leave-outs and lay-down type curb openings

In areas where curb and gutter are to be installed by subdividers, developers, contractors, or whomever, the owner or such person, firm, or corporation desiring curb leave-outs or lay-down type curb openings for driveways on adjacent property shall be required to install a concrete slab extending from the back of the curb to the adjacent property line. Before such leave-outs or lay-down type curbs shall be permitted, the owner or such person, firm or corporation desiring such shall make application for a permit to the building inspector (section 3.15.032(b)) and shall deposit with the city a surety bond or certified check in an amount sufficient to cover the cost of the installation of the concrete slab, conditioned that applicant shall, within six months from issuance of permit, or if applicable within six months of completion of the curb adjacent to the property, complete the installation of the concrete slab to the property line, otherwise to be forfeited as provided herein. The amount of the surety bond or certified check shall be determined by the building inspector of the city. (1998 Code, sec. 96.21)

Sec. 3.15.038 Time limits for slab installation

Installation of the concrete slab as described in section 3.15.036 or 3.15.037 shall be completed within six months from the date of the curb permit or the date the curb and gutter installation is complete adjacent to the property for which the leave-out or lay-down type curb is provided. Failure to complete the installation of the concrete slab in the specified time shall result in the forfeiture of the surety bond or certified check and the driveway installation shall be accomplished by the city, using city personnel or the hiring of a contractor. (1998 Code, sec. 96.22)

Sec. 3.15.039 Obstruction or alteration of gutter restricted

(a) Generally. It shall be unlawful for any person to obstruct, elevate, diminish or change the elevation of a gutter line of any street.

(b) Exception. The flow line of a gutter may be changed upon written authorization from the responsible city official or city manager after submission of evidence that such change would improve or not diminish the flow characteristics of the gutter.

(1998 Code, sec. 96.23)

Sec. 3.15.040 Angle parking after curb removal restricted

The provisions of this division shall not be construed to authorize angle parking where a curb is removed in compliance with this division. (1998 Code, sec. 96.24)

Sec. 3.15.041 Conflicts with state transportation commission regulations

In the event provisions of this division are in conflict with the regulations of the state transportation commission, insofar as they govern and control removal of curbs on state highways, the provisions of the state transportation commission shall be controlling. (1998 Code, sec. 96.25)

Secs. 3.15.042–3.15.070 Reserved

Division 3. Vegetation Bordering Streets

Sec. 3.15.071 Definitions

For the purpose of this division, the following definition shall apply unless the context clearly indicates or requires a different meaning:

Street gutter flow line. The street gutter flow line of the curb adjacent to and bordering upon each such restricted area; in the event there is no such curb, the height restrictions set forth in this division shall be based upon the actual level of the paved or used portion of the public street adjacent to and bordering upon each such restricted area.

(1998 Code, sec. 96.35)

Sec. 3.15.072 Restricted areas

(a) The areas in the city restricted by the provisions of this division are as follows:

(1) All of that portion of land lying within a triangular-shaped area on each street corner within the city described by metes and bounds as follows: Beginning at the precise corner of the intersection point of the curbs of each of the two streets forming each corner and extending 20 feet along each such curbline from said curb intersection point, the third side being determined by the drawing of a straight line from the ends of such 20-foot extensions; whether said land be privately owned or unpaved or untraveled street right-of-way property.

(2) Where no curbs are in existence at such street intersections, said 20-foot lines shall coincide with the central flow line of the ditches paralleling such uncurbed streets as shall be determined by the city engineer.

(b) Provided, however, that the provisions of this division shall apply only to those areas of the city designated and classified by the city's zoning ordinance requiring construction of lots in zoned sections to be set back from the property line of each such lot.

(1998 Code, sec. 96.36)

Sec. 3.15.073 Maximum height of shrubs, hedges, etc.

No person shall plant, grow or maintain in any restricted area any plant, hedge, shrub or other growth, except trees, at a height greater than three feet from the street gutter flow line. (1998 Code, sec. 96.37)

Sec. 3.15.074 Minimum clearance of trees

Any trees planted, grown and maintained in any restricted area shall not have branches or foliage extending from the trunk thereof at a height lower than the heights provided in section 8.01.002(a)(6). (1998 Code, sec. 96.38)

Sec. 3.15.075 City's right of entry and removal

In addition to any penalty which may be imposed for the violation of this division, the city shall be entitled to enter upon and remove from the triangular corner areas described in this division any of the growth prohibited by this division. Such entry and removal shall be without liability to the owners thereof. (1998 Code, sec. 96.39)

Secs. 3.15.076–3.15.100 Reserved

Division 4. Use of Poles, Wires, Pipes and Other Appurtenances*

Sec. 3.15.101 Right of city to regulate property, equipment and fixtures in public ways

The city hereby reserves the right to put into effect at any time other restrictions and regulations as to the erection and maintenance of poles, wires, pipes, and other appurtenances in the streets, easements, alleys and other public ways of the city and from time to time to require such poles, pipes, wires and other property, equipment and fixtures as it may deem proper to be removed and to require wires to be run in conduits on such terms as the city may deem proper. (1998 Code, sec. 96.50)

Sec. 3.15.102 Inspection; notice to correct condition

The building inspector, electrical inspector, police officers, and such other persons designated by the city shall have power and it shall be their duty to examine and inspect from time to time all telegraph, telephone, electric light or other poles, gas pipe lines, pipes and other fixtures in the public places within the city for the purpose of seeing that all of same are in a safe and suitable condition, and whenever any such item is found to be unsafe or unsuitable for the purpose for which it is used, the person using, possessing or maintaining same shall be notified and required to place same in a safe and suitable condition. (1998 Code, sec. 96.51)

Sec. 3.15.103 Compliance with other laws and ordinances

Nothing contained in the provisions of this division is intended to relieve any person of any condition, restriction, or requirement imposed by any law or ordinance of the city. (1998 Code, sec. 96.53)

Sec. 3.15.104 Provisions do not grant franchise

The provisions of this division shall not grant a franchise to any utility or person to use the streets, easements, alleys and other public ways and shall never be so construed by the courts or otherwise. The city reserves the right to cancel the privileges granted hereunder and refund the unearned rentals paid to the city. (1998 Code, sec. 96.54)

ARTICLE 3.16 SHIPPING, CARGO, AND STORAGE CONTAINERS

Sec. 3.16.001 Scope

The provisions of this article shall apply to all shipping, cargo, and storage containers, as that term is defined herein, within the corporate limits of the city.

Sec. 3.16.002 Definitions

Certain terms are defined for the purpose of this section as follows:

Active building permit. An unexpired and unrevoked building permit for which the building inspector has not performed a final inspection.

Anchorage system. A system that is designed to make a customary portable storage container become locked to a permanent placement and to prevent the container from moving.

Applicant. An owner, occupant or authorized agent, or a contractor or person with control of a property or lot.

Non-steel storage container. A portable or moveable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, valuables, or merchandise (typically known as PODS, MODS, etc.).

Shipping or cargo container. Generally, an all steel container with strength to withstand shipment, storage and handling. Such containers include reusable steel boxes, freight containers and bulk shipping containers; originally a standardized reusable vessel that was designed for and used in the parking, shipping, movement, transportation or storage of freight, articles of goods or commodities; generally capable of being mounted or moved on a rail car, truck trailer or loaded on a ship.

Sec. 3.16.003 Temporary shipping or cargo container and non-steel storage container use

(a) No person shall store, maintain or otherwise keep a shipping or cargo container or non-steel storage container temporarily on any lot or parcel of property within the city without having obtained and possessing an active building permit issued by the city planning and development services department related to a permit for placement of a shipping or cargo container or non-steel storage container; or, possessing an active building permit with the shipping or cargo container or non-steel storage container being associated with that permit for the work being done.

(Ordinance O-009-17, sec. 1, adopted 10/17/17)

(1) A permit fee as listed in the ARTICLE 1.07, division 6 is required. Exception, permits are provided at no charge if they are associated with an existing active building permit for work being done (refer to zoning requirements). (Ordinance O-008-18 adopted 9/18/18)

(2) Permits are valid for a period not to exceed ninety (90) days and can only be purchased one (1) time per year, unless utilizing an existing active permit for work being done.

(3) Permits that are associated with an existing active building permit for work being done are not to exceed the existing active building permit's timeframe.

(4) Upon review of a request for an extension; the city may grant one (1) ninety (90) day extension.

(b) Temporary shipping or cargo containers and non-steel storage containers must abide by building codes in addition to the following requirements:

(1) A foundation is not required because of temporary status;

(2) Ventilation is not required;

(3) Electricity is an option but not required (must inform the planning and development services department if electricity is added);

(4) Tie-downs are not required unless electricity is installed.

(c) Temporary shipping and cargo containers and non-steel storage containers must be located on private property, not on or in any portion of a city right-of-way and must not create a site obstruction for neighboring properties.

(d) Temporary shipping and cargo containers and non-steel storage containers must be painted a neutral color that do not create a blight to the community.

(e) Temporary shipping and cargo containers and non-steel storage containers may only be used for storage; human habitation is strictly prohibited.

(f) Any permit issued for a temporary shipping or cargo container or non-steel storage container use may be revoked upon ten (10) days' written notice to the applicant, owner, occupant or person in control of the property if such person is storing, maintaining or otherwise keeping a container in violation of this article. Any person aggrieved by a decision of the planning and development services department to revoke a permit may appeal to the building standards commission.

(Ordinance O-009-17, sec. 1, adopted 10/17/17)

Sec. 3.16.004 Permanent shipping, cargo, and storage container use

(a) No person shall store, maintain or otherwise keep a shipping or cargo container or nonsteel storage container permanently on any lot or parcel of property within the city without having obtained and possessing an active building permit issued by the city planning and development services department related to a permit for placement of a shipping or cargo container or nonsteel storage container. A permit fee as listed in the ARTICLE 1.07, division 6 is required. (Ordinance O-008-18 adopted 9/18/18)

(b) Permanent shipping and cargo containers and non-steel storage containers must abide by building codes in addition to the following requirements:

(1) A foundation is required for permanent establishments;

(2) A pre-designed anchoring system is required and must be approved by the city;

(3) Ventilation is not required;

(4) Electricity is an option but not required (must inform the planning and development services department if electricity is added);

(5) All setbacks are to be respected and adhered to.

(c) Permanent shipping and cargo containers and non-steel storage containers may be installed in all zoning districts (see chart in section 14.03.006) and shall adhere to the following restrictions and requirements:

(1) No shipping or cargo container, or a non-steel storage container can be stacked on top of one another or on top of any other object.

(2) Shipping or cargo containers and/or non-steel storage containers must be behind the main or primary structure on the lot or parcel of land and are subject to all setback requirements.

(3) Shipping or cargo containers and/or non-steel storage containers must be placed toward the rear half of the property.

(4) Shipping or cargo containers and/or non-steel storage containers shall not be used to store hazardous materials.

(5) Shipping or cargo containers and/or non-steel storage containers shall not be used to store and keep refuse or debris in, against, on, or under the container.

(6) Any shipping or cargo container and/or non-steel storage container shall be secure, structurally sound, stable, and in good repair.

(7) Shipping and cargo containers and/or non-steel storage containers must be painted a neutral color that does not create a blight to the community.

(8) Permanent shipping and cargo containers and/or non-steel storage containers may only be used for storage; human habitation is strictly prohibited.

Sec. 3.16.005 Penalties

A violation of any provision of this article shall be a misdemeanor, and any person, firm or corporation convicted hereunder, shall be punished as specified in section 1.01.009, general penalty for violation of code.

(Ordinance O-009-17, sec. 1, adopted 10/17/17)

ARTICLE 3.17 WIRELESS COMMUNICATION FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

Sec. 3.17.001 Purpose and scope

(a) Purpose. The purpose of this article is to establish policies and procedures for the placement of node support poles and network nodes in the public rights-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's public rights-of-way and the city as a whole.

(b) Intent. In enacting this article, 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 other facilities lawfully located in public rights-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 article supersedes all chapters, parts of chapters, articles, or rules adopted prior hereto that are in conflict with this article, to the extent that a conflict exists (including article 3.15).

Sec. 3.17.002 Definitions

All terms used in this article, not specifically defined herein, have the meaning provided in chapter 284 of the Texas Local Government Code.

Applicable law. Chapter 284 of the Texas Local Government Code.

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;

(2) To install a transport facility; or

(3) To approve the installation, replacement or modification of a pole.

City Code. Those ordinance provisions relevant to use of the public rights-of-way where compliant with applicable law.

Collocation. The installation, mounting, maintenance, modification, operation or replacement of network nodes in public rights-of-way on or adjacent to a pole.

Day. Calendar day.

Design manual. The City of Borger, Texas Public Rights-of-Way Communication Facilities Design Manual. The design manual is incorporated by reference into this article and the terms and conditions of the design manual are binding upon any entity acting under any portion of this article. In the event of any discrepancy or ambiguity between this article, this code, or the design manual, the design manual will control.

Director. The city planning and development services department director or authorized designee.

Network node. Equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term includes, but is not limited to: equipment associated with wireless communications; a radio transceiver, an antenna, a battery-only backup power supply, or comparable equipment, regardless of technological configuration; and coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation. The term does not include: an electric generator; a pole; or a macro tower.

Node support pole. A pole installed by a network provider for the primary purpose of supporting a network node.

Permit. A wireless communication facility permit issued by the city, authorizing the installation, removal, modification, or other work in accordance with the design manual.

Person. An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the city.

Pole. A service pole, municipally owned utility pole, node support pole, or utility pole.

Rights-of-way. The area on, below, or above a public roadway, highway, street, public sidewalk, alley, or waterway. The term does not include a private easement, private property, publicly owned property, or the airwaves above the city's rights-of-way with regard to wireless telecommunications.

Routine maintenance.

(1) Work in the public rights-of-way that does not require excavation or closing of sidewalks or vehicular lanes in a public rights-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 rights-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 rights-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.

Sec. 3.17.003 Design manual incorporated into this article

The design manual is incorporated by reference into this article, and the terms and conditions of the design manual are binding upon any entity acting under any portion of this article. In the event of any discrepancy or ambiguity between this article or the design manual and chapter 284 of the Texas Local Government Code, chapter 284 shall control.

Sec. 3.17.004 Penalties and correction of deficiencies

(a) Any entity that violates any provision of this article shall be guilty of a misdemeanor in accordance with section 1.01.009 of the Code of Ordinances, and upon conviction shall be subject to a fine not to exceed the amount specified by state law for such offenses. Each day of such violation shall constitute a separate offense. Said penalty is cumulative, and not exclusive, of any other rights or remedies the city may have.

(b) Any entity who shall perform work on or about public rights-of-way and in violation of any provision of this article shall cause said work to be subject to a cease work order and revocation of permit and/or civil legal remedies as provided by this article.

Sec. 3.17.005 Permitted use; application and fees

(a) This is the template text that will be pasted at your cursor location.) Permitted use. Collocation of network nodes and the placement of node support poles, meeting the parameters set forth in section 3.17.008 below and in applicable law, shall be a permitted use. No zoning or land use review shall apply to the collocation of network nodes and/or the placement of node support poles that are permitted under the requirements of section 3.17.008.

(b) Permit required. No person shall place a network node, transport facility or node support pole in the public rights-of-way, without first filing a permit application and obtaining a permit therefor, except as otherwise provided in this article.

(c) Permit application. All permit applications filed pursuant to this article 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. (No guarantee of confidentiality is made if a valid request for information under the Texas Public Information Act is received by the city.)

(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 that the construction will be consistent with City Code.

The director or authorized designee may, in his/her sole discretion, require additional information from the applicant of a permit, before the director issues said permit.

(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. (Ordinance O-010-17 adopted 11/21/17)

(g) Application fees. All applications for nodes and/or support poles in the public rights-of-way permits pursuant to this article shall be accompanied by a fee as listed in the ARTICLE 1.07, division 10. (Ordinance O-008-18 adopted 9/18/18)

Sec. 3.17.006 Insurance

The applicant for a permit shall furnish a certificate of insurance for public liability and property damage, issued by a solvent insurance company or companies authorized to do business in this state, or evidence of self-insurance satisfactory to the city, evidencing that the city is adequately protected from any liability or damages resulting by virtue of applicant's construction. The insurance requirements of this article are subject to the insurance requirements listed in the design manual which is incorporated into this article by reference. Upon receipt of the permit, an applicant assumes the insurance and indemnity requirements provided in the design manual.

Sec. 3.17.007 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 10 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. The applicant may cure the deficiencies and resubmit the application within 30 days of the notice that the application is incomplete without paying an additional application fee.

(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 and a permit issued.

(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 article, the city shall approve and may not deny applications for eligible facilities requests within sixty (60) days according to the procedures established under 47 CFR 1.40001(c).

Sec. 3.17.008 Network nodes in the public rights-of-way; maximum height; other requirements

(a) Maximum size of permitted use. Collocation of permitted use network nodes in the public rights-of-way shall be subject to the size limitations specified in chapter 284.003 of the Local Government Code.

(b) Undergrounding provisions. A network provider shall comply with nondiscriminatory undergrounding requirements, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in public rights-of-way. 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 section 3.17.007, 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 rights-of-way without the city's nondiscriminatory written consent of the planning and development services department, but not city council, unless required by state law, if the public rights-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 rights-of-way that exceeds the height or size limits contained in this section, shall be subject to applicable zoning requirements.

Sec. 3.17.009 Effect of permit

(a) Authority granted. A permit from the city authorizes an applicant to undertake only certain activities in accordance with this article, 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 rights-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 article.

(d) Interference with network nodes. An applicant is not entitled to a permit for a network node or other wireless facility if a previous permit has been issued and the previous applicant's use is still in operation; provided, however, that if the new applicant can provide evidence that its use of the requested network node or other wireless facility will not adversely affect or interfere with the use and operation of the existing and operational network node, or if permission for co-use is obtained from the previous permit holder, then a permit may be issued.

Sec. 3.17.010 Removal, relocation or modification of network nodes in the ROW

(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 rights-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 operations of the city in or upon, the public rights-of-way.

(b) Emergency removal or relocation of facilities. No permit is required for emergency responses by a network provider for existing facilities, under circumstances involving the preservation of life, property, or the restoration of customer service. Under such circumstances, the party performing the emergency response shall immediately notify by telephone the planning and development services director and the network provider must apply to the city for a permit within two business days of any construction related to an emergency response, including a reasonably detailed description of the work performed in the rights-of-way and an updated map of any facilities that were moved or repaired. The city retains the right and privilege to disconnect or move any network node located within the public rights-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. The network provider shall notify the city within 90 days of abandonment of a network node or node support pole within the public rights-of-way. 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, that such removal is necessary to protect public health, safety or welfare of its citizens.

(Ordinance O-010-17 adopted 11/21/17)

Sec. 3.17.011 Permit fee and public rights-of-way rate

(a) Application fee. The city council may establish a fee for issuance of a permit under this article and any such fee may be listed in the ARTICLE 1.07, division 10 as adopted by the city council. For any entity that is governed by chapter 284 of the Texas Local Government Code, the fee shall be the maximum allowed under said chapter.

(b) Annual rate. Once a network provider has installed and made operational a network node in the public rights-of-way, the network provider shall pay to the city compensation for use of the public rights-of-way in an amount as listed in the ARTICLE 1.07, division 10 for any and all nodes in the city public rights-of-way. For all other utilities, the fee shall be governed by applicable law or, for entities governed by chapter 284 of the Texas Local Government Code, by the design manual. (Ordinance O-008-18 adopted 9/18/18)

(c) Cease payment. A network provider is authorized to remove its facilities at any time from the public rights-of-way and cease paying the city compensation for use of the public rights-of-way following removal and notification to the city of such removal.

(d) Franchise agreements. For any utility that has a franchise agreement with the city, the fee for the use of the rights-of-way shall be governed by the terms and conditions of the franchise.

(e) Other utilities. For all other utilities, the fee shall be governed by applicable law or, in the event there is no existing franchise or applicable law, the city council may establish a fee for the use of the city's rights-of-way that is nondiscriminatory as compared to other utilities and comparable to the fee charged to other utilities.

Sec. 3.17.012 Attachment to service poles in the public rights-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.

(1) Permits. A network provider shall obtain a permit, pursuant to the terms of this article, prior to collocating network nodes on service poles.

(2) Make ready. A network provider shall be responsible for costs for make ready work on city service poles upon which provider seeks to place a network node.

(3) 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.

(4) 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.

(Ordinance O-010-17 adopted 11/21/17)

(5) Service pole attachment fee. The rate to collocate a network node on a service pole in the public rights-of-way shall be as listed in the ARTICLE 1.07, division 10 per pole per year. Subject to the provisions of section 3.17.011, such compensation together with the application fee and the public rights-of-way rate as specified in section 3.17.011 shall be the sole compensation that the network provider shall be required to pay to the city. (Ordinance O-008-18 adopted 9/18/18)

(6) Cease payment. A network provider is authorized to remove its facilities at any time from a service pole in the public rights-of-way and cease paying the attachment fee to the city upon notification to the city that the facilities have been removed.

Sec. 3.17.013 Transport facilities

Installation of transport facilities, including applicable compensation to the city for such facilities, shall be governed by chapter 284.055 of the Texas Local Government Code.

(Ordinance O-010-17 adopted 11/21/17)

CHAPTER 4 BUSINESS REGULATIONS

Contents:

ARTICLE 4.01 GENERAL PROVISIONS

ARTICLE 4.02 ALCOHOLIC BEVERAGES*

ARTICLE 4.03 ALARM SYSTEMS*

ARTICLE 4.04 JUNK AND JUNK DEALERS

ARTICLE 4.05 OIL, GAS, DISPOSAL, OR INJECTION WELLS*

ARTICLE 4.06 PEDDLERS AND SOLICITORS*

ARTICLE 4.07 TAXICABS

ARTICLE 4.08 TELECOMMUNICATIONS*

ARTICLE 4.09 OPERATION OF COIN-OPERATED MACHINES*

ARTICLE 4.10 MOBILE FOOD UNITS

ARTICLE 4.11 SPECIAL EVENTS AND STREET CLOSING EVENTS

ARTICLE 4.12 COMMERCIAL FILMING REGULATIONS

ARTICLE 4.01 GENERAL PROVISIONS

(Reserved)

ARTICLE 4.02 ALCOHOLIC BEVERAGES*

Sec. 4.02.001 Definitions

For the purposes of this article, all definitions of words, terms, and phrases as set forth in the Texas Alcoholic Beverage Code are hereby adopted and made a part hereof. (1998 Code, sec. 110.01; Ordinance adopting Code)

Sec. 4.02.002 Municipal regulation

(a) Residential areas. It shall be unlawful for any person to sell, dispense or deliver, or cause to be sold, dispensed or delivered, any beer, liquor, or any other intoxicating beverage within a residential area in the city.

(b) Approved locations. The sale of alcoholic beverages shall be permitted on any parcel of land in the city limits which is not a part of any residential zoned district according to the official zoning map and zoning ordinances of the city.

(Ordinance O-005-11 adopted 12/20/11)

(c) Hours for sale or serving. No person may sell or offer for sale alcoholic beverages at any time not permitted by this section.

(1) Alcoholic beverages may be sold between 7:00 a.m. and midnight on any day except Sunday.

(2) On Sunday alcoholic beverages may be sold between midnight and 1:00 a.m. and between 10:00 a.m. and midnight with the provision that alcoholic beverages served to customers between 10:00 a.m. and 12:00 noon must be served with food.

(3) A holder of a retail dealer's on-premises late hours license or a private club late hours permit issued by the Texas Alcoholic Beverage Commission may also sell or offer for sale alcoholic beverages between 1:00 a.m. and 2:00 a.m. on Sunday and between midnight and 2:00 a.m. on any other day.

(Ordinance O-001-14, sec. 1, adopted 3/18/14)

(d) Sacramental wine. Nothing in this subsection limits the right of a minister, priest, rabbi, or religious organization from dispensing sacramental wine for sacramental purposes only.

(e) On/off premises distinction. Retailers selling alcoholic beverages for on-premises consumption may be distinguished from retailers, manufacturers, or distributors who do not sell alcoholic beverages for on-premises consumption.

State law references–Alcoholic Beverage Code, sec. 105.03; hours of sale of wine and beer retailers, V.T.C.A., Alcoholic Beverage Code, sec. 105.04; hours of sale of beer, V.T.C.A., Alcoholic Beverage Code, sec. 105.05; city's authority to regulate hours of sale of beer, V.T.C.A., Alcoholic Beverage Code, sec. 109.32.

Sec. 4.02.003 Sales near a school, church, or hospital

(a) It shall be unlawful for any person to sell or engage in the business of selling intoxicating liquor, beer or wine within the city, whose place of business is within:

(1) 300 feet of a church, public or private school, or public hospitals; or

(2) 1,000 feet of a private school, if the city council receives a request from the governing body of a private school.

(3) Subsection (a)(2) above does not apply to the holder of:

(A) A retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages;

(B) A retail off-premises consumption permit or license if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages; or

(C) A wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in TABC, chapter 102.

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

(e) The measurement of the distance between the place of business where alcoholic beverages are sold and a public or private school shall be:

(1) In a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or

(2) If the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(d) Application of distance requirements:

(1) If at the time an original alcoholic beverage permit or license is granted for a premises the premises satisfies the requirements regarding distance from schools, churches, and other types of premises established in this code and any other law of the state in effect at that time, the premises shall be deemed to satisfy the distance requirements for all subsequent renewals of the license or permit.

(2) On the sale or transfer of the premises or the business on the premises in which a new original license or permit is required for the premises, the premises shall be deemed to satisfy any distance requirements as if the issuance of the new original permit or license were a renewal of a previously held permit or license.

(3) Subsection (d)(2) does not apply to the satisfaction of the distance requirement prescribed by subsection (a)(2) for a public school, except that on the death of a permit or license holder or a person having an interest in a permit or license subsection (d)(2) does apply to the holder's surviving spouse or child of the holder or person if the spouse or child qualifies as a successor in interest to the permit or license.

(4) Subsection (d)(1) does not apply to the satisfaction of the distance requirement prescribed by subsection (a)(2) for a public school if the holder's permit or license has been suspended for a violation occurring after September 1, 1995, of any of the following provisions of the Texas Alcoholic Beverage Code:

(A) Sections 11.61(b)(1), (6)–(11), (13), (14), or (20); or

(B) Sections 61.71(a)(5)–(8), (11), (12), (14), (17), (18), (22), or (24).

(d) The city council may also allow variances to the regulations of subsection (a) of this section if the city council determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason after consideration of the health, safety, and welfare of the public and the equities of the situation, determines a variance would be in the best interest of the community.

State law reference–Sales near church, school or hospital, V.T.C.A., Alcoholic Beverage Code, sec. 109.33.

(Ordinance O-005-11 adopted 12/20/11)

Sec. 4.02.004 City permit required for dealers, manufacturers, etc.; fee; transferability

(a) It shall be unlawful for any person to manufacture, brew, distill, sell or distribute any wine, beer, liquor or other alcoholic beverage within the city, or engage in any other activity for which a license or permit is required by the Texas Alcoholic Beverage Code (this includes a private club permit), without first obtaining a license or permit to do so from the city. (Ordinance O-008-03, sec. 110.04.1, adopted 7/1/03)

(b) Except as otherwise provided by V.T.C.S., Alcoholic Beverage Code, each holder of a state permit issued pursuant to the provisions of the Alcoholic Beverage Code shall pay to the city a fee as listed in the ARTICLE 1.07, division 6 for such permit. (Ordinance O-008-18 adopted 9/18/18)

(c) All fees levied by this section are due and payable at the time at which the state license and permit fees are due.

(d) It shall be unlawful for any person licensed to sell alcoholic beverages at retail, other than a manufacturer or distributor, to use or display a license or to exercise any privilege granted by a license except at the place, address, premises and location for which the license is granted. The license shall be displayed at all times in some conspicuous place at the business so licensed to operate.

(e) No permit or license may be assigned or transferred by the holder thereof.

(Ordinance O-008-03, sec. 110.04.1, adopted 7/1/03)

State law references–Local fee authorized on alcoholic beverage permits, V.T.C.A., Alcoholic Beverage Code, sec. 11.38; local fee authorized on alcoholic beverage licenses, V.T.C.A., Alcoholic Beverage Code, sec. 61.36.

Sec. 4.02.005 Certificate of occupancy or building permit required prior to applying for state license

When applying for an original state license or state permit, any person seeking to carry on a business within the city required to be licensed under the Texas Alcoholic Beverage Code shall first obtain from the building official either a certificate of occupancy (for an existing structure to be used) or a building permit (for construction, expansion or modification of a structure) for the establishment. (Ordinance O-008-03, sec. 110.05.1, adopted 7/1/03)

Sec. 4.02.006 Hours for consumption

(a) In this section:
  (1) A licensed or permitted premises is a public place.
  (2) "Standard hours area" means an area which is not an extended hours area.
  (3) "Extended hours area" means an area subject to the extended hours of sale provided in section 4.02.002(c)(3) of this code.

(b) In a standard hours area, a person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between the hours of 1:15 a.m. and 10:00 a.m., or on any other day between 12:15 a.m. and 7:00 a.m. On Sunday, if any alcoholic beverage is served to customers between 10:00 a.m. and 12:00 noon, then it must be served with food.

(c) In an extended hours area, a person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between the hours of 2:15 a.m. and 10:00 a.m., or on any other day between 2:15 a.m. and 7:00 a.m. On Sunday, if any alcoholic beverage is served between 10:00 a.m. and 12:00 noon, then it must be served with food.

(d) Private clubs located within the city holding a private club late hours permit issued by the Texas Alcoholic Beverage Commission may not permit persons to consume or be served alcoholic beverages on club premises at any time on Sunday between the hours of 2:15 a.m. and 10:00 a.m., or on any other day between 2:15 a.m. and 7:00 a.m. On Sunday, if any alcoholic beverage is served between 10:00 a.m. and 12:00 noon, then it must be served with food.

(Ordinance O-001-14, sec. 2, adopted 3/18/14)

State law reference–Hours of consumption, V.T.C.A., Alcoholic Beverage Code, sec. 105.06.

Sec. 4.02.007 Park alcohol permit

Park alcohol permits for individuals 21 years of age or older and/or organized groups wishing to sell, serve, and/or consume alcoholic beverages in conjunction with special event functions are available. Pursuant to the conditions of this Section and notwithstanding sections 4.02.002(b) and 8.05.003, the sale, service, and/or consumption of alcoholic beverages is permitted in city-owned parks, recreation areas, and facilities with the issuance of a park alcohol permit. The issuance of a park alcohol permit is subject to the following conditions:

(a) Alcohol may be sold, served and/or consumed between the hours of 10:00 a.m. and 12:30 a.m. at any location for which a permit is issued pursuant to this Section.

(b) Security shall be provided through the Borger Police Department for events with 50 or more people/attendees. A request may be made to City staff to use other security personnel; however, any security personnel must be a licensed peace officer employed by a law enforcement agency, or a licensed security officer employed by a licensed security agency. Number of security personnel required will be determined by City staff on a case-by-case basis; generally, one (1) security or law enforcement personnel for up to 150 people and an additional one (1) security or law enforcement personnel for every additional 150 people.

(c) No glass containers permitted in outdoor park areas during the event.

(d) Police shall have the right to revoke the permit upon any illegal activity occurring during or associated with the event. Any illegal activity shall be grounds for immediate revocation of the permit.

(e) Permittee shall obtain and comply with all applicable licenses from the Texas Alcoholic Beverage Commission for the sale and/or service of alcohol at any event, and must show proof of license prior to issuance of the permit, if a license is required.

(f) Permittee shall remain on site at all times during the event.

(g) No park alcohol permit will be issued at the following parks:

  (1) Huber Baseball Stadium

  (2) Johnson Park Youth Facility

  (3) Agnes Howe Youth Facility

(h) In addition to the permit fee, events serving or selling alcohol shall be required to obtain appropriate event liability insurance listing the “City of Borger” as the payee in the amount set forth on the list promulgated by the City Manager on the City’s website or available in person at the Facility or City Hall, before issuance of the permit.

(i) Permittee shall pick up all rubbish and litter prior to the refunding of the cleanup fee. Inspection of the area will be conducted by City personnel the following business day after the event.

(j) Events celebrating a minor must utilize a third-party vendor licensed by the Texas Alcoholic Beverage Commission to sell and serve alcohol. No individually provided (BYOB) alcohol may be used.

(k) Violation of any term of the permit shall be grounds for immediate revocation of the permit.

(Ordinance O-003-19 adopted 3/19/19; (Ord. # O-002-22, 04/05/2022; Ord. # O-005-22, 06/21/2022; Ord. # O-008-24, 09/17/2024)

Effective on: 10/11/2024

Sec. 4.02.008 Prima facie evidence of consumption

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

Open container. Includes bottles or other containers of alcoholic beverages which have had the seal broken, but have the cap or lid on the container, and shall also include containers such as cups, mugs, glasses, thermos bottles and flasks.

Possession. Includes being in close proximity to an open container of alcoholic beverage and not just the physical possession of said container.

(Ordinance O-008-03, sec. 110.07, adopted 7/1/03)

ARTICLE 4.03 ALARM SYSTEMS*

Division 1. Generally

Sec. 4.03.001 Definitions

For the purpose of this article, the following definitions shall apply unless the context clearly indicates a different meaning:

Alarm notification. A notification intended to summon the police department, which is designed either to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion.

Alarm site. A single premises or location (one street address) served by an alarm system or systems that are under the control of one owner.

Alarm system. Any mechanical or electrical device which is used to protect buildings or premises from criminal acts or unauthorized entries by warning persons of a crime or unauthorized entry, through the emission of a sound or the transmission of a signal or message. Alarm systems do not include an alarm installed on a vehicle unless the vehicle is permanently located at a site.

Automatic alarm notification. An alarm notification sent over telephone lines, by direct connection or otherwise, a prerecorded voice message, synthesized voice message, or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

Central station. An office to which remote and supervisory signaling devices are connected, where operators supervise the circuits, and/or where guards are maintained continuously to investigate signals.

Chief. The chief of police of the city or his authorized representative.

False alarm notification. An alarm notification to the police department, when the responding officer finds no evidence of unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, an attempt to take a person hostage.

Local alarm. An alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure.

Permit holder. The person designated in the application as required in section 4.03.031 who is responsible for responding to alarms and giving access to the site and who is also responsible for proper maintenance and operation of the alarm system and payment of fees.

Person. An individual, corporation, partnership, association, organization or similar entity.

(Ordinance O-011-04, sec. 98.01, adopted 9/21/04; Ordinance adopting Code)

Sec. 4.03.002 Implementation of provisions; exemptions

(a) This article shall apply to any person who operates or causes to be operated an alarm system at any alarm site.

(b) This article shall not apply to alarm systems operated by local, state, or federal governmental entities and shall not apply to those private alarm systems which do not summon the police or fire department by direct connection via an electrical device.

(Ordinance O-011-04, sec. 98.02, adopted 9/21/04)

Sec. 4.03.003 Nonliability of city

The application to the city or its designated agent shall contain a provision that the city shall not be liable for any failure of service or damages, including damages resulting from breaking to gain entrance, that might result from the installation or operation of any receiving station alarm, automatic dialing device, or local alarm. All applicants must agree to indemnify the city for all claims, demands, judgments, or other liability in a form satisfactory to the city attorney. (Ordinance O-011-04, sec. 98.03, adopted 9/21/04)

Sec. 4.03.004 Violations; penalty

It shall be unlawful for any person, corporation, partnership, or other association to violate any of the provisions of this article, and any such person, corporation, partnership or other association which violates a provision of this article 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. (Ordinance O-011-04, sec. 98.04, adopted 9/21/04)

Secs. 4.03.005–4.03.030 Reserved

Division 2. Permit

Sec. 4.03.031 Required; fee; application; transferability; false statements; cancellation

(a) A person commits an offense if he operates or causes to be operated an alarm system without an alarm permit issued by the chief. A separate permit is required for each alarm system. (Ordinance O-011-04, sec. 98.15, adopted 9/21/04)

(b) An initial fee as listed in the ARTICLE 1.07, division 6 shall be charged for the issuance of each permit. (Ordinance O-008-18 adopted 9/18/18)

(c) Upon receipt of a completed application form and the required fee, the chief shall issue an alarm permit to an applicant, unless the applicant has failed to pay a service fee assessed under section 4.03.068 or has had an alarm permit for the alarm system revoked, and the violation causing the revocation has not been corrected.

(d) Each permit application must contain the following information:

(1) Name, address, and telephone number of the permit holder who will be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article. (Ordinance O-011-04, sec. 98.15, adopted 9/21/04)

(2) For each alarm system located at the alarm site, the purpose of the alarm system, such as burglary, robbery, or personal hostage. (Ordinance O-011-04, sec. 98.15, adopted 9/21/04; Ordinance adopting Code)

(3) Other information required by the chief which is necessary for the enforcement of this article.

(e) Any false statement of a material matter made by an applicant for the purpose of obtaining an alarm permit shall be sufficient cause for refusal to issue a permit.

(f) An alarm permit cannot be transferred to another alarm system except by authorization of the chief. A permit holder shall inform the chief of any change that alters any information listed on the permit application within two business days. No fee will be assessed for such changes.

(g) A permit holder shall cancel a permit for any alarm system which is removed from an alarm site or which otherwise ceases to come under the permitting requirements of this article. Cancellation may be accomplished by returning the permit to the chief.

(h) All fees owed by an applicant must be paid before a permit may be issued or renewed.

(Ordinance O-011-04, sec. 98.15, adopted 9/21/04)

Sec. 4.03.032 Duration; renewal

A permit is issued for an indefinite period and must be renewed only if installing a new alarm system, or if an existing alarm system is significantly modified. (Ordinance O-002-05, sec. 98.16, adopted 2/1/05)

Sec. 4.03.033 Revocation

(a) The chief shall revoke an alarm permit if he determines that:

(1) There is a false statement of a material matter on the application for a permit;

(2) The permit holder has violated any part of this article;

(3) The permit holder has failed to make payment of a service fee assessed under section 4.03.068 within 30 days of receiving notice to do so.

(b) A person commits an offense if he operates an alarm system during the period in which his alarm permit is revoked.

(Ordinance O-011-04, sec. 98.17, adopted 9/21/04)

Sec. 4.03.034 Appeal from denial, revocation, or suspension

(a) If the chief refuses to issue a permit, or revokes a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the chief to the city secretary by written request for a hearing, setting forth the reason for the appeal, within ten days after receipt of the notice from the chief. The filing of a request for an appeal hearing with the city secretary stays an action of the chief in revoking a permit until the city secretary or his or her designated representative makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the chief is final. (Ordinance 002-05 adopted 2/1/05)

(b) The city secretary shall set a time and place for the hearing which shall be served upon the applicant or permit holder by certified mail, return receipt requested. The city secretary, or his or her representative, shall serve as hearing officer at an appeal and consider evidence by any interested person. The formal rules of evidence do not apply at an appeal hearing. All parties to the hearing shall have the right to present evidence and shall have the right of cross examination. The hearing officer shall make his decision on the basis of a preponderance of the evidence within 15 days after the request for an appeal hearing is filed. The time for hearing an appeal may be extended by agreements of the parties. The hearing officer shall affirm, reverse, or modify the action of the chief. The decision of the hearing officer is final as to administrative remedies with the city. (Ordinance O-011-04, sec. 98.18, adopted 9/21/04)

Secs. 4.03.035–4.03.060 Reserved

Division 3. Operation and Maintenance

Sec. 4.03.061 Proper operation and maintenance required

(a) A permit holder shall:

(1) Maintain the premises containing an alarm system in a manner that insures proper operation of the alarm system;

(2) Maintain the alarm system in a manner that will minimize false alarm notification;

(3) Respond within 30 minutes or cause a representative to respond within a reasonable period of time when requested by the chief to repair or inactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the premises;

(4) Not manually activate an alarm for any reason other than occurrence of an event that the alarm system was intended to report;

(5) Notify the police department prior to activation of an alarm for maintenance purposes.

(b) A permit holder shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal will sound for no longer than 30 minutes after being activated.

(Ordinance O-011-04, sec. 98.30, adopted 9/21/04)

Sec. 4.03.062 Alarm reset required

A permit holder of an alarm system that utilizes a local alarm shall adjust the mechanism or cause the mechanism to be adjusted so that, upon activation, the local alarm will not transmit another alarm signal without first being reset. (Ordinance O-011-04, sec. 98.31, adopted 9/21/04)

Sec. 4.03.063 Indirect alarm reporting

A person who is engaged in the business of relaying alarm notifications to the city shall:

(1) Communicate alarm notifications to the city in a manner and form determined by the chief.

(2) Comply with the requirements of this article and any rules and regulations promulgated by the chief.

(Ordinance O-011-04, sec. 98.32, adopted 9/21/04)

Sec. 4.03.064 Recorded message alarm notification prohibited

Following the effective date of this article (ordinance adopted September 21, 2004), no permit will be issued for the use of systems using automatic telephone dialing to report an alarm condition by means of a recorded message directly to the police department. (Ordinance O-011-04, sec. 98.33, adopted 9/21/04)

Sec. 4.03.065 Operating instructions to be maintained at alarm site

A permit holder shall maintain, at each alarm site, a complete set of written operating instructions for each alarm system. Special codes, combinations, or passwords must not be included in these instructions. (Ordinance O-011-04, sec. 98.34, adopted 9/21/04)

Sec. 4.03.066 Alarm dispatch records

(a) The police dispatcher receiving the alarm notification and/or the officer responding to a dispatch resulting from a burglary, robbery or personal hostage notification shall cause to be recorded in the police information systems such information as necessary to permit the chief to maintain records, including but not limited to the following information:

(1) Identification of the permit holder,

(2) Identification of the alarm site;

(3) Dispatcher-received time, dispatch time, and officer-arrived-at-scene time;

(4) Date of occurrence;

(5) Name of permit holder's representative on premises, if any.

(b) The responding police officer shall prepare and submit the appropriate reports in regard to any criminal offenses, attempts, or other incidents which contributed to the alarm notification as determined by investigation.

(Ordinance O-011-04, sec. 98.35, adopted 9/21/04)

Sec. 4.03.067 System performance reviews and consultations

(a) If there is reason to believe that an alarm system is not being used or maintained in a manner that insures proper operation and suppresses false alarms, the chief may require a conference with an alarm permit holder to review circumstances of each false alarm.

(b) If there is belief that an alarm is the result of circumstances beyond the reasonable control of the permit holder, the permit holder or the permit holder's representative may request a conference with the chief.

(Ordinance O-011-04, sec. 98.36, adopted 9/21/04)

Sec. 4.03.068 Service fee

(a) Except as provided in subsections (b), (c) and (d) of this section, the holder of an alarm permit or alarm site, responded to upon call, shall pay a fee for each false alarm notification emitted from an alarm system as listed in the ARTICLE 1.07, division 6. (Ordinance O-008-18 adopted 9/18/18)

(b) If a person notifies the chief and applies for an alarm permit before a new alarm system is put into service, no service fee will be assessed during the first 60 days after the system is put into service, and alarm notifications during that period will not be counted in determining when a service fee shall be assessed.

(c) If the responding police officer determines that an alarm notification was caused by unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, an attempt to take a person hostage, that notification will not be counted in determining when a service fee will be assessed.

(d) An alarm notification will not be counted in determining when a service fee will be assessed if the permittee can prove that the alarm notification was the result of a severe weather condition, such as a tornado, earthquake, or other weather condition that causes physical damage to the alarm site, or the result of a malfunction in the operation of telephone lines for the transmission of alarm signals, proof of the latter being documented in the form of telephone company work orders or time stamped records from the alarm company showing the periods of interrupted service.

(e) In the event a permit holder or alarm site which is responded to by the police department does not timely pay a service fee charge called for in this section, the police chief shall file a complaint in the proper court to force collection.

(Ordinance O-011-04, sec. 98.37, adopted 9/21/04)

ARTICLE 4.04 JUNK AND JUNK DEALERS

Sec. 4.04.001 Definitions

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

Junk. Scrap iron, tin, brass, copper, lead, zinc and all metallic substances, secondhand watches, knives, guns, cameras, jewelry, fishing equipment and similar items, handled, purchased, received or offered for sale by dealers in junk, and shall mean and include secondhand plumbing and electric fixtures, wires, globes, brass pipe, lead pipe and pipe of other metals, melted metals of any kind, such parts of machinery or machines that may be identified as such, any fixture pertaining to a residence, business house or other house of any kind, automobile accessories, including horns, hubcaps, prestolite tanks, tires and all detached and detachable parts of any automobile, motorcycle, bicycle or motor vehicle of any kind, or any vehicle of any kind, hydrants, faucets, lawn hoses, lawn sprinklers, gas fixtures, fittings and appliances, garden tools, mechanical tools of every description, harnesses, rags, rubber, rope, bottles and utensils of every description. The enumeration of the articles above shall not be held to exclude other articles that may be reasonably included under the general definition of junk, when given its usual trade meaning.

Junk dealer. Any person primarily engaged in collecting, handling, buying or selling any of the articles defined as "junk," but shall not include licensed pawnbrokers nor any person purchasing junk from licensed dealers exclusively.

(1998 Code, sec. 112.01)

Sec. 4.04.002 Purchases of junk from intoxicated persons and minors

No junk dealer shall receive or purchase any junk from any intoxicated person or from any person under the age of 18 years, except upon the written consent of the parent or guardian of such minor, and in that event, such writing shall be preserved by such junk dealer for a period of not less than six months thereafter for public inspection. When any such purchase is made from any minor with such consent, a notation of the same shall be made in the book or register required by section 4.04.003 to be kept by such dealer. (1998 Code, sec. 112.02)

Sec. 4.04.003 Records required to be kept by dealers

(a) Each junk dealer shall keep an accurate daily record of each article purchased, and the time when purchased, and also an accurate description of the person selling the article, giving his name, color, sex, age and residence. All such entries shall be made at the time of the purchase.

(b) Every junk dealer is hereby required to keep and maintain a record, used exclusively for such purposes, in which at the time of the transaction and coincident therewith shall be explicitly, plainly and intelligently written in ink and in the English language, without alterations or erasure, the name, residence and street number of the person or the agent, messenger or drayman of such person, and the race of the person from whom such junk was purchased or obtained, the nature of the junk and, if the same is a finished product or several parts of the same, then each of such parts shall be separately listed and described, including serial number if any and any other descriptive marks or symbol. There shall also be recorded the day of the week, month and year when such purchase was made, and whether or not the person from which such junk was obtained was male or female. Such record shall further contain the source and place from which the junk came or was obtained. When any junk dealer shall receive junk from any common carrier from a point without the limits of the city, the record herein required to be kept by junk dealers shall be sufficient if it shows the name of such common carrier, and the nature of the material received, and gives the name and address of the person from whom the same was received.

(1998 Code, sec. 112.03)

Sec. 4.04.004 Examination of records and junk by police

(a) Inspection of records. The records specified in section 4.04.003 shall be accessible at all reasonable times to the police of the city or any other peace officer, and all such police officers and peace officers shall have the right, at all reasonable times, to examine such records when searching or looking for lost or stolen articles or in determining whether or not the provisions of this article are being kept and observed. Any person who refuses to permit any such officers to inspect such records shall be guilty of a misdemeanor.

(b) Examination of junk. Every junk dealer shall at all reasonable times allow the chief of police or some other police officer the privilege of examining all articles of junk he may have received, whether at his place of business or elsewhere, for the purpose of ascertaining whether or not the articles are lost or stolen property.

(1998 Code, sec. 112.04; Ordinance adopting Code)

ARTICLE 4.05 OIL, GAS, DISPOSAL, OR INJECTION WELLS*

Sec. 4.05.001 Drilling permit

(a) Required. It shall be unlawful and an offense for any person, acting either for himself or acting as agent, employee, independent contractor, or servant of any other person, to commence to drill a disposal or injection well or to drill for oil or gas within the city without a permit for the drilling of such well having first been issued by the chief building and utility inspector.

(b) Limited to one well. Each permit issued for the drilling of an oil, gas, disposal, or injection well within the city shall be limited to only one such well, and no such permit shall be issued for more than one such well.

(1) Applications.

(2) Generally. Every application for a permit to drill an oil, gas, disposal, or injection well within the city shall be in writing, signed by the applicant or by some person duly authorized to sign the same on his behalf and it shall be filed with the office of the chief building and utility inspector.

(3) Contents. The application for a permit to drill an oil, gas, disposal, or injection well within the city shall include and contain full and complete information relative thereto, which such information shall include, but shall not be limited to, the following:

(A) Name and address of drilling contractor or person drilling the well;

(B) Description of land where well is to be located and authorized location;

(C) Location of tank batteries and treaters;

(D) Location of lines to batteries and treaters.

(Ordinance O-007-12 adopted 8/21/12)

(c) Filing fee. A filing fee as listed in the ARTICLE 1.07, division 6 shall accompany each application for a permit to drill an oil, gas, disposal, or injection well within the city. (Ordinance O-008-18 adopted 9/18/18)

(d) Insurance. Prior to the issuance of any permit for the drilling of an oil, gas, disposal, or injection well within the city, the person engaged in such drilling operation or making application for such permit shall file with the chief building and utility inspector a certificate of insurance providing coverage of $100,000.00 for bodily injuries or death for one person; $300,000.00 for one accident; and $50,000.00 for property damages. Also, a certificate reflecting such insurance to be in full force and effect during the life of the well shall be filed with the city.

Sec. 4.05.002 Location

(a) Wells. No oil, gas, disposal, or injection well shall be drilled, and no permit shall be issued for any such well to be drilled within the city, at any location which is nearer than 300 feet from any church, school, residence, or building where a business is carried on therein.

(b) Parks. No oil, gas, disposal, or injection well shall be drilled, and no permit shall be issued for any such well to be drilled within the city, at any location dedicated or used as a public city park.

(c) Batteries; treaters. Tank batteries and treaters constructed in connection with any oil, gas, disposal, or injection well shall not be located within 300 feet of any church, school, residence or building where business is carried on therein.

(d) Open pits. It shall be unlawful for any person to maintain an open pit within 300 feet of any church, school, residence or building where business is carried on therein, and all pits located within the city shall be enclosed with a fence in accordance with the provisions of section 4.05.007.

(Ord. # O-015-21, 09/21/2021)

Effective on: 9/21/2021

Sec. 4.05.003 Prohibited equipment

(a) Wooden derricks. It shall be unlawful for any person to use connection with the drilling or reworking of any oil, gas, disposal, or within the city any wooden derrick.

(b) Steam-powered rigs. It shall be unlawful for any person to use connection with the drilling or reworking of any oil, gas, disposal, or within the city any steam-powered rig.

Sec. 4.05.004 Required equipment

(a) Rotary rigs. All drilling operations conducted at any oil, gas, disposal, or injection well within the city shall be done by rotary rigs only.

(b) Mufflers for engines. All engines used in the drilling of oil, gas, disposal, or injection wells shall be equipped with adequate mufflers.

Sec. 4.05.005 Requirement of electric power

The motive power for all pumping operations connected with the drilling of oil, gas, disposal, or injection wells shall be electricity.

Sec. 4.05.006 Pits

Only one earthen pit shall be permitted in connection with the drilling of any oil, gas, disposal, or injection well. All pits shall be removed within 60 days from completion of the well. Earthen pits shall be filled and leveled.

Sec. 4.05.007 Fences

(a) Required.

(1) Any person who shall construct, erect or operate any oil, gas, disposal, or injection well shall enclose such well, together with its surface facilities, by a substantial smooth net wire fence at least six feet high, with an additional ten inches in height with three strands of barbed wire, properly built so as to keep persons and animals out of the enclosure. Such fence shall be constructed within 60 days following completion of the well.

(2) After removal of the drilling rig from the drilling location of an oil, gas, disposal, or injection well, the operator, driller or lessee of the oil and gas rights shall erect a substantial, smooth net wire fence six feet high, which fence shall enclose all temporary tanks, equipment and other surface fixtures. Such fence shall be erected within three days after removal of the rig from the well.

(b) To be locked. All fences required to be constructed around an oil, gas, disposal, or injection well shall be provided with gates, which such gates shall be kept locked when no work is being performed at such well by authorized persons.

Sec. 4.05.008 Escaping gas

No person engaged in drilling or operating any oil, gas, disposal, or injection well shall permit gas to escape or be vented into the air unless such gas be flared and burned. All gas flared or burned from a torch, pipe, or any other burning device within the city must be done in such manner so as not to constitute a fire hazard to any property.

Sec. 4.05.009 Sanitary standards for premises

The premises of each oil, gas, disposal, or injection well within the city shall be kept in a clean and sanitary condition, free from rubbish of every character, to the satisfaction of the City Code enforcement officer, at all times drilling operations or reworking operations are being conducted, and as long thereafter as the well is in operation.

(Ordinance O-007-12 adopted 8/21/12)

Sec. 4.05.010 Reservation of city's right to injunctive relief

By the enforcement of the provisions of this article, the city does not waive any rights to institute proceedings in a district court for injunctive relief by reason of violation hereof. (1998 Code, sec. 113.10)

ARTICLE 4.06 PEDDLERS AND SOLICITORS*

Sec. 4.06.001 Definitions

The following words and phrases (when used in this chapter) shall have the meanings respectively ascribed to them by this section.

(Ord. # O-016-21, 10/19/2021)

Canvasser means any person who attempts to make personal contact with a person at a residence without a prior specific invitation or appointment from the resident for the purpose of attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against the cause.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Commerce means soliciting, selling or taking orders for or offering to take orders for, any goods, wares, merchandise or other personal property or services.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Commercial traveler is defined to mean a person who is employed by or who represents a manufacturer, wholesaler, or importer who sells or exhibits goods to parties who engage in the business of purchasing such goods for the purpose of resale to the general public.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Itinerant vendor means any person, in-person or by agents, servants and employees, who or which engages in the temporary or transient business of selling, exhibiting or offering for sale in the city, any goods, wares, merchandise, services, photographs, produce or other personal property, or offers for sale or exhibits the same for sale, or exhibits the same for the purpose of taking orders or subscriptions for the sale thereof.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Local youth organization means any participant in a local youth organization that operates within Hutchinson County. This includes local school sports and academic teams and organizations such as girl and boy scouts, or similar organizations.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Non-profit organization. All government entities, political subdivisions, public school districts, organizations chartered under the Texas Non-Profit Corporation Act, or operations recognized by the IRS as an organization or corporation.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Peddler, solicitor and itinerant vendor means any person engaged in the soliciting, selling or taking orders for, or offering to take orders for, any goods, wares, merchandise or other personal property or services, including but not limited to, produce and photographs, in the city.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Person. An individual, sole proprietorship, partnership, association, corporation, or any other entity who is the owner, operator, or person responsible for the operation of a food establishment, including an agent or representative of such owner, operator, or responsible person.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Solicit funds or solicitation of funds means any request for money, property or anything of value; or the pledge of future money, property or anything of value; or the selling or offering for sale of any property, real or personal tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions, or for any paid service. Soliciting includes the posting of any handbills for such goods or services.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Temporary business means any business transacted or conducted in the city in, upon, through or from any private premises or space upon any private property for which no definite arrangement for legal right of occupancy thereof, for the purpose of conducting such business therein or thereon for a period of at least one month, has been made in advance of such use and occupancy.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Transient business means the business of an itinerant vendor as may be operated or conducted by any person, or his/her agents, servants or employees, who resides or is domiciled away from the city or who has a fixed place of business or business headquarters outside of the city, or who moves stocks of goods, wares, merchandise or other personal property or samples thereof into the city with the purpose or intention of removing them or the unsold portion thereof away from the city before the expiration of six months.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.002 Permit required

It shall be unlawful for persons engaged in commerce, whether residing within or without the city limits, to go from house to house or place to place in the city soliciting, selling or taking orders for, or offering to take orders for any goods, wares, merchandise, or other personal property or services, without first having obtained a permit from the Department of Planning and Development. Any such license granted to any person is issued with the express provision that the licensee shall not make any false or fraudulent representation as to the goods to be sold or the authority to sell such goods. A separate license and application shall be required for each person who engages in the activities described in the terms "Transient business," "Temporary business." "Itinerant vender," "peddler" or "solicitor" in section 4.06.001, including each employee, agent or consignee who engages in such activity.

This section shall not be applied retroactively to active permits issued prior to the adoption of this section November 1st, 2021; however, existing permit renewals will comply with this section.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.003 Exceptions

The provisions of this article shall not apply to the following:

(a) Commercial travelers;

(b) Vendors of newspapers or newspaper delivery persons;

(c) Farmers and growers of farm and garden produce;

(d) Sales or exhibits at fairs, rodeos, conventions, or events sponsored by one or more city civic organization, school, church, or the Borger Chamber of Commerce;

(e) Persons offering food or beverage samples in food stores;

(f) Garage sales conducted by owners of private residences;

(g) Persons conducting fundraising activities for local nonprofit organizations, qualified civic organizations or educational institutions;

(h) Home security vendors operating in compliance with State Law.

(i) Persons engaged in business activity and going to a house or business at the express invitation of the occupant or owner of such house or business.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.004 Home Solicitation Sales Act

A peddler or solicitor shall comply with the requirements of the Home Solicitation Sales Act provided for in chapter 601 of the Texas Business and Commerce Code. In addition to any other rights or remedies available, a consumer may cancel a consumer transaction not later than midnight of the third business day after the date the consumer signs an agreement or offer to purchase. A solicitor must provide a consumer notice and a complete cancellation form, as provided for in sections 601.052 and 601.053 of the Texas Business and Commerce Code, at the time a consumer signs an agreement.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.005 Enforcement

Any peace officer employed or commissioned by the Borger Police Department shall enforce this division.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.006 Violation; penalty

Any person, partnership, corporation, association or legal entity found to have violated any provision of this article or to have failed to comply with any provision of this article shall, upon conviction, be fined in accordance with section 1.01.009 of this code. The imposition of a fine shall be in addition to all other remedies provided in this article. Each day that a violation exists shall constitute a separate offense. A culpable mental state is not required, and need not be proved, for an offense under this article.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.007 Application for permit

(a) Application for a permit required hereunder shall be made by the persons requesting such license upon forms specified by the Department of Planning and Development. A business applying for a license shall be required to list a responsible individual. Such application form shall provide a space for the following information, which must be furnished by the applicant:

(1) The name, address, and occupation of the applicant, and if applicable, the business name;

(2) For a business, the Texas Tax ID Number

(3) The social security number and birth date of the applicant;

(4) A valid state driver's license or other positive identification issued to the applicant by a governmental agency;

(5) Descriptors of any vehicle to be used by or in connection with the permitted activity.

(6) A description of the goods to be sold, including brand name if any;

(7) The address of the location from which such goods shall be displayed to the public or offered for sale or a statement that such requirement is inapplicable because applicant is a peddler who proposes either to carry goods upon a truck or other vehicle on the streets of the city for the purpose of exhibiting, selling or offering for sale such goods from such truck or other vehicle or to go from door to door of residences, offices or places of business to conduct his/her business activities;

(8) The name, address and phone number of the owner of the property at such location or a statement that such requirement is inapplicable;

(9) Such other information as may be required to complete an investigation as to the fitness of the applicant to conduct such business operation or as might be required by the Department of Planning & Development for the application of this article.

(b) Each person making application for a permit required hereunder shall swear or affirm that the information given on the application form is true and accurate.

(c) If the applicant proposes to display goods to the public or to offer such goods for sale from a designated location, such applicant's application form hereunder shall be accompanied by a written letter signed by the owner or the duly authorized agent of the owner of the property at the location from which the applicant proposes to display or to offer for sale any goods. Such letter shall state that said owner consents that the applicant may use and occupy such property for the purpose of selling or offering for sale such goods.

(d) Each application form for a permit required hereunder shall be reviewed to ensure that the property from which the applicant proposes to display or to offer for sale any goods is situated in a zone wherein such activity is a permitted use or that such requirement is inapplicable.

(e) The application for a permit shall be accompanied by a valid sales tax permit issued by the office of the comptroller of public accounts of the State of Texas or the appropriate sale tax exemption form or documentation.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.008 Approval or denial

Each application for a permit required hereunder shall be approved by the Director of Planning and Development or his/her authorized representative before such permit is granted. The City shall have a reasonable time to conduct an investigation of an applicant for such license, but such an investigation shall not be longer than five (5) business days. After inspection or investigation, the City shall either approve or disapprove the application for the license and if disapproved, shall give the applicant, upon request, a written statement setting forth the reasons for such disapproval and notifying said applicant of his/her right to appeal.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.009 Grounds for denial or revocation

(a) The Director of Planning and Development, Chief of Police, the City Manager or their designated representatives may deny a permit required under this division for any of the reasons in subsection (b) set forth below.

(b) The following reasons shall be grounds for denial or revocation of a license required by this division:

(1) The applicant does not present a valid state driver's license or other positive identification by a governmental agency;

(2) The applicant does not complete the application form and procedure;

(3) The applicant or the proposed activity of the applicant does not comply with the applicable city ordinances and codes, including the zoning ordinance, building codes and health codes;

(4) The applicant makes false or fraudulent statements on the application form;

(5) The applicant or licensee is found after investigation by the chief of police to be misrepresenting or making false statements in regard to his/her authority to sell such goods;

(6) The applicant or licensee has been convicted of an offense involving narcotics, dangerous drugs or crimes with dangerous weapons at any time within the preceding five-year period;

(7) The applicant or licensee has been convicted of an offense involving the use of force and violence upon the person of another when the offense is designated as a felony in the State of Texas, at any time within the preceding five-year period;

(8) The applicant or licensee has been convicted of an offense of fraud, misrepresentation, embezzlement, forgery, or theft when such offense is designated as a felony in the State of Texas, at any time within the preceding five-year period;

(9) The applicant or licensee has been convicted in a court of proper jurisdiction of violating this division at any time within the preceding five-year period;

(10) Upon recommendation from the chief of police that the permit be revoked because the conduct of the licensee or the manner in which the licensee is conducting his/her business operation endangers the health or safety of a citizen of the City of Borger.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.010 Appeal of denial or revocation

Any person who is denied a permit under this article, or whose permit has been revoked, may appeal the decision by filing a written notice of appeal to the city council. All appeals must be filed with the city secretary within ten (10) days after a notice of denial, suspension, or revocation of a permit. The appeal shall be heard by the city council within thirty (30) days after receipt. At least five (5) days' notice of the date of the hearing shall be given to the applicant or permit holder. Based on the hearing of the appeal and the facts relative thereto, the city council will either sustain or reverse the decision to deny or revoke the permit. The decision of the city council shall be final.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.011 Prohibited conduct and misrepresentation

It shall be unlawful for any person to:

(a) Peddle or solicit goods, wares, merchandise, food, or service with the city without first having obtained a permit and paid all fees that are applicable in obtaining said permit.
(b) Make physical contact with a potential customer unless that customer's permission is obtained, or unless that customer's permission is reasonably implied under the circumstances.
(c) Misrepresent the purpose of the solicitation.
(d) Misrepresent the affiliation of those engaged in the activity of a peddler or solicitor.
(e) Continue efforts to peddle or solicit from any individual once that individual informs the peddler or solicitor that he or she does not wish to give anything to or to buy anything from that peddler or solicitor.
(f) Represent the issuance of any permit under this article as an endorsement or recommendation.
(g) Make false or fraudulent statements concerning the quality or nature of his or her goods, services, wares, merchandise, or food for the purpose of inducing another to purchase the same.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.012 Duration; fees; assignment

Any person who is required to obtain a permit by the provisions of this division may apply for a thirty-day permit. When a thirty-day permit is issued to any such person, such permit holder shall pay to the City a permit fee as listed in ARTICLE 1.07 of this code, which sum shall be used to defray part of the expense of administration and enforcement of this division. No permit issued under the provisions of this division shall be issued for a longer period than thirty (30) days. Such permit shall not be assignable and shall not authorize more than one (1) person to engage in the activity of peddler, itinerant merchant, or transient vendor within the city.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.013 Posting of signs refusing peddlers, solicitors, canvassers, and distributors

It shall be lawful for the owner or occupant of any property desiring that no peddlers, solicitors, canvassers, distributors or other persons engage in a home solicitation at his or her residence, to exhibit in a conspicuous place upon or near the main entrance to the residence, a sign, not less than three (3) inches by four (4) inches in size, containing the words, "no solicitors." The letters shall not be less than two-thirds (2/3) of an inch in height. The sign shall be protected from the weather and/or maintained in such a manner to prevent the sign's deterioration.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.014 Restricted entrance to premises

(a) Every peddler, solicitor, canvasser, or distributor upon going onto the premises upon which a residence is located, shall first examine the residence to determine if any notice prohibiting soliciting is exhibited upon or near the main entrance to the residence. If notice prohibiting soliciting is exhibited, the peddler, solicitor, canvasser, or distributor shall immediately depart from the premises without disturbing the occupant, unless the visit is the result of a request made by the occupant.

(b) No person shall go upon any residential premises and ring the doorbell, or rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence, for the purpose of securing an audience with the occupant and engaging in or attempting to engage in a home solicitation transaction, if a sign as described in section 4.06.013 is exhibited in a conspicuous place upon or near the main entrance to the residence, unless the visit is the result of a request made by the occupant.

(c) No peddler, solicitor, canvasser, or distributor shall use or attempt to use an entrance other than the front or main entrance to the residence, or step from the sidewalk or other indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the residence.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.015 Identification required

Any permit holder must exhibit the permit issued by the City and a state issued photo identification, upon demand, to the city manager or his designated representative, to any police officer of the city or to any person to whom a sales or solicitation is attempted to be made. In addition to the exhibiting of the permit and the photo identification, any permit holder must also exhibit upon demand identification of and authorization from the company represented by such permit holder, if applicable.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.016 Permit displayed

Every transient or temporary business having a permit issued under the provisions of this article and doing business within the city, shall display the valid permit in full view at all times while engaged in said business. In addition, the transient or temporary business must also display in full view his or her current Texas Sales Tax and Use permit, and if selling or distributing food or other items requiring a state or federal permit, all of those permits as well.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.017 Hours of operation

It shall be unlawful for any person to place or leave a handbill or to conduct a charitable or non-charitable solicitation or to solicit funds or go upon any residential premises and ring the doorbell, or rap, or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence for the purposes of engaging in or attempt to engage in a home solicitation or engage in any consumer transaction:

(a) Before 9:00 a.m. or after 8:00 p.m., Monday through Saturday.

(b) At any time on a Sunday, New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.018 Solicitation by minors

No person under thirteen (13) years of age shall peddle or solicit, even if the minor is exempt from this article, unless such minor is actively supervised by an adult individual of at least eighteen (18) years of age. The supervising adult shall be within one hundred (100) yards of the minor peddler or solicitor at all times. This section also applies to persons associated with those institutions, groups or organizations which have their principal place of activity within the county.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.019 Distribution of handbills or flyers

In addition to other regulations contained herein, a peddler, solicitor, canvasser, or distributor that distributes handbills, flyers, or other printed literature shall observe the following regulations:

(a) No handbill or flyer shall be left at, or attached to any sign, utility pole, or other structure within the public right-of-way. Law and code enforcement personnel are authorized to remove any handbill or flyer found within the right-of-way.

(b) No handbill or flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property.

(c) Any person observed distributing handbills, flyers or other printed literature shall be required to identify himself or herself to law or code enforcement personnel, either by producing a municipally issued permit or other federal or state issued form of identification.

(d) This section also applies to persons associated with those institutions, groups or organizations which have their principal place of activity within the county.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.020 Special requirements for mobile street vendors

(a) Mobile street vendors shall be required to comply, and it shall be an offense not to comply, with any of the following special instructions:

(1) A person shall vend only when the motor vehicle is lawfully stopped.

(2) A person shall vend only from the side of the motor vehicle away from moving traffic and as near as possible to the curb or side of street.

(3) A person shall not vend to a person standing in the roadway.

(4) A person shall not stop on the left side of a one-way street to vend.

(5) A person shall not stop or park in a congested area where vending might impede or inconvenience the public.

(6) A person shall not vend in a street adjacent to a public school.

(7) A person shall not stop or park for the purposes of vending within one hundred feet of a street intersection.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.021 Solicitation on streets and rights-of-way

(a) For the purpose of solicitation under this section, a “roadway” is defined to include the roadbed, shoulder, median, curbs, gutters, safety zones, sidewalks, and utility easements located adjacent to or near the roadway.

(b) It shall be unlawful for any person to peddle, hawk, sell, solicit, or distribute, or in any manner sell, barter or exchange, or offer to sell, barter or exchange, any goods, wares, services, food items, patent medicines, or nostrums of any character upon any roadway, public rights-of-way, or any other public property.

(c) No person may stand in a roadway or other public right-of-way to solicit a contribution, employment or business from an occupant of a vehicle. This section also prohibits the solicitation of a charitable contribution in a roadway or other public right-of-way from an occupant of a vehicle.

(d) It shall be lawful to stop or park trucks or other vehicles in the streets or alleys of the city for the purposes of delivering produce, products, or merchandise to the occupants of any business, residence, or other structure not specifically prohibited by some other ordinance or statute.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.06.022 Solicitation on vacant lots or tracts

It shall be unlawful for any person to solicit business from a lot or tract of land within the city that is vacant, without having previously obtained written permission for the solicitation from the owner or person in control of said lot or tract; and without having applied and met all requirements under this article to obtain a permit that must be carried at all times while engaging in such solicitation.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Secs. 4.06.023-4.06.096 Reserved

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

ARTICLE 4.07 TAXICABS

Division 1. Generally

Sec. 4.07.001 Definition

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning:

Taxicab. Every vehicle operated for the transportation of passengers for hire within the city limits, but not including a transportation network company, as defined by state law.

(1998 Code, sec. 116.01) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.002 Nonliability of city

(a) The city shall not be liable for any sum on account of any claim or on account of any act or omission of any officer of the city in connection with any matter relating to taxicabs.

(b) The city shall not be liable for any claims arising out of the operation of a vehicle as a taxicab in the city or arising out if its issuance of an operating permit, vehicle license or driver's permit under the provisions of this chapter.

(1998 Code, sec. 116.02) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.003 Certain proofs unnecessary in prosecution for violations

In a prosecution for violation of this article, it shall not be necessary for the complaint to allege, or for proof to be made, that the act was knowingly done; nor shall it be necessary for the complaint to negate any exception contained in this article concerning any prohibited act.

(1998 Code, sec. 116.03)

Secs. 4.07.004–4.07.030 Reserved

Division 2. Taxicab Operating Permit

Sec. 4.07.031 Required

It shall be unlawful for any person to operate a taxicab for hire on any streets of the city without a taxicab operating permit issued by the city. Said taxicab operating permit shall be valid for one year.

(1998 Code, sec. 116.10) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.032 Application; issuance or denial

(a) Contents of application. Any person desiring to operate a taxicab for hire within the city shall file a permit application with the City, including:

(1) Full name, address, and contact information of the applicant;

(2) Proof of valid liability insurance compliant with Texas Transportation Code Section 601.072, including documentation of a ride-share or transportation for hire endorsement; and

(3) A list of vehicles intended for operation, including year, make, model, VIN, and proof of compliance with state vehicle safety requirements.

(b) Issuance of permit. The City shall issue a taxicab operating permit upon verification that all requirements have been met.

(c) Denial. If the application is denied, the City shall provide the applicant with a listing of the requirements not met resulting in the denial.

(1998 Code, sec. 116.11) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.033 Reserved

(Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.034 Transfer

No permit to operate a taxicab issued under the provisions of this division shall be transferable.

(1998 Code, sec. 116.13) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.035 Substitution of vehicles

The person to whom a taxicab operating permit has been issued under the provisions of this division may not substitute another vehicle or vehicles without submitting an application to the Department of Planning and Development and receiving an approved vehicle license, as described in Division 3 herein, for the substitute vehicles.

(1998 Code, sec. 116.14) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.036 Limitation on number of trade names

It shall be unlawful for the holder of a taxicab operating permit issued under the provisions of this division to operate thereunder with more than one trade name, or to have more than one name listed in any public directory or public place.

(1998 Code, sec. 116.15) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.037 Suspension; revocation

Any taxicab operating permit issued under the provisions of this division may be suspended or revoked by the city for any of the following:

(a) Violation of the Texas Alcoholic Beverage Code;

(b) Violation of any state law involving moral turpitude;

(c) Violation of any Offenses Against the Persons provisions of the Texas Penal Code;

(d) Violation of any applicable provision of this code, state law or city ordinance, rule or regulation.

Upon suspension or revocation, the City shall provide a report outlining the alleged violations resulting in the suspension or revocation. The permit holder may appeal the suspension or revocation for a hearing in front of the City Council by written notice to the Department of Planning and Development within 10 days from the date the notice of suspension or revocation was issued.

(1998 Code, sec. 116.16) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Secs. 4.07.038–4.07.060 Reserved

Division 3. Vehicle License

Sec. 4.07.061 Required

It shall be unlawful for any person to operate a vehicle as a taxicab without a taxicab vehicle license issued by the city. Said taxicab vehicle license shall be valid for one year.

(1998 Code, sec. 116.25) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.062 Application

The applicant for a license under the provisions of this division shall give the Vehicle Identification Number (VIN), make, model, state license plate number with current vehicle registration, and mileage of the vehicle desired to be licensed. Every vehicle must be in good operating condition, with all safety equipment functioning and current vehicle registration, prior to issuance of a license. The city may require an inspection of a vehicle prior to the issuance of the license.

(1998 Code, sec. 116.26) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.063 Required insurance coverage

All taxicab operators must provide proof of valid liability insurance in compliance with Texas Transportation Code Section 601.072 before obtaining a vehicle license, including documentation of a ride-share or transportation for hire endorsement.

(1998 Code, sec. 116.27; Ordinance adopting Code) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.064 Fee

(a) The operator of the taxicab business holding a taxicab operating permit shall pay an annual fee as listed in the ARTICLE 1.07, Division 4 for each taxicab for which a vehicle license is requested. The fee for such license must be paid in full prior to the issuance of the license.

(b) In the event a licensee desires to obtain additional taxicab licenses during the year, the annual fee as listed in the ARTICLE 1.07, Division 4 shall be paid prior to the issuance of the license for each additional vehicle and said license shall expire one year from the time the license is issued or the date the taxicab operators permit expires or is revoked.

(1998 Code, sec. 116.28; Ordinance O-008-18 adopted 9/18/18) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.065 License cards

The city shall furnish a license card which shall be attached to the vehicle for which such license is issued pursuant to the provisions of this division and such card shall be kept in a visible place in the vehicle when in use as a taxicab. The license is not transferable.

(1998 Code, sec. 116.29) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.066 Revocation

The vehicle license required by this division shall be revoked upon the failure to have the vehicle inspected as required by law or for the violation of any other applicable provisions of this code, state law or city ordinance, rule or regulation.

(1998 Code, sec. 116.30) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Secs. 4.07.067–4.07.090 Reserved

Division 4. Driver’s Permit

Sec. 4.07.091 Required

It shall be unlawful for a person to operate a taxicab without a valid Texas driver’s license and a taxicab driver’s permit issued by the city. Said taxicab driver’s permit will be valid for one year.

(1998 Code, sec. 116.40) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.092 Application; investigation; requirements

(a) Application. The application must include the applicant's name, age, address, and driver's license number.

(b) Background Check. Applicants shall undergo a state-approved criminal history check, consistent with TNC driver requirements under Texas Occupations Code Chapter 2402.

(c) Issuance. If the applicant passes the background check and holds a valid Texas driver's license, the City shall issue a taxicab driver's permit.

(1998 Code, sec. 116.41) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.093 Fee

A fee as listed in the ARTICLE 1.07, Division 4 shall be charged for each permit issued under the provisions of this division.

(Ordinance O-008-18 adopted 9/18/18)

Sec. 4.07.094 Display and contents

The taxicab driver's permit must be prominently displayed at all times in full view of any person in the back seat of the taxicab being driven by the permittee.

(1998 Code, sec. 116.43) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.095 Transfer

No permit issued under the provisions of this division shall be transferable.

(1998 Code, sec. 116.44) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.096 Change of employer

If during the year the holder of such taxicab driver's permit shall desire to change his employment so that he will be employed by another operator of taxicabs in the city, the taxicab driver must apply for a new driver's permit with the City and pay a fee as listed in the ARTICLE 1.07, Division 4.

(1998 Code, sec. 116.45) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.097 Suspension or revocation

Any taxicab driver's permit may be suspended or revoked by the City for the violation by the permittee of any applicable provisions of this code, state law or city ordinance, rule or regulation.

(1998 Code, sec. 116.46) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Secs. 4.07.098–4.07.130 Reserved

Division 5. Identification and Operation of Vehicles

Sec. 4.07.131 Identification of vehicle

The holder of a taxicab operator's permit shall have plainly printed, on each and every taxicab operated by them, a sign giving the name, trade name or firm name under which they operate such vehicle for hire and the city license number of such vehicle.

(1998 Code, sec. 116.55) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.132 Daily manifests

All taxicab trips must be recorded using paper or digital logs, including trip origin, destination, fare amount, and driver information. Records shall be maintained physically or electronically for a minimum of one year and provided to the city upon request.

(1998 Code, sec. 116.56) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.133 Maximum seating

It shall be unlawful to carry more passengers in a taxicab than the number of factory-installed seats equipped with seatbelts.

(1998 Code, sec. 116.57) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.134 Receipt or discharge of passengers

No vehicle in use as a taxicab shall receive or discharge passengers in the roadway of any street, but shall be driven to the right-hand sidewalk or to the extreme right-hand side of the road as nearly as practical for such purposes.

(1998 Code, sec. 116.58)

Sec. 4.07.135 Parking

All taxicabs shall be subject to the sections of this code, ordinances of the city and state laws concerning parking of motor vehicles.

(1998 Code, sec. 116.59)

Sec. 4.07.136 Disposition of property left in vehicles

All drivers of taxicabs shall promptly deliver to their employers or the police department of the city all property left in such vehicles by passengers. If a driver delivers such articles to his employer, the latter shall deliver them to the police department. When articles left in taxicabs have been delivered to the police department, they shall log and keep all such articles until claimed by the owner, or until legally disposed of.

(1998 Code, sec. 116.60) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.137 Transportation or possession of alcoholic beverages

It shall be unlawful to transport alcoholic beverages, not owned and in the exclusive possession and control of a fare-paying passenger, in the taxicab, or for any taxicab driver to have on his person any alcoholic beverage while driving and operating a taxicab in service.

(1998 Code, sec. 116.61)

Secs. 4.07.138–4.07.170 Reserved

Division 6. Rates, Fares and Charges

Sec. 4.07.171 Reserved

(Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.172 Rates

(a) Taxicab operators may set fares dynamically based on demand, provided that:

(1) Passengers receive a clear, upfront estimate before the trip begins.

(2) Fare rates are displayed in the vehicle and provided digitally upon request.

(3) Operators may not impose surge pricing greater than 300% of the base rate during peak demand periods.

(b) All taxicabs must accept credit card, debit card, and mobile payment transactions in addition to cash.

(1998 Code, sec. 116.76) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.173 Additional stop charge

In addition to the base rates and fares established by this division, a supplemental charge may be assessed by the taxicab operator for any additional passenger-requested stops between the point of origin and the final destination. This charge may be dynamically calculated based on factors such as duration, time of day, traffic conditions, or service demand, and shall remain fair, reasonable, and clearly disclosed to passengers prior to the assessment.

(Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

Sec. 4.07.174 Additional passenger charge

An additional charge may be assessed by the taxicab operator for each passenger exceeding the base occupancy included in the standard fare. This charge may vary based on factors such as time of day, vehicle capacity, or service demand, and shall remain fair, reasonable, and clearly disclosed to passengers prior to the start of the trip.

(Ordinance O-006-10 adopted 10/19/10) (Ord. # O-004-25, 04/15/2025)

Effective on: 5/6/2025

ARTICLE 4.08 TELECOMMUNICATIONS*

Sec. 4.08.001 Purpose

The purpose of this article is to:

(1) Assist in the management of the rights-of-way;

(2) Govern the use and occupancy of the rights-of-way by telecommunications service providers;

(3) Secure fair and reasonable compensation for the use and occupancy of the rights-of-way by telecommunications service providers in a nondiscriminatory and competitively neutral manner.

(1998 Code, sec. 117.01)

Sec. 4.08.002 Definitions

Whenever used in this article, the following terms, as well as their singulars, plurals and possessives, shall have the following definitions and meanings, unless the context of the sentence in which they are used indicates otherwise:

Access line.

(1) Each switched transmission path of the transmission media within the rights-of-way extended to the end-user customer's premises network interface within the city that allows delivery of telecommunications service;

(2) Each loop provided as an unbundled network element to a person pursuant to an agreement under section 252 of the Federal Telecommunications Act of 1996; and

(3) Each termination point of a nonswitched telephone circuit consisting of transmission media connecting specific locations identified by, and provided to, the end user for the delivery of nonswitched telecommunications service within the city.

Cable service. As defined in the Cable Communications Policy Act of 1984, as amended, 47 U.S.C. section 532 et seq.

Direction of the city. All ordinances, laws, rules, resolutions, and regulations of the city that are not inconsistent with this article and that are now in force or may hereafter be passed and adopted.

Facilities. Any and all of the duct spaces, manholes, poles, conduits, underground and overhead passageways, and other equipment, structures, plant, and appurtenances, and all associated transmission media used for the provision of telecommunications service.

Line fee. A monthly fee to be applied to each access line for the calculation of the total amount to be paid to the city as a rights-of-way fee.

Permit holder. Any telecommunications service provider issued a permit pursuant to the terms of this article.

Person. A natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association, and other such entity.

Public utility. A public utility as that term is used in the Public Utility Regulatory Act of 1995, Tex. Utilities Code Ann. section 11.004, including municipally owned and/or operated utilities.

Rights-of-way. All present and future public streets, avenues, highways, alleys, sidewalks, boulevards, drives, tunnels, easements, bridges, and other such similar passageways, thoroughfares, and public ways within the city.

Rights-of-way fee. The total amount paid to the city on a quarterly basis for the use and occupancy of the rights-of-way.

Telecommunications service. The transmittal of voice, data, image, graphics and other communications between or among points by wire, fiber optics, or other similar facilities, as well as the rental, lease, or furnishing of the facilities to accomplish such transmittal, but does not include transmissions for long distance purposes (inter-LATA and intra-LATA) or any "wireless service" as defined by law.

Telecommunications service provider. Any person that supplies telecommunications service to others within the corporate limits of the city in exchange for money or other value.

Telecommunications utility. As used in the Public Utility Regulatory Act of 1995, Tex. Utilities Code Ann. section 51.002(11).

Transmission media. Any and all of the cables, fibers, wires or other physical devices owned, maintained or placed by a permit holder to transmit and/or receive communication signals, whether analog, digital or of other characteristics, and whether for voice, data or other purposes.

Use and occupancy. The permit holder's acquisition, installation, construction, reconstruction, maintenance, repair, control, or operation of any facilities within the rights-of-way for any purpose whatsoever.

(1998 Code, sec. 117.02)

Sec. 4.08.003 Permit required; granting of permit

Any person that owns, places, or maintains facilities within the rights-of-way shall first obtain a permit pursuant to the terms of this article. Subject to the restrictions set forth herein, the city under this article shall issue permits to telecommunications service providers for the purpose of regulating the use and occupancy of the public rights-of-way in the city for the provision of access lines. By acceptance of the permit, the permit holder agrees to abide by the reasonable terms of this article in all its operations within the city, including all operations and facilities and transmission media used in whole or in part in the provision of access lines in any newly annexed areas as specified in section 4.08.005. (1998 Code, sec. 117.03)

Sec. 4.08.004 Rights granted by permit; term of permit; transfer of permit

(a) No rights agreed to in this article by the city shall be exclusive and the city reserves the right to grant franchises, licenses, easements or permissions to use the rights-of-way within the city to any person as the city, in its sole discretion, may determine to be in the public interest.

(b) A permit holder is not authorized to provide cable service as a cable operator in the city under this article, but must first obtain a franchise from the city for that purpose, under such terms and conditions as may be required by law.

(c) The initial term of each permit issued under this article shall be three years from the date of issuance, unless terminated earlier by mutual written agreement of the city and the permit holder or pursuant to law. At the expiration of the initial permit period, the permit shall be automatically extended for successive periods of one year, unless written notice of intent to terminate the permit is given not less than 90 days prior to the termination of the then-current period by the city to the permit holder. When such notice is given, the permit shall terminate at the expiration of the then-current period.

(d) The rights granted by this article inure to the benefit of the permit holder licensed hereunder. The rights under this article granted by permit shall not be assigned, transferred, or sold to another by the permit holder without the express written consent of the city. For the purposes of this section, assignment, transfer or sale means a change of operating control of the permit holder, expressly excepting an assignment or transfer to entities that control, are controlled by or are under common control with the permit holder. Any such consent by the city shall not be withheld unreasonably.

(1998 Code, sec. 117.04)

Sec. 4.08.005 Compensation for use of rights-of-way

(a) Rights-of-way fee. The permit holder shall pay to the city a rights-of-way fee that is calculated as of month-end by applying the appropriate line fee to each access line owned, placed, or maintained by a permit holder that is activated for use by an end-user or for another telecommunications service provider that uses the permit holder's services or facilities for the provision of telecommunications service within the city. The line fee to be applied to each access line on a monthly basis shall be:

Access Line	Monthly Fee Per Access Line
Residential	$
Nonresidential	$

(b) Number of access lines. Subject to the city's agreement not to disclose this information, each permit holder must provide annually, within a reasonable time after receipt of the city's written request, a report showing the number of each type of access line owned or placed and maintained by the permit holder within the city that are activated for end-user customers and other telecommunications service providers at month's end for each of the preceding 12 months. The city agrees that the report shall be used solely for the purpose of verifying the number of the permit holder's access lines within the city that are activated for end-user customers and telecommunications service providers. Upon written request, the permit holder shall verify the information in the report and, upon reasonable advance notice, produce to the city and permit inspection by the city of all noncustomer specific records and documents reasonably calculated to verify the information. For purposes of payment of fees for use of the rights-of-way, lines terminating at a customer's premises that are billed as "lifeline," "tel-assistance," or other service that is required to be similarly discounted pursuant to state or federal law or regulation for the purpose of advancing universal service to the economically disadvantaged shall not be included in the lines upon which the fee is calculated.

(c) Annexation and disannexation. Within 30 days following the date of the passage of any action effecting the annexation of any property to or the disannexation of any property from the city's corporate boundaries, the city agrees to furnish the permit holder written notice of the action and an accurate map of the city's corporate boundaries showing, if available, street names and number details. For the purpose of compensating the city under this article, a permit holder shall start including or excluding access lines within the affected area in the permit holder's count of access lines on the effective date designated by the state comptroller of public accounts for the imposition of state local sales and use taxes, but in no case less than 30 days from the date the permit holder is notified by the city of the annexation or disannexation.

(d) Confidential records. If the permit holder notifies the city of the confidential nature of any information, reports, documents, or writings, the city agrees to maintain the confidentiality of the information, reports, documents, and writings to the extent permitted by law. Upon receipt by the city of requests for the permit holder's confidential information, reports, documents, or writings, the city shall notify the permit holder of the request in writing by facsimile transmission. The city shall request an attorney general's opinion before disclosing any confidential information, reports, documents or writings and will furnish the permit holder with copies of attorney general opinion requests it makes pertaining to the permit holder's confidential information, reports, documents or writings.

(e) No other fees. The payments due hereunder shall be in lieu of any permit, license, approval, inspection, or other similar fees or charges, including, but not limited to, all general business license fees customarily assessed by the city for the use of the rights-of-way against persons operating businesses similar to that of the permit holder. Further, such rights-of-way fee shall constitute full compensation to the city for all of the permit holder's facilities located within the rights-of-way, including interoffice-transport and other transmission media that do not

terminate at an end-user customer's network interface device, even though those types of lines are not used in the calculation of the rights-of-way fee.

(f) Timing of payment. A permit holder shall remit the line fee on a quarterly basis. The payment shall be due on the 45th day following the close of each calendar quarter for which the payment is calculated.

(g) Uncollectibles. Permit holders have a statutory right to pass through to their customers on a pro rata basis any compensation paid to the city for access to the rights-of-way. Any other provision of this article notwithstanding, permit holders shall not be obligated to pay the city for any access lines for which revenues remain uncollectible.

(h) Facilities provided to other telecommunications service providers. To the extent allowed by applicable state and federal law, any telecommunications service providers that purchase unbundled network elements or other facilities for the purpose of rebundling those facilities to create telecommunications service for sale to persons within the city shall pay to the city a rights-of-way fee that is calculated as of month-end by applying the appropriate line fee, as specified in subsection (a) above, to each access line created by rebundling services or facilities. Such direct payment to the city is necessary because it is only the person creating the services for resale that will be able to determine the number of access lines being provided, so that the rights-of-way fee imposed herein can be applied on a nondiscriminatory basis to all telecommunications service providers that sell telecommunications service within the city. Other provisions of this article notwithstanding, the permit holder shall not include in its monthly count of access lines any unbundled network elements or other facilities provided to other telecommunications service providers for rebundling into telecommunications services, if the telecommunications service provider that is rebundling those facilities for resale has provided a signed statement to the permit holder that the telecommunications service provider is paying the access line fees applicable to those rebundled services directly to the city. If the permit holder provides a copy of the signed statement to the city, then the permit holder is absolved of all responsibility for the line fees payable on the telecommunications service, unbundled network elements, and other facilities rebundled for the creation of telecommunications service for sale within the city.

(i) Fee application to leased facilities. Pursuant to Tex. Utilities Code section 54.206, a permit holder may collect the line fee imposed by the city pursuant to this article through a pro rata charge to the customers in the boundaries of the city, including any other persons who are leasing, reselling or otherwise using the permit holder's access lines to provide telecommunications service. With respect to any person leasing, reselling, or otherwise using a permit holder's access lines, if a permit holder believes it does not have sufficient information to determine the appropriate rate to apply, then the higher line fee shall apply until such time as the person using the access lines provides to the permit holder sufficient written information to determine the correct line fee. If a person provides sufficient written information for the application of the line fee, permit holders may bill the person on the basis of the information provided. Permit holders shall provide to the city any information regarding the locations to which it is providing service or facilities for use by another person for the provision of telecommunications service to end-user customers, so long as the city first obtains written permission of such other person for permit holders to provide the information to the city. Any other provision of this article notwithstanding, however, a permit holder shall not be liable for underpayment of line fees resulting from the permit holder's reliance upon the written information provided by any person that uses the permit holder's service or facilities for the provision of telecommunications service to end-user customers.

(1998 Code, sec. 117.05)

Sec. 4.08.006 Construction and maintenance of facilities

(a) The location and route of all facilities and transmission media placed and constructed in the rights-of-way shall be subject to the lawful, reasonable and proper control and direction of the city.

(b) Nothing contained in this article shall be construed to require or permit the attachment on or placement in the permit holder's facilities of any electric light or power wires or communications facilities or other systems not owned by the permit holder. If the city desires to attach or place electric light or power wires, communications facilities or other similar systems or facilities in or on the permit holder's facilities, then a further separate, noncontingent agreement with the permit holder shall be required. Nothing contained in this article shall obligate the permit holder to exercise or restrict the permit holder from exercising its right to enter voluntarily into pole attachment, pole usage, joint ownership or other wire space or facilities agreements with any person authorized to operate as a public utility or a telecommunications utility or authorized to offer cable service within the city.

(c) The surface of the rights-of-way disturbed by the permit holder in the construction or maintenance of its telecommunications system shall be restored within a reasonable time after the completion of the work to as good a condition as before the commencement of the work. The permit holder shall endeavor to minimize disruptions to the efficient use of the rights-of-way by pedestrian and vehicular traffic, and rights-of-way shall not be blocked for a longer period than shall be reasonably necessary to execute all construction, maintenance and/or repair work.

(d) Upon request, the permit holder shall remove, raise or lower its aerial wires, fiber or cables temporarily to permit the moving of houses or other bulky structures. The expense of such temporary rearrangements shall be paid by the party or parties requesting them, and the permit holder may require payment in advance. The permit holder shall be given not less than 48 hours' advance notice to arrange for such temporary rearrangements.

(e) The permit holder, its contractors and agents have the right, permission and license to trim trees upon and overhanging the rights-of-way to prevent trees from coming in contact with the permit holder's facilities and transmission media. When directed by the city, tree trimming shall be done under the supervision and direction of the city or under the supervision of the city's delegated representative.

(1998 Code, sec. 117.06)

Sec. 4.08.007 Relocation and removal of facilities

(a) In accordance with Tex. Utilities Code Ann. section 54.203(c), upon 30 days' notice by the city, a permit holder shall begin relocation of its facilities within the rights-of-way at its own expense to permit the widening or straightening of streets. The notice by the city shall include a specification of the new location for the permit holder's facilities along the rights-of-way.

(b) The city retains the right to move any facilities within the rights-of-way to cure or otherwise address a public health or safety emergency. The city shall cooperate to the extent possible with the permit holder in such instances to assure continuity of service and to afford to the permit holder the opportunity to make such relocation itself.

(1998 Code, sec. 117.07)

Sec. 4.08.008 Indemnification

The permit holder shall indemnify and hold the city harmless from all costs, expenses, and damages to persons or property arising directly or indirectly from the construction, maintenance, repair, or operation of the permit holder's facilities located within the rights-of-way found to be caused solely by the negligence of the permit holder. Expenses shall include any reasonable and necessary attorney's fees and court costs. The city shall give the permit holder prompt written notice of any claim for which the city seeks indemnification. The permit holder shall have the right to investigate, defend and compromise any such claim. This provision is not intended to create a cause of action or liability for the benefit of third parties, but rather this provision is solely for the benefit of the permit holder and the city. (1998 Code, sec. 117.08)

Sec. 4.08.009 Administration

(a) The city may, at any time, make reasonable inquiries pertaining to the terms, conditions, rights and obligations of this article, and the permit holder shall respond to such inquiries on a timely basis.

(b) Copies of petitions, applications, and reports submitted by the permit holder to the Federal Communications Commission or the state public utility commission shall be provided to the city upon specific request.

(c) After reasonable notice to the permit holder, the city may establish, to the extent permitted by law, such reasonable and nondiscriminatory rules and regulations as may be appropriate for the administration of this article and the construction of the permit holder's facilities in the rights-of-way, so long as those rules and regulations are competitively neutral.

(1998 Code, sec. 117.09)

Sec. 4.08.010 Future contingency

In the event this article, or any tariff or other provision that authorizes permit holders to recover the fee provided for in this article, becomes unlawful or is declared or determined by a judicial or administrative authority exercising its jurisdiction to be excessive, unenforceable, void, or illegal, in whole or in part, then the city and all permit holders shall negotiate a new compensation arrangement that is in compliance with the authority's decision. Unless explicitly prohibited, the new compensation arrangement shall provide the city with a level of compensation comparable to that set forth in this article, as long as that compensation is recoverable by permit holders in a manner permitted by law for the unexpired portion of the term of this article. (1998 Code, sec. 117.10)

Sec. 4.08.011 Governing law

This article shall be construed in accordance with the City Code in effect on the date of passage of this article to the extent that such code is not in conflict with or in violation of the constitution and laws of the United States or the state. (1998 Code, sec. 117.11)

Sec. 4.08.012 Nondiscrimination and competitive neutrality

The city hereby recognizes that it has the legal duty to obligate, on a going-forward basis, all permit holders to abide by the same terms and conditions imposed by this article, including, but not limited to, the payment of the line fee, and to apply substantively same requirements governing their use and occupancy of the rights-of-way. (1998 Code, sec. 117.12)

Sec. 4.08.013 Preexisting facilities; application for permit

Any telecommunications service provider that owns facilities already located within the rights-of-way on the date this article is enacted (February 2, 1999) is hereby granted a permit hereunder. All prospective permit holders shall file a permit application form at least 30 days before placing any facilities in the rights-of-way. A permit application form will not be accepted and a permit will not be granted unless the applicant provides on that form the name and address of the person to whom notices hereunder are to be sent, the date on which the applicant expects to begin providing service within the city, a 24-hour-per-day contact number for the applicant, and the certificate number of the applicant's certificate issued by the state public utility commission, or a notarized statement from a principal or officer of the applicant that no certification by the public utility commission is required for the type of service to be offered by applicant. (1998 Code, sec. 117.13; Ordinance adopting Code)

Sec. 4.08.014 Issuance and effective date of permit

The city shall deliver a properly certified copy of this article to the permit holder, along with a permit hereunder, within 14 days after receipt of the notice of preexisting facilities or the permit application form. The effective date for any permit shall be the date of issuance; however, the assessment of the line fee shall not begin until the first day of the second month after the date of issuance of the permit. Permit holders with preexisting facilities may continue the preexisting compensation arrangement until the first day of the second month following the issuance of the permit. (1998 Code, sec. 117.14)

ARTICLE 4.09 OPERATION OF COIN-OPERATED MACHINES*

Sec. 4.09.001 Purpose

(a) The city council has identified certain negative secondary effects arising out of and related to the operation of coin-operated gaming machines and gaming establishments;

(b) The city council seeks to adopt regulations to reduce the likelihood of criminal activity, including operating as a gambling facility; and

(c) The city council has determined that it is in the public's best interest and in support of the health, safety, and general welfare of the citizens of the city that the operation of a coin-operated gaming establishment requires a business license, machine, and occupation tax permits, and in addition, that the location of coin-operated gaming establishments be regulated through appropriate zoning.

Sec. 4.09.002 Definitions

Whenever used in this article, the following words, terms and phrases as well as their singulars, plurals, and possessives shall have the following definitions and meanings, unless the context of the sentence in which they are used indicates otherwise.

Business license. The license granted by the city for the operation of coin-operated or slot machines.

Business owner or license holder. A person or sole individual, owning or having the care, control, management, or possession of any coin-operated or slot machine who exhibits, displays, or permits to be exhibited or displayed, in his/her location of business or upon premises under his/her control, any coin-operated or slot machine in this city.

City occupation tax. The imposition of an occupation tax on a coin-operated machine in this city as defined in Texas Occupations Code, chapter 2153.451.

Coin-operated or slot machine. Includes every machine or device of any kind or character which is operated by or with coins, metal slugs, tokens, checks, debit, or credit cards.

Excluded machines. As herein defined in section 4.09.003.

Gambling device. Any electronic, electromechanical, or mechanical device as defined by Texas Penal Code, chapter 47, gambling, section 47.01(4) as amended and not specifically excluded or exempted under section 4.09.003.

Machine permit. Includes the permit granted by the city to operate a coin-operated or slot machine.

Manager. Includes a person or sole individual having the care, control, or management of any coin-operated or slot machine in his/her location of business or upon premises under his/her control within this city.

Person. Include an individual, business, firm, company, association, or corporation.

Property owner. Includes a person, individual, firm, company, association, or corporation owning a building, property, or facility on which a business will operate a coin-operated or slot machine.

Service coin-operated machines. Includes every pay toilet, pay telephone, and all other machines or devices that dispense services or merchandise.

Skill or pleasure coin-operated or slot machines. Includes every coin-operated or slot machine of any kind or character whatsoever, when such machines are used or are capable of being used or operated for amusement or pleasure, or when such machines are operated for the purpose of dispensing or affording skill or pleasure, or for any other purpose other than the dispensing or vending of merchandise, music, movies, or service.

Sec. 4.09.003 Excluded and exempt machines

Machines that are excluded from the provisions of this article are:

(1) Machines that award the user noncash merchandise prizes, toys, or novelties solely and directly from the machine, including claw, crane, children's arcade games, pinball machines, pool tables, shuffle board or similar machines; and

(2) Machines from which the opportunity to receive noncash merchandise prizes, toys, or novelties or a representation of value redeemable for those items varies depending upon the user's ability, including, but not limited to: miniature race track machines, miniature football machines, miniature golf machines, skee-ball machines and miniature bowling machines.

Sec. 4.09.004 Business licenses, machine permits, and city occupation tax

(a) Business licenses.

(1) The following section shall apply to all skill or pleasure coin-operated or slot machines and locations that are not specifically excluded in section 4.09.003.

(2) Business license requirements. Every person owning, possessing, maintaining, or operating skill or pleasure coin-operated or slot machine(s) for use by the general public or by private clubs, associations, fraternities, or orders shall obtain and maintain a business license from the city, as follows:

(A) A business license application must be filled out and must contain a complete statement about the identity of the owner of the business seeking to install skill or pleasure coin-operated or slot machine(s): to include name, date of birth, social security number, business name, D.B.A. information, comptroller tax I.D. number, mailing address of owner, address of residence; address where the business will operate; the number of machines at the location; a list of serial numbers (one assigned to each machine); the nature of any current business being operated at the location; the date when each skill or pleasure coin-operated or slot machine was placed at the location; the owner of the location where the skill or pleasure coin-operated or slot machine(s) will operate; and any other pertinent information that may be required by the city in the licensing and permitting of skill or pleasure coin-operated or slot machine(s).

(B) If there is a change in any type of information provided to the city or if additional machines are added to the location, the change must be relayed to the city within seven (7) days of the change or addition.

(C) Payment of the appropriate business license fees must be paid to the city, in accordance with this section.

(3) A business license issued for skill or pleasure coin-operated or slot machine under this article:

(A) May only be issued to a single individual, to be referred to herein as "business owner";

(B) Is required for each location, is personal to the applicant and may not be sold, bargained, conveyed, transferred or assigned, save for the exemptions noted in subsection (d)(3) herein; and

(C) Does not vest any property or rights in the business licensee, except for the right to conduct the licensed business.

(4) Firms, clubs, corporations, nonprofit or other legal entities including private clubs or associations may obtain a business license for skill or pleasure coin-operated or slot machines if an application is filled out for a single individual or business owner that represents and is the responsible party for the firm, club, corporation, nonprofit or other legal entity, and the other provisions of this section are met.

(5) Business license fees. Business license fees must be paid as follows:

(A) A new license fee as listed in the ARTICLE 1.07, division 6 per location for each new business license issued; and

(B) An annual business license renewal fee as listed in the ARTICLE 1.07, division 6 per location.

(b) Machine permits.

(1) Machine permit requirements. Every skill or pleasure coin-operated or slot machine shall be registered with the city by make, type, and serial number, as follows:

(A) Every skill or pleasure coin-operated or slot machine shall have a serial number, which is clearly visible on the outside surface of the machine. If a skill or pleasure coin-operated or slot machine is not manufactured with a serial number, the owner shall assign a serial number to the machine and either stamp or engrave the assigned number permanently on the machine.

(B) Every skill or pleasure coin-operated or slot machine shall have a nontransferable permit issued by the state and affixed to each machine, before it can be registered by the city.

(C) Upon payment of the machine permit fee as described herein and presentation of the required serial number and state-issued permit information for each skill or pleasure coin-operated or slot machine, a machine permit will be issued by the city, which is synonymous with the city's registration of the state-issued permit for each machine.

(2) Machine permit fees. Machine permit fees must be paid for each skill or pleasure coin-operated or slot machine, as follows:

(A) A machine permit fee as listed in the ARTICLE 1.07, division 6 at the time of application for each machine; and

(B) Proof of payment of all state regulated tax permit fees; and

(C) Any other fees required by city ordinance, state or federal requirements.

(3) Every skill or pleasure coin-operated or slot machine, capable of independent operation with separate activating coin mechanisms, whether placed separately or in series, and regardless of any electrical, mechanical or manual component, shall be considered a separate machine in regard to permitting.

(4) If a license holder, business owner, or manager is found to be operating unregistered machines, a fee as listed in the ARTICLE 1.07, division 6 per unregistered machine will be assessed against the license holder, business owner or manager, in addition to the five hundred dollar ($500.00) machine permit fee.

(c) City occupation tax requirements. A city occupation tax is hereby imposed on each skill or pleasure coin-operated or slot machine. An occupation tax permit for each machine will be issued if all of the following requirements are met:

(1) Applicant holds a valid business license issued by the city;

(2) Proof of a valid machine permit for each skill or pleasure coin-operated or slot machine;

(3) Proof of payment of all state mandated tax permit fees required by Texas Occupation Code sec. 2153.401 (as amended);

(4) Proof of payment of any other fees required by city ordinance, state or federal requirements; and

(5) Payment of a fee in the current amount set in Texas Occupation Code sec. 2153.451, (as amended) for each skill or pleasure coin-operated or slot machine for which an occupation tax permit is sought.

(d) Expirations, renewals, and exemptions.

(1) Expirations. Business licenses, machine, and occupation tax permits issued at any time during a calendar year shall automatically expire upon the following:

(A) Business license expiration:

(i) On December 31st of each calendar year;

(ii) Upon revocation of the business license by the city or its designees;

(iii) Upon surrender of a business license by a business owner; or

(iv) Upon the death of the business owner or license holder.

(B) Machine permit expiration.

(i) Upon removal of a skill or pleasure coin-operated or slot machine from the original business location;

(ii) Sealing of a skill or pleasure coin-operated or slot machine;

(iii) Upon revocation of the business license by the city or its designees;

(iv) Upon surrender of a business license by a business owner; or

(v) Upon the death of the business owner or license holder.

(C) Occupation tax permit. On December 31st of each calendar year.

(2) Renewal. All business licenses and occupation tax permits shall be up for renewal by December 31st of each calendar year. All businesses in operation in accordance with this article are required to have the renewal business license fees and annual occupation tax permit fees for each machine paid in full prior to December 31st of the renewal year. The city shall not refund any portion of a coin-operated or slot machine business license, machine permit or occupation tax permit fees after the license or permits have been issued, nor shall it prorate or reduce the amount of any fee due to the city. If fees are not paid within the time allotted, the business license and all associated machine permits shall be revoked.

(3) Exemptions.

(A) Exemptions arising under subsection (d)(1)(A)(iv) and (d)(1)(B)(v): Upon the death of the holder of a skill or pleasure coin-operated or slot machine business license, the executor/administrator of the estate, business successor, or immediate next of kin may continue operations of the skill or pleasure coin-operated or slot machine business and have the business license, machine, and occupation tax permits transferred over to another license holder that meets the requirements of this section. All other requirements still apply, and continued operation must conform with this and other city ordinances that apply to business operations.

(B) Any person operating a business with a skill or pleasure coin-operated or slot machine(s) at the time of the passage of this article shall not be required to comply with the requirements of this article until one of the following events occurs:

(i) Found to be operating a skill or pleasure coin-operated or slot machine business in violation of any local, state, or federal law.

(ii) Addition of any skill or pleasure coin-operated machine after the date of the passage of this article.

(iii) Found to be operating any skill or pleasure coin-operated machine without required occupation tax certificates issued by the Texas Comptroller's Office.

(iv) Sealing of any one or more skill or pleasure coin-operated machines by any agency of competent jurisdiction.

(v) Revocation or suspension of a certificate of occupancy issued by the planning and development services department.

(vi) Found to be operating without an official certificate of occupancy issued by the planning and development services department.

(vii) Death of the business owner.

At such time of the occurrence of any of these conditions, the business shall immediately lose its exempt status and become subject to all requirements of this article.

Sec. 4.09.005 Restrictions and requirements

(a) Age prohibition. The presence of persons under eighteen (18) years of age on premises subject to this article, is prohibited. It is an affirmative defense to prosecution under this article that the person under eighteen (18) years of age was a bona fide employee of the business. Notice in the form of an easily readable sign, informing the public of said restriction, shall be placed at the entrance of the location.

(b) Alcoholic beverages prohibited. The presence of any alcoholic beverages on the premises of a coin-operated or slot machine business is prohibited, unless such establishment has a valid license or permit to serve alcohol by the Texas Alcoholic Beverage Commission (TABC) and the city. No individual, person, owner, or manager shall allow, or be allowed, to consume any alcoholic beverage on the premises of a coin-operated or slot machine business location without a valid license or permit to serve alcohol by the Texas Alcoholic Beverage Commission (TABC) and the city. No individual, person, owner, or manager shall give, sell, bring to, or allow the bringing of any alcoholic beverage on said premises of a coin-operated or slot machine business without a valid license or permit to serve alcohol by the Texas Alcoholic Beverage Commission (TABC) and this city.

(c) Posting of business license, machine permits, and establishment address. The business license shall be posted conspicuously, noticeable to common view at the entrances of the establishment. Machine permits for each machine shall be affixed to each machine within easy view of the public and inspectors. The establishment address will be posted conspicuously at or as near as possible to the outside front entrance of the location.

(d) Business license and machine permit limitations. Solely one business license to operate a location with skill or pleasure coin-operated or slot machines shall be issued to any one person. A transfer of business license or machine permits shall not be allowed except as allowed in section 4.09.004(d)(3) and section 4.09.006(e) of this article. If a business license or a machine permit has been voluntarily relinquished or has been revoked, then a new business license or machine permit may be issued to a qualified applicant, in accordance with section 4.09.004.

(e) Window visibility. Windows of the building where skill or pleasure coin-operated or slot machines are located shall be unobstructed and/or unpainted, as to allow for visibility. All windows sun screened or tinted must allow light transmission of twenty (20) percent or more. No luminous reflectance, mirror, or reflective type material shall be allowed to be placed on same windows.

(f) Sign requirements. The business name is required to be prominently posted and displayed on the outside of the building; if the business is nameless, the license holder's first and last name shall be posted prominently and displayed on the outside of the building in place of the business name. All signs for advertisement shall comply with city zoning ordinances. No unauthorized signs shall be placed or allowed to be placed on the licensed business property without prior approval from the city. Any signs deemed to be out of compliance with the zoning ordinance shall be grounds for revocation of skill or pleasure coin-operated or slot machine business license.

(g) Hours of operation. The business operation hours will be Monday through Sunday, opening no earlier than 8:30 a.m. and closing no later than midnight. Doors must remain unlocked and the business accessible to the general public during hours of operation.

Sec. 4.09.006 Business location restrictions and relocation requirements

(a) In addition to a business license, every business that owns, controls, possesses, exhibits, or displays any skill or pleasure coin-operated or slot machine, shall be required to obtain a specific use permit issued by the city in accordance with CHAPTER 14, zoning.

(b) In accordance with CHAPTER 14, zoning, the city may issue a skill or pleasure coin-operated or slot machine specific use permit in any zoned areas, excluding: the central business district, a residential zoned district, or a neighborhood services district.

(c) The city may not issue a skill or pleasure coin-operated or slot machine specific use permit for use within 300 hundred feet (300') from door entry of the skill or pleasure coin-operated or slot machine business to any property line of the following:

(1) Any place of education or higher learning to include pre-school facilities, child day-care, elementary, middle, or intermediate schools, high schools, places of higher learning colleges, technical schools, or universities.

(2) Any hospital or place where medical attention is received, or pharmaceuticals are dispensed to include pharmacies, clinics, night clinics, nursing home, adult day-care, veteran hospitals, hospitals, major trauma units, or where ambulatory services are stationed.

(3) Any place of religious worship to include any established building of gathering for worship including, but not limited to a building of a denomination or other location where a group of people (a congregation) comes to perform acts of religious praise, honor, or devotion.

(4) Any school or college district property on which attendance of the student population occurs.

(5) Any location where children congregate to include, but not limited to, playgrounds and/or parks.

(d) There shall be required to be an amount of parking spaces for each location as calculated under CHAPTER 14, zoning, section 14.05.003 for nonresidential uses.

(e) Relocation of premises. Active business license holders who wish to relocate the licensed business for which they have a specific use permit to another location must notify the city's planning and development services department immediately, and must obtain a new specific use permit prior to relocating. The city reserves the right to deny a new specific use permit for the relocation in the event that it finds significant negative impact for the surrounding properties or the relocation would be in violation of this code.

(f) Exemptions. Locations which, at the time of passage of this article, do not meet the distance requirements as set forth in subsection (c) shall not be required to comply with the location restrictions set forth in this section until one of the events as outlined in section 4.09.004(d)(1)(B)(i)–(v) occurs or additional machines are installed at a subject location. At such time, the subject location shall immediately lose its exempt status and become subject to all other provisions of this article, as though it were a new application. During the term of this zoning permit exemption, each of the locations subject to this section must comply with all other terms of this article, including but not limited to: occupation tax permit fees, sale of alcoholic beverages, age limits, and other restrictions.

Sec. 4.09.007 Replacement of a valid lost, stolen or destroyed business license or machine permit

The city shall not make a refund of the business license or machine permit fees paid on any skill or pleasure coin-operated or slot machine business location or machine. The city shall provide a duplicate license or permit if a valid license or permit has been lost, stolen, or destroyed. The fee for each duplicate license or permit is ten dollars ($10.00). An original license or permit for which a duplicate license or permit has been issued is void upon issuance of a duplicate.

Sec. 4.09.008 Sealing of machines

(a) The city may seal any skill or pleasure coin-operated or slot machine on which the initial business license fee or the yearly renewal business license fee has not been paid. The city shall charge an administrative fee of five dollars ($5.00) for the release of any machine sealed as provided herein. It shall be unlawful for any person to break the seal affixed in the name of the city or to exhibit, display, or remove from the location any machine on which the seal has been broken.

(b) Every skill or pleasure coin-operated or slot machine subject to the payment of the fees levied in this article, and upon which any fee has not been paid as provided herein, is hereby declared to be a public nuisance, and the business displaying said machines may be denied operation by the city, as well as denying the continued operation of said business. All licenses and permits allowing said business, as referred to in this article, to operate may be denied, discontinued, and/or revoked.

(c) Upon proof that all fees have been paid in full and an inspection of the location of the business has been completed verifying that all requirements of this article have been met, any and/or all sealed machines may be unsealed by the planning and development services department, police department or their authorized designees.

Sec. 4.09.009 Existing laws and inspections

(a) Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or coin-operated, or slot machine, the keeping, exhibition, operation, display, or maintenance of which is now illegal or in violation of any article of the Penal Code or the Constitution of this state and/or any federal laws of the United States of America.

(b) No business license or machine permit may be issued for any “gambling device” as defined by Texas Penal Code, chapter 47, gambling, section 47.01(4) and as interpreted by judicial decision (Hardy v. State, 102 S.W.3d 123, Tex. 2003 and State v. One Super Cherry Master Video 8-Liner Machine 102 S.W.3d 132, Tex. 2003), and “gambling devices” are prohibited from use in the city.

(c) In addition to any other penalty or punishment imposed by law, violation of any section or provision of this article shall be cause for revocation of a skill or pleasure coin-operated or slot machine business license issued pursuant to this article. The city reserves the right to inspect the premises of any skill or pleasure coin-operated or slot machine business in order to investigate compliance with this article. The business owner or manager of a skill or pleasure coin-operated or slot machine business or their employees shall not prohibit city inspectors, or police, fire, or fire marshal personnel entry into the premises at any time to ensure there are no violations of city, state or federal laws, to include correct and accurate machine count, correct machine permits, fire, or penal code violations. The building entries and exits shall be maintained so as to allow unobstructed, unregulated, free entry into said location by inspectors, police, fire, or fire marshal personnel without any delay of entry. Any violations of this section shall be considered a violation of this article and will be considered grounds for revocation of business licenses and/or machine permits.

Sec. 4.09.010 Violations

A violation of any provision of this article shall be a misdemeanor, and any person, firm or corporation convicted hereunder, shall be punished as specified in section 1.01.009, of this code.

(Ordinance O-001-18, sec. 1 adopted 1/16/18)

ARTICLE 4.10 MOBILE FOOD UNITS

(Ord. # O-016-21, 10/19/2021)

Sec. 4.10.001 Definitions

The following words and phrases (when used in this Section) shall have the meanings respectively ascribed to them by this Section.

(Ord. # O-016-21, 10/19/2021)

Administrator. The Director of Planning and Development or other designated official of the City of Borger, Texas.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Certified food protection manager (CFPM). A person in charge of a food establishment, who demonstrates knowledge by being a food protection manager who is certified by a food protection manager certification program recognized by the Texas DSHS.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

City. City of Borger, Texas.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Commercially manufactured. Produced or built, for commercial gain, by a person or company showing a high degree of skill or competence, using commercial grade products. Able to meet National Sanitation Foundation (NSF) standards.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Commissary. Also known as a central preparation facility. A commissary is a site approved by the Texas DSHS at which food preparation, storage, and cleaning or servicing of mobile food units occur. State law prohibits the use of a private residence as a central preparation facility or warehouse.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Community-based event. Transitory gatherings, such as traveling fairs, carnivals, multi-cultural celebrations, special interest fundraisers, restaurant food shows, grand openings, customer appreciation days, etc. also called special events. These are single events or celebrations.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Community market/farmer's market. A designated location used primarily for the distribution and sale directly to consumers of raw agricultural products grown by farmers; or home-grown fruits, vegetables, produce or food products; meat; plants and flowers; art and craft items; and/or bakery goods; beverages; dairy products; delicatessen; and grocery items.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Cottage food production operation. A cottage food production operation is defined as an individual, operating out of the individual's home, who:

(a) Produces baked goods, candy, coated and uncoated nuts, unroasted nut butters, fruit butters, canned jam or jelly, fruit pies, dehydrated fruit or vegetables including but not limited to dried beans, popcorn and popcorn snacks, cereal, granola, dry mix, vinegar, pickles, mustard, roasted coffee, dry tea, dried herb or dried herb mix.

(b) Has an annual gross income of fifty thousand dollars ($50,000.00) or less from the sale of the described foods.

(c) Sells the foods produced directly to consumers at the individual's home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival, or event.

(d) Delivers products to the consumer at the point of sale or another location designated by the consumer.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Department of State Health Services (DSHS). The Texas Department of State Health Services or other agency as designated by the State of Texas.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Fixed commercial location. A building that can obtain a certificate of occupancy; not mobile in nature.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Food establishment or establishment. Any place, structure, premises, or vehicle, or any part thereof, in which any food intended for human consumption is manufactured or prepared by any manner or means, or in which any food is stored, sold, offered or displayed for sale, or served. This definition shall include each type of food establishment regulated by the regulations in this article.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Food handler. Any person who works in a food establishment and performs any duties that brings them into contact with the handling of food, utensils, or food service equipment.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Heavy food preparation. Any area in which foods are prepared utilizing a grill, griddle, deep-fat fryer, commercial type oven, and/or any similar food preparation equipment, or any area used for cutting/processing of meat, poultry, fish, or pork.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Light food preparation. Any area in which foods are prepared exclusive of the use of fryers, grills, or similar equipment. Light food preparation is usually limited to the preparation of hot dogs, sandwiches, salads, or other similar foods.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Mobile food unit (MFU). A self-contained and readily movable food establishment that serves, sells, or distributes any food or beverage to the public, with or without a charge.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Mobile food unit classes based on type of menu served.

(a) Class I. Limited mobile food units may provide hot and cold holding display areas from which packaged foods are displayed. Self-service by customers of unpackaged food is not allowed. Preparation, assembly or cooking of foods is not allowed for this type of unit. Non-TCS beverages must be provided from covered urns or dispenser heads only. No dispensed ice is allowed.

(b) Class II. General mobile food units may serve a full menu as approved by the Department of Planning and Development.

(c) Class III. Mobile vendors serving only a limited menu as approved by the Department of Planning and Development.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

No food preparation. Any area in which foods are provided pre-wrapped, from a source approved by the Texas DSHS with microwave oven type heating being the maximum handling involved. Food preparation is limited to prepackaged sandwiches, candies, similar foods and containerized beverages.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Non-profit organization. All government entities, political subdivisions, public school districts, organizations chartered under the Texas Non-Profit Corporation Act, or operations recognized by the IRS as a 501 organization or corporation.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Non-temperature control for safety (non-TCS) food or beverage. A food or beverage intended for consumption that does not require temperature or time control for safety.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Perishable food. Food or beverage of a type or in a condition that may spoil.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Permit or health permit. A written authorization issued by the City, the Texas DSHS, or other agency as designated by the State to regulate food handling or mobile food units.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Person. An individual, sole proprietorship, partnership, association, corporation, or any other entity who is the owner, operator, or person responsible for the operation of a food establishment, including an agent or representative of such owner, operator, or responsible person.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Pushcart. A mobile food unit from which goods are sold and that is propelled by non-mechanical means.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Regulatory authority. The City of Borger, Texas.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Texas Food Establishment Rules (TFER). Title 25 Texas Administrative Code, Chapters 228 and 229, as adopted or hereinafter amended.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Time/temperature control for safety (TCS) foods or beverage. A food or beverage that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Vendor/supplier. A business establishment approved by the Texas DSHS that sells or supplies food and food related products to food establishments.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Wholesome. In sound condition, clean, free from adulteration and otherwise suitable for use as human food. Food which is packaged shall be deemed wholesome if it meets the foregoing requirements and it is used or sold prior to the expiration date marked on the package.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.002 Permit Requirements

(a) In order to obtain a permit to operate a mobile food unit within the city limits of Borger, an applicant shall submit application and information as required in this Section to the Department of Planning and Development and shall pay all required fees.

(b) The application shall include the location(s) to be used within the City. The location description shall provide adequate information for the City to determine that the locations specified for operation of the mobile food unit will comply with this Article and the adopted zoning regulations.

(c) Changes to an approved location list shall be submitted for review at least three (3) business days prior to an addition or change in the list. Written notice shall be given to the Department of Planning and Development upon any change and shall include the date that operations will cease at an approved location.

(d) A copy of a current permit required by State law and issued by the Texas DSHS shall be provided.

(e) A valid sales tax license issued by the Texas Comptroller of Public Accounts or the appropriate sales tax exemption documentation.

(f) A valid copy of the certification certificate for the mobile food unit's certified food protection manager.

(g) A State licensed or permitted commissary/central preparation facility, as required by TFER, shall be listed.

(h) A letter signed by the property owner/operator, giving written permission for the mobile food unit to operate, shall be submitted for each location used.

(i) Any other documentation deemed necessary by the Administrator to enforce this Article or otherwise protect the public health.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.003 Exceptions

The provisions of this Article shall not apply to the following:

(a) Pushcarts with no food preparation;

(b) Community or farmers markets

(c) A community-based event sponsored by or for a non-profit organization, or held for customer appreciation where food is not sold.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.004 Permit Issuance and Fee

(a) Upon receiving a proper application for a permit, the Administrator shall make appropriate inspections of the vehicle and equipment of the mobile food unit and shall issue a permit only after:

1. An approved inspection completed by the Fire Marshal in ensure compliance with Fire Code; and,
2. An approved inspection by any building inspector to ensure compliance with the applicable requirements of all Federal and State statutes and regulations of city ordinances governing the proposed mobile food unit operation, including current vehicle registration and insurance regulations.

(b) Mobile food units shall comply with all requirements of TFER, Chapter 228.221.

(c) The permit for a mobile food unit shall not be transferable and shall expire one (1) year from date issued or upon expiration of the State issued license, whichever is sooner.

(d) When a permit is issued to any such person, such applicant shall pay to the City a permit fee as listed in Article 1.07 of this Code, which sum shall be used to defray part of the expense of administration and enforcement of this Article.

(e) This section shall not be applied retroactively to active permits issued prior to the adoption of this section November 1, 2021; however, existing permit renewals will comply with this section.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.005 Location of Operation

(a) Any location where mobile food units stop and sell food shall be located as prescribed by the zoning ordinance, unless otherwise authorized by this Section.

(b) Mobile food units shall not stop and sell food in residential zoned districts, as defined in the zoning ordinance, without written permission from the homeowner's association or a neighborhood association. Mobile food units shall not stop and sell food in any residential zoned district that does not have an active homeowner's or neighborhood association.

(c) Mobile food units shall not remain at a location of operation when the unit is not operating unless permitted by the regulatory authority or in a legal food truck park.

(d) Mobile food units shall not block any required parking spaces, fire lane, entrance, or exit from a property.

(e) Mobile food units shall be no less than fifteen (15) feet away from any building or structure when in operation.

(f) Each mobile food unit shall provide a trash receptacle at the location of operations. Mobile food units and all parts of the property used in connection with operations shall be kept free of litter.

(g) A mobile food unit operating with a permit issued under this Section may stop and sell food at community-based events if written notification is provided to the Administrator at least three (3) days prior to the event. No other fees will apply when a current permit is in effect.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.006 Operation on Public Property

No mobile food unit shall operate a business from a public park or publicly owned property, site, or right-of-way without written permission from the regulatory authority or their designated representative.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.007 Signage

(a) Each mobile food unit shall be readily identifiable by business name as it appears on the mobile food unit permit, permanently affixed, and prominently displayed on at least two (2) sides of the unit, in letters and numbers not less than three (3) inches in height.

(b) Each mobile food unit shall prominently display the permit issued in a location that is readily observable by the public.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.008 Mobile Food Vehicle Types

(a) **Class I** - Limited mobile food unit may provide hot and cold packaged food holding display areas. Self-service by customers, of unpackaged foods, shall not be allowed. Preparation, assembly, or cooking of foods shall not be allowed on or in the vicinity of the unit. Non-TCS beverages shall only be provided from covered urns or dispenser heads only. Examples of foods that are allowed:

1. Food that was prepared and packaged for individual servings at an approved commissary and transported and stored under conditions meeting the requirements of this Article.
2. TCS beverages such as individual servings of milk, milk products, and coffee creams that have been packaged at a pasteurizing plant. All foods sold shall meet proper labeling requirements.
3. The vendor selling prepackaged foods shall provide a copy of the commercial food establishment's state food manufacturing permit or meat safety assurance permit, if applicable, from the Texas DSHS or other agency as designated by the State.

(b) **Class II** - General mobile food unit may prepare and serve a full menu as approved by the Texas DSHS.

(c) **Class III** - Mobile vendors shall serve only a limited menu as approved by the Texas DSHS. Menu items are limited to non-TCS foods and beverage. Class III - Mobile vendor shall not:

1. Place any signs or other advertising devices on public property other than those signs that are allowed to be affixed to the vehicle itself.
2. Physically or visibly obstruct pedestrian or vehicular traffic.
3. Sell, distribute, or offer for sale goods or services that have not been approved by the Department of Planning and Development.
4. Be located within a construction area or block any public roadway or fire lane.
5. Conduct business in the right-of-way of a street.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.009 Servicing at Commissaries

Mobile food units, as required by State law, shall report to an approved commissary or central preparation facility for supplies, cleaning, storage, off site food preparation, and servicing operations as follows:

(a) The interior of the mobile food unit shall be thoroughly cleaned at least one (1) time each day.

(b) The mobile food unit shall acquire needed supplies from an approved commissary, central preparation facility, or other approved vendor/supplier. Storing or preparing food from a private residence shall be prohibited in accordance with State law.

(c) An existing food establishment may serve as a commissary or central preparation facility for a mobile food unit, when approved by the Texas DSHS.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.010 Vehicle Construction

(a) The interior of the vehicle shall be commercially manufactured or be approved by the Fire Marshal.

(b) The food preparation area of the vehicle shall be completely enclosed and protected.

(c) Mobile food units shall be required to provide an on-board power source, such as battery or generator, to assure maintenance of TCS foods at proper temperatures during transit, preparation, and service. The vehicle shall be equipped with commercial grade equipment meeting ANSI or NSF standards.

(d) All cooking equipment and hot holding units shall be located outside the cab of a mobile food unit. Covers for deep fryers shall be provided and installed over fryer units while the vehicle is in motion.

(e) Exterior surfaces shall be kept clean and free of rust.

(f) Utility connections and fire protection.

1. Utility connections shall be limited to only electrical service and shall be in full compliance with the currently adopted electrical code. All electrical extension cords shall be of industrial grade quality and shall be utilized in a safe manner as to not be a nuisance or a trip hazard. Mobile food units shall not be connected to any potable water service, sanitary sewer service, or fuel gas service while in the operation of preparing or vending food.
2. Sewage, wastewater and solid waste shall be disposed of according to law.
3. Liquefied petroleum gas (LP) systems shall be in compliance with the City's currently adopted Fire Code.
4. An inspection by the Fire Marshal’s Office prior to the issuance of a permit shall be required to ensure compliance with the following:
    a. A current Texas Department of Public Safety license plates, except for a concession cart which is not required to have license plates or an inspection sticker. The mobile unit must be in good working order.
    b. A mobile unit must have a 2A:10B:C sized extinguisher with an annual inspection tag from a state-licensed inspection company or a receipt indicating purchase within the past year. If frying media (grease) is used, a class K extinguisher shall be required in the mobile unit. Any mobile unit equipped with an automatic extinguishing system shall have a current (bi-annual) inspection tag from a Texas licensed inspection company. All mobile units shall maintain ten (10) feet of clearance for access. Mobile units equipped with an automatic extinguishing system shall maintain ten (10) feet of clearance from combustible structures. Mobile units not equipped with an automatic extinguishing system that produce grease laden vapors shall maintain a fifty (50) foot distance from combustible structures or parked, unattended vehicles.
    c. All cooking appliances in the mobile unit shall be of an approved type, listed and labeled, for the use intended. Appliances shall be installed in accordance with the manufacturer's instructions. Coleman camp stoves or the equivalent shall be prohibited. All cooking appliances shall have an approved, labeled and listed on-off valve.
    d. Cooking surfaces in the mobile unit shall be kept clean of grease build-up. Trash containers and debris shall be emptied regularly. Extension cords shall not be utilized for appliances. Appliances shall be plugged directly into electrical outlets.
    e. The fire marshal's office is herein authorized to conduct all inspections as necessary to determine the extent of compliance at any time.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.011 Food Truck Parks

A food truck park shall be located as prescribed by the zoning ordinance. The park shall provide electrical connections, sanitary sewer disposal facilities with an approved grease interceptor, improved parking surfaces for the mobile units and customer parking and shall meet any applicable requirements for a food establishment under other applicable law or regulation.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.012 Hours of Operation

No mobile food vendor shall operate between the hours of 3:00 a.m. and 6:00 a.m. The mobile unit shall be properly stored at its commissary location as required by section DSHS and shall not be left or stored at any alternate location.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

Sec. 4.10.013 Violation; penalty

Any person, partnership, corporation, association or legal entity found to have violated any provision of this Article or to have failed to comply with any provision of this Article shall, upon conviction, be fined in accordance with Section 1.01.009 of this Code. The imposition of a fine shall be in addition to all other remedies provided in this Article. Each day that a violation exists shall constitute a separate offense. A culpable mental state is not required, and need not be proved, for an offense under this Article.

(Ord. # O-016-21, 10/19/2021)

Effective on: 10/19/2021

ARTICLE 4.11 SPECIAL EVENTS AND STREET CLOSING EVENTS

(Ord. # O-005-22, 06/21/2022)

Sec. 4.11.01 Definitions

The terms used below shall have the meanings indicated when used in this article:

Motorcade shall mean any organized procession containing ten or more motor vehicles, except funeral processions and authorized governmental processions, upon any public street, sidewalk or alley.

Effective on: 6/21/2022

Parade shall mean any march or procession consisting of people, animals, or vehicles, or a combination thereof, except funeral processions, upon any public street, sidewalk, alley, park or other outdoor places owned or under the control of the city.

Effective on: 6/21/2022

Run shall mean any event that is considered a walk, run, or race consisting of people upon any public street, sidewalk or alley.

Effective on: 6/21/2022

Special event shall mean an event to be held within the city, that is of limited duration, and is likely to attract 100 or more visitors and shall include, without limitation, exhibitions, automobile races, sporting events, festivals, air shows, carnivals, circuses, revivals, tent sales, concerts, parades, runs, walks, races or motorcades.

Effective on: 6/21/2022

Street closing event shall mean any activity, including, but not limited to, special events which require the closing of any public street, sidewalk or alley and which requires rerouting of normal or usual traffic flow.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 4.11.02 Permits required; exemptions

(a) **Event permit required.** It shall be unlawful for any person to conduct or sponsor Special Event or Street Closing Event within the city unless the person has first obtained a permit as provided in this section.

(b) **Exemptions.** The following may be conducted within the city without a permit:

(1) Special Events or Street Closing Events hosted or sponsored by the city (i.e., where the city itself is the promoter) shall not require a permit but notice of same shall be given to the police department, fire department, public works department, and planning and development department.

(2) Private parties held on residential private property and to which the public is not invited and where there are no more than 100 guests.

(3) An event wholly contained on property specifically designed or suited for the special event and which has an appropriate certificate of occupancy, appropriate zoning, and adequate parking.

(4) Funeral processions.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 4.11.03 Approval authorities

Permits will be approved or disapproved as follows:

(a) Event permits will be approved or disapproved by the city manager or his or her designee. An event permit requesting a street closure shall not be approved for an event that is not open to the public.

(1) Permittees requesting a street closure event permit for a "Block Party" contained to one block of a residential street need not be open to the public but shall require the approval of all property owners located within the proposed block.

(b) Permits for parades, runs, walks, races or motorcades not requiring street closure will be approved or disapproved by the Director of Planning and Development or his or her designee.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 4.11.04 Application and approval process

Fifteen calendar days prior to the beginning date for the special event or street closing event, the applicant or applicant's representative shall submit a completed application and the fee provided in ARTICLE 1.07 to the appropriate approval authority as provided in section 4.11.03. The approval authority shall approve or deny the permit, in writing, no less than five days prior to the date of the event. The approval authority may, at his or her discretion, accept an application submitted less than 15 days prior to the event.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 4.11.05 Insurance

In addition to any other requirements set by the city manager or his or her designee to protect the public interest, the applicant shall obtain insurance and/or bonds as deemed necessary by the city manager or his or her designee to protect the public, to ensure that the permit conditions are complied with, or to ensure that the applicant will be able to pay any claims which may arise out of the proposed activity.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 4.11.06 Appeal

If the applicant objects to the denial of a permit, the conditions to be imposed with the permit, or the revocation of a permit by the approval authority, the applicant may appeal the decision to the city manager or his or her designee. If the applicant chooses to appeal the decision of the city manager or his or her designee, the applicant shall file a written request for city council consideration within three days of the decision. An appeal shall be heard by the city council at the next available regularly scheduled council meeting.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 4.11.07 Public conduct during parades

(a) **Interference.** No person shall unreasonably hamper, obstruct or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(b) **Driving through parades.** No driver of any vehicle, except an authorized emergency vehicle as defined in Texas Transportation Code § 541.201, shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) **Parking on a parade route.** The city manager, director of public works, and police chief, or their designees shall have authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part hereof constituting a part of the route of a parade and post signs to such effect. It shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

ARTICLE 4.12 COMMERCIAL FILMING REGULATIONS

(Ord. # O-005-23, 06/06/2023)

Sec. 4.12.01 Purpose

The following Guidelines are intended to protect the personal and property rights of Borger, Texas, residents and businesses and to promote public health, safety, and welfare. The City Manager reserves the right to impose additional regulations in the interest of public health, safety, and welfare or if otherwise deemed appropriate by the City Manager. These Guidelines cover requests for commercial use of City-owned property (including but not limited to streets, rights-of-way, parks, and/or public buildings), commercial use of private property which may affect adjacent public or private property, and the use of City equipment and personnel in all types of motion picture production, including, but not limited to, feature films, television programs, commercials, music videos and corporate films.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.02 City Control / City Manager Authority

The City Manager may authorize using any street, right-of-way, park, or public building, equipment, or personnel for commercial uses in filming or taping movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Manager may require that any or all the conditions and/or remuneration herein and as specified on the application be met as a prerequisite to that use. The Applicant agrees that the City of Borger shall have exclusive authority to grant the Applicant the use of public streets, rights-of-way, parks, and public buildings of the City, as well as the authority to regulate the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming to promote public health, safety, or welfare. The Applicant shall allow City departments (e.g., Police, Fire, Building) to inspect all structures, property, devices, and equipment to be used in connection with the filming and taping, as deemed appropriate by the City Manager.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.03 Permit Requirements

Before filing an application for filming in Borger, the Office of the City Manager must be contacted to discuss the production's specific filming requirements and the feasibility of filming in Borger, TX. Any commercial producer who desires to undertake a commercial production in Borger is required to complete and return the attached application for filming to the Office of the City Manager within the time frames below:

(a) **Commercials or episodic television**: a minimum of two (2) business days prior to the commencement of filming or any substantial activity related to the project.

(b) **Feature films**: a minimum of five (5) business days prior to the commencement of filming or any substantial activity related to the project.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.04 Use of City Equipment and Personnel

The Applicant shall pay for all costs of any Police, Fire, Public Works, or other City personnel assigned to the project (whether or not explicitly requested by the production). Remuneration rates for using any City equipment, including police cars and fire equipment, are established in the City of Borger's fee schedule found in ARTICLE 1.07 of this Code but may be waived on a case-by-case basis as determined by the City Manager.

The Applicant shall pay all costs in full within ten (10) days after receipt of an invoice for said costs. The City Manager may, at his/her discretion, require an advance deposit for all costs related to City personnel and/or the use of City equipment. The City Manager, in consultation with the Chief of Police and/or Fire Chief/ Fire Marshal, shall have the authority to stipulate additional fire or police requirements and level of staffing for same at any time during a film project if it is determined to be in the best interest of public health, safety, and welfare, which cost shall be borne entirely by the Applicant. The production company shall pay off-duty police officers and firefighters at a rate provided for in the then-adopted City of Borger Fee Schedule found in ARTICLE 1.07 of this Code.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.05 Use of City-owned Real Estate

The City Manager may authorize using any street, right-of-way, park or public building, use of Borger, Texas name, trademark or logo, and/or use of City equipment and/or personnel for commercial uses in motion picture production. In conjunction with these uses, the City Manager may require that any or all of the conditions and/or remuneration as specified herein and on the application be met as a prerequisite to that use. A security or damage deposit may be required within the discretion of the City Manager. The Applicant shall reimburse the City for inconveniences when using public property.

Following is the rate schedule per calendar day:

(a) Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area: $100
(b) Partial, non-disruptive use of a public building, park, right-of-way, or public area: $50
(c) Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking: $100 for Fire Marshal Plan Review
(d) Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking: $100 for Fire Marshal Plan Review
(e) Use of City parking lots, parking areas, and City streets (for parking film trailers, buses, catering trucks, and other large vehicles): Fee is based upon actual use(s) and is subjected to the fee schedule.
    (1) The Applicant acknowledges and agrees that the City of Borger, Texas, possesses and retains exclusive authority to grant the Applicant a revocable license for the use of its name, trademark, and logo, public streets, rights-of-way, parks, and buildings of the City as well as control over the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order the cessation of filming activity to promote public health, safety, and/or welfare.
    (2) In order to leave the City-owned property in as good condition as when received, the Applicant is responsible for and must provide professional cleaning and/or sanitation services upon completion of work if the City requests such cleaning and/or sanitation services at any time. Upon such a request by the City, the Applicant must obtain approval from the City for the Applicant's arrangements for cleaning and/or sanitation services (which will not be unreasonably withheld). The City may require such approval before the use of the City-owned property for Production Activity begins.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.06 Vehicles and Equipment

The Applicant shall provide a report listing the number of vehicles and types of equipment to be used during the filming, including proposed hours of use and proposed parking locations. Such locations will need to be specifically approved by the City Manager. On-street parking or use of public parking lots is subject to City approval. The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires on-site approval of the City Manager.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.07 Hours of Filming

Unless express written permission has been obtained from the City Manager in advance, and affected property owners, tenants, and residents have been notified, filming will be limited to the following hours: Monday through Friday: 7:00 a.m. to 9:00 p.m. Saturday, Sunday, and holidays: 8:00 a.m. to 8:00 p.m.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.08 Notification of Neighbors

The Applicant shall provide a short, written description, approved by the City Manager, of the schedule for the proposed production to the owners, tenants, and residents of each property in the affected neighborhood(s). The Applicant, or his or her designee, shall make a good faith effort to notify each owner, tenant, and resident of all such property and shall submit, as part of this application, a report noting owners, tenants and/or residents' comments, along with their signatures, addresses and phone numbers. Based upon this community feedback and other appropriate factors the City Manager considers, the City Manager may grant or deny the filming application.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.09 Certificate of Insurance

The Applicant shall attach a valid certificate of insurance issued by a company authorized to conduct business in the state of Texas, naming the City of Borger and its agents, officers, elected officials, employees, and assigns, as additional insured, in an amount not less than $1,000,000 general liability, including bodily injury and property damage with a $1,000,000 umbrella; and automobile liability (if applicable) in an amount not less than $1,000,000 including bodily injury and property damage.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.10 Hold Harmless Agreement

The Applicant shall sign a Hold Harmless Agreement, as provided by the City, holding the City harmless from any claim that may arise from their use of designated public property, right-of-way, or equipment in conjunction with the permitted use.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

Sec. 4.12.11 Other Rules and Regulations

The City Manager may promulge other rules and regulations, keeping with the minimum guidelines of this article.

(Ord. # O-005-23, 06/06/2023)

Effective on: 6/27/2023

CHAPTER 5 FIRE PREVENTION AND PROTECTION

Contents:

ARTICLE 5.01 GENERAL PROVISIONS*

ARTICLE 5.02 BORGER FIRE MARSHAL'S OFFICE

ARTICLE 5.03 FIRE ALARMS*

ARTICLE 5.04 FIRE CODE

ARTICLE 5.05 FIRE HAZARD MITIGATION

ARTICLE 5.01 GENERAL PROVISIONS*

(Reserved)

ARTICLE 5.02 BORGER FIRE MARSHAL'S OFFICE

(Ord. # O-004-21, 04/06/2021)

Sec. 5.02.001 Office created

There is hereby created and established within and for the city, the department of fire prevention.

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.02.002 Appointment and qualifications

The Fire Marshal shall be appointed by the City Manager, subject to the approval of the City Council. The Fire Marshal shall also be appointed as Fire Code Official. The Fire Marshal shall hold current valid certifications from the Texas Commission on Fire Protection as fire, arson investigator, and fire inspector. The Fire Marshal shall also hold current valid certification from the Texas Commission on Law Enforcement as a peace officer. The Fire Marshal shall be properly qualified for the duties of the office and shall receive such compensation as may be agreed upon by the City Manager.

(Ordinance O-007-15 adopted 12/15/15)(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.02.003 Duty to investigate fires

The Fire Marshal or their duly authorized representative shall investigate the cause, origin and circumstances of fires occurring within the city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design, and if it appears to the Fire Marshal or duly authorized representative that any such fire is of unknown origin, the Fire Marshal or duly authorized representative may then take immediate charge of all physical evidence relating to the cause of the fire and shall pursue the investigation to its conclusion. (1998 Code, sec. 32.03)

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.02.004 Taking of testimony; authority to summon witnesses

(a) The Fire Marshal, when in his/her opinion further investigation is necessary, shall take or cause to be taken the testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing.

(b) The Fire Marshal shall have the power to summon witnesses to testify in relation to any matter which is, by the provisions of this article, a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto. The Fire Marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing before him as witnesses. (1998 Code, sec. 32.04)

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.02.005 Investigations may be private

All investigations held by or under the direction of the Fire Marshal may, in his/her discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined. (1998 Code, sec. 32.05)

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.02.006 Misconduct of witnesses

Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of the Fire Marshal, or who fails or refuses to produce any book, paper or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the Fire Marshal in the matter of such investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation, shall be deemed guilty of a misdemeanor, and it shall be the duty of the Fire Marshal to cause all such offenders to be prosecuted. (1998 Code, sec. 32.06)

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.02.007 Right of entry

The Fire Marshal shall have the authority, at all times of the day or night, when necessary in the performance of the duties imposed upon him/her by the provisions of this article, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and good discretion. (1998 Code, sec. 32.07)

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.02.008 Inspection of premises

The Fire Marshal or duly authorized representative shall inspect, as often as may be necessary, all buildings and premises, including such hazards or appliances as the Fire Marshal may designate, for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of this code and of any other law or standard affecting fire safety. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the Fire Marshal or duly authorized representative has reasonable cause to believe there exists in any building or upon any premises any condition which makes such building or premises unsafe, the Fire Marshal or duly authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Fire Marshal by this code; provided that if such building or premises is occupied he shall first present proper credentials and demand entry, and if such building or premises is unoccupied he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Fire Marshal or duly authorized representative shall have recourse to every remedy provided by law to secure entry. For the purpose of this section duly authorized representative shall include any inspector, fire and arson investigator, or deputy Fire Marshal employed or assigned to the Department of Fire Prevention, or any individual who is certified in the state as a peace officer and is employed or assigned to work with the city. If the owner or occupant denies entry, the Fire Marshal or his duly authorized representative shall obtain a search warrant or other remedy provided by law to secure entry. No owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Fire Marshal or his duly authorized representative for the purpose of inspection or examination pursuant to this code or any other standard affecting fire safety. (1998 Code, sec. 32.08)

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.02.009 Record of fires

The Fire Marshal shall keep a record of all fires occurring within the city and all such facts concerning the same, including statistics as to the extent of such fires and the damage caused thereby, together with such other information as may be required by this code. The Fire Marshal shall retain for not less than five years a record of each inspection and investigation made showing the findings and the disposition of each such inspection or investigation. (1998 Code, sec. 32.09)

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.02.010 Nonliability of city

The fire code shall not be construed to hold the public entity or any officer or employee of the city responsible for any damage to persons or property by reason of the inspection or reinspection authorized in the fire code, or for any action in connection with the control or extinguishment of any fire or in connection with any other official duties.

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

ARTICLE 5.03 FIRE ALARMS*

Sec. 5.03.001 Definitions

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

Alarm system. Any device designed and manufactured for the detection of fire or for alerting others of a fire, and which, when actuated, transmits a signal or message remotely whether directly or indirectly to the 911 dispatch center.

Alarm user. Any person, firm, corporation, or other entity which owns, possesses, or leases or in any manner uses an alarm system.

Calendar quarter. Either January through March, April through June, July through September, or October through December of any calendar year.

Excess alarms signaling a fire. Those false alarms in excess of three signaled from the same alarm user's premises by an alarm system within any calendar quarter, or in excess of five false alarms within any 12-month period.

False alarm. An alarm signaled from an alarm user's premises in which, upon response and inspection, no fire can be verified; but the term shall not include those alarms proven by the alarm user to have been caused by an act of God. Response to the alarm must have occurred within 30 minutes of the initial alarm signal. The decision of the fire department concerning whether or not a fire or an act of God has occurred will be final.

Person. Any individual, partnership, corporation, or other entity.

Twelve-month period. A period of 12 consecutive months including the month in which the first false alarm occurs.

(1998 Code, sec. 91.01)

Sec. 5.03.002 Service charges for false alarms

(a) Each alarm user shall pay to the city a service charge for excess alarms from the same user's premises to which the fire department responds in an amount as listed in the ARTICLE 1.07, division 2 for any excess alarm above five in a 12-month period. (Ordinance O-008-18 adopted 9/18/18)

(b) Upon answering any false alarm by the fire department, the answering department shall notify the person in control of the premises, according to the records of the city, of the false alarm. The answering department shall submit an invoice for the sixth false alarm and each subsequent alarm.

(c) If any alarm user becomes delinquent more than 60 days in paying a service charge, the answering department shall notify the person in control of the premises that he is delinquent and that legal action to collect the charges will be taken with the proper authorities.

(d) After answering any excess alarm, the responding department shall send the alarm user a letter advising the alarm user of the excess alarm, the duty to repair the alarm system, the liability for excess alarm service charges and the potential of legal action for noncompliance.

(1998 Code, sec. 91.03)

ARTICLE 5.04 FIRE CODE

Sec. 5.04.001 Adopted

(a) Adoption of 2018 International Fire Code. That a certain document, a copy of which is on file in the office of the City Secretary, being marked and designated as the International Fire Code, 2018 edition, including appendix chapters as published by the International Code Council, be and is hereby adopted as the fire code of the City regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the office of the City Secretary are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in section 5.04.002 of this article.

(b) Open to public inspection. A copy of said fire code, supplemental codes, and any amendments shall be filed with the City Secretary and a copy maintained in the Borger Fire Marshal's Office, all such copies to be open to public inspection during business hours of the offices where they are maintained.

(c) Effective date. The International Fire Code, 2018 edition and any amendments to such shall take effect and be in force from and after approval or adoption as required by law.

(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

Sec. 5.04.002 Amendments

The International Fire Code, 2018 edition is hereby amended by adding, deleting, or amending the following sections:

[A] 101.1 Title. These regulations shall be known as the fire code of the City of Borger, hereinafter referred to as “code.”

[A] 110.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under the provisions of this code, shall be cited, and upon conviction thereof shall be punished according to section 1.01.009 of the City of Borger Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] 112.4 Failure to comply. Any person who shall continue any work after having been served with a stop-work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than one hundred ($100.00) dollars or more than five hundred $500.00 dollars.

307.1.2 Offensive smoke and odors. Waste matter shall not be burned under permit or otherwise, which shall in burning, cause or create dense smoke or odors. All waste matter which requires burning shall be burned only in incinerators meeting the requirements of all codes and ordinances adopted and passed by the City of Borger.

307.1.1 Exceptions:

1. Prescribed burning for the purpose of reducing the impact of wildland fire when authorized by the fire code official.
2. Training fires conducted in compliance with all state and federal regulations and specifically authorized by the fire code official which are kindled and maintained for the instruction of firefighting personnel.

307.2 Permit required.

Exception. City of Borger fire hazard mitigation.

307.5.1 Attendance by fire suppression personnel. Bonfires shall be attended by fire suppression personnel as assigned by the fire chief. Permit holder shall pay to the city a service charge for personnel and equipment as in accordance to article 1.07.

319, Mobile Food Preparation Vehicles - is deleted.

5601.1.3 Fireworks. Except as hereinafter provided, it shall be unlawful for any person to manufacture, possess, store, offer for sale, expose for sale, sell at retail, use, or discharge any fireworks within the corporate city limits. The Fire Marshal shall have power to adopt reasonable rules and regulations for granting of display permits for supervised public displays of fireworks by governmental jurisdictions, fair associations, amusement parks, and other organizations; or for the use of fireworks by artisans in pursuit of their trade. Every such use or display shall be handled by a competent operator who is properly licensed and bonded. Each such display shall be investigated and approved by the Fire Marshal and shall be located, discharged, or fired, so as in the opinion of the Fire Marshal, is deemed not to be hazardous to property or endanger any person. A display permit must be secured for such use or display, with application for the display permit being made at least ten (10) days in advance of the date of the display. Issuance of such permit will be considered only if all other provisions of city ordinances, the fire code, and state law are strictly adhered to. Should such display permit be granted, the possession, use, and/or distribution of fireworks for such display shall be lawful for that purpose only. No display permit granted hereunder shall be transferable.

5601.7 Seizure. Where the possession, manufacture, storage, sale, handling and use of fireworks are prohibited the fire code official, fire department and police department is authorized to remove or cause to be removed or disposed of in an approved manner, at the expense of the owner, explosives, explosive materials of fireworks offered or exposed for sale, stored, possesses or used in violation of this chapter.

5704.2.9.6.1 Locations where above-ground tanks are prohibited. The storage of class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by zoning requirements.

> **Exception**: When approved by the planning, zoning authority and when approved by the fire code official.

5706.2.4.4 Locations where above-ground tanks are prohibited. The storage of class I and II liquids in above-ground tanks is prohibited within the limits established by zoning requirements.

> **Exception**: When approved by the planning or zoning authority and when approved by the fire code official.

5806.2 Limitations. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by zoning requirements.

> **Exception**: When approved by the planning or zoning authority (in jurisdictions requiring this specific approval) and when approved by the fire code official.

6104.2 Maximum capacity within established limits. Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L).

> **Exception**: In particular installations, this capacity limit shall be determined by the fire code official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed LP-gas containers, degree of fire protection to be provided and capabilities of the local fire department.

(Ordinance O-012-14 adopted 12/16/14)(Ord. # O-004-21, 04/06/2021)

Effective on: 4/6/2021

ARTICLE 5.05 FIRE HAZARD MITIGATION

Sec. 5.05.001 Definitions

Authorized burn. The controlled application of fire to naturally occurring vegetative fuels under specified environmental conditions and confined to a predetermined area, following appropriate planning and precautionary measures. (Ordinance O-006-08, sec. 2, adopted 4/7/08)

Burn manager. The city fire chief or his/her authorized designee having reasonable training and experience to conduct the specific burn operation. (Ordinance O-003-18 adopted 1/16/18)

Extinguished. The absence of any visible flames, glowing coals, or smoke.

Neighborhood. A platted subdivision or property contiguous to and within 300 feet of a platted subdivision.

Practical alternative. An economically, technologically, ecologically, and logistically viable option.

Sec. 5.05.002 Rural/urban interface hazard mitigation program

Hazard mitigation is an important part of any city's plans and procedures for protecting the life and property of their citizens. The city recognizes that a large hazard exists from wildfires and their interface with the urban areas of the city. In order to mitigate these hazards, the city has adopted the following rural/urban interface hazard mitigation program to reduce the hazardous fuel loads in the rural/urban interface through authorized burns of land deemed a public hazard based on the height and amount of weeds. The following sections will regulate the program.

(Ordinance O-006-08, sec. 2, adopted 4/7/08)

Sec. 5.05.003 Authorized burns within the corporate city limits

(a) Preparation.

(1) Targeted areas for authorized burning will be determined by assessing levels of hazards to the area. An advisory group consisting of the city's emergency management coordinator, the city's fire marshal's office, and the city's fire department administration will make the determination. Final approval for any authorized burn rests with the burn manager.

(2) Landowners will be notified by mail or personal contact by fire department personnel when possible. Landowners must be notified in writing that the property has been deemed a public hazard and that the city will be abating the hazard. When possible, release of liability and written permission from the property owner will be obtained.

(3) Specific information regarding authorized burns will be posted on the public information sources of the city. This includes, but is not limited to, the city's public access cable channel, the city's website, newspapers serving the city, and any other source deemed necessary or appropriate by the city.

(4) Prior to burning, sufficient planning shall have been conducted and the area shall have been prepared. Preparations include the removal of harmful debris and trash, removal of disproportionate fuel loads, the creation of fire breaks where needed, and any other appropriate action as deemed necessary by the city or county fire marshal and/or the city fire chief. Electrical insulation, treated lumber, plastics, nonwood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.

(5) Notification will be made to all applicable agencies as required by state law.

(6) Authorization from the TCEQ's executive director shall be required as outlined in section 111.215 of the TCEQ's Texas Administrative Code prior to burning unless state law states otherwise.

(b) Burning.

(1) Any authorized burn will be conducted on a day when the weather is deemed appropriate. The burn manager will develop a checklist of required signatures to sign off on the burn before the activities commence. In no instance shall burning start: more than one hour before sunrise, when the predicted wind speed is less than six miles per hour (mph) (5 knots) or greater than 23 mph (20 knots) during the burn period and during periods of actual or predicted persistent low level atmospheric temperature inversions. In all cases, any authorized burn must be completed no later than one hour before sunset.

(2) The National Incident Management System (NIMS) shall be utilized throughout any and all authorized burns. Appropriate individuals from all participating agencies shall be directly involved in all stages of the operations and management of the authorized burn.

(3) The burn manager shall insure that sufficient personnel and equipment will be available at the scene and/or at the fire station to ensure the proper containment of the authorized burn during the burn period.

(4) The burn manager shall develop a checklist outlining the steps to be completed for the conducting of a safe authorized burn and the completed checklist shall be maintained as documentation of the authorized burn.

(5) All outdoor burning conducted under this section shall be consistent with the Texas Clean Air Act and the TCEQ's Texas Administrative Code.

(c) Documentation.

(1) All steps of the authorized burn shall be documented and each burn shall have a file maintained at the city central fire station.

(2) Pictures shall be taken to document the before and after state of the burn area.

Sec. 5.05.004 Authorized burns within the extraterritorial jurisdiction

(a) Preparation.

(1) Targeted areas for authorized burning will be determined by assessing levels of hazards to the area. An advisory group consisting of the city's emergency management coordinator, the county's fire marshal office, and the city's fire department administration will make the determination. Final approval for any authorized burn rests with the burn manager.

(2) Landowners must be notified and provide a release of liability and written permission for the burn.

(3) Specific information regarding authorized burns will be posted on the public information sources of the city. This includes, but is not limited to, the city's public access cable channel, the city's website, newspapers serving the city, and any other source deemed necessary or appropriate by the city.

(4) Prior to burning, sufficient planning shall have been conducted and the area shall have been prepared. Preparations include the removal of harmful debris and trash, removal of disproportionate fuel loads, the creation of fire breaks where needed, and any other appropriate action as deemed necessary by the county fire marshal and/or the city fire chief. Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.

(5) Notification will be made to all applicable agencies as required by state law.

(6) Burns in the extraterritorial jurisdiction are subject to county burn bans. Expressed permission to conduct the burn must be obtained from the county judge or other duly authorized county designee during the time a county burn ban is in effect.

(b) Burning.

(1) Any authorized burn will be conducted on a day when the weather is deemed appropriate. The burn manager will develop a checklist of required signatures to sign off on the burn before the activities

commence. In no instance shall burning start: more than one hour before sunrise, when the predicted wind speed is less than six miles per hour (mph) (5 knots) or greater than 23 mph (20 knots) during the burn period and during periods of actual or predicted persistent low level atmospheric temperature inversions. In all cases, any authorized burn must be completed no later than one hour before sunset.

(2) The National Incident Management System (NIMS) shall be utilized throughout any and all controlled burns. Appropriate individuals from all participating agencies shall be directly involved in all stages of the operations and management of the authorized burn.

(3) The burn manager shall insure that sufficient personnel and equipment will be available at the scene and/or at the fire station to ensure the proper containment of the authorized burn during the burn period.

(4) The burn manager shall develop a checklist outlining the steps to be completed for the conducting of a safe authorized burn and the completed checklist shall be maintained as documentation of the authorized burn.

(5) All outdoor burning conducted under this section shall be consistent with the Texas Clean Air Act and the TCEQ's Texas Administrative Code.

(c) Documentation.

(1) All steps of the authorized burn shall be documented and each burn shall have a file maintained at the city central fire station.

(2) Pictures shall be taken to document the before and after state of the burn area.

(Ordinance O-006-08, sec. 2, adopted 4/7/08; Ordinance O-003-18 adopted 1/16/18)

Sec. 5.05.005 Exclusions

Burning at a city-owned or officially designated limb pile falls under a separate standard, whereas the burn is not dependent on the wind requirements as listed in section 5.05.003(b)(1) and section 5.05.004(b)(1). Therefore, no minimum wind speed is required. Maximum wind speed would still apply unless heavy precipitation of snow is present. (Ordinance O-003-18 adopted 1/16/18)

CHAPTER 6 HEALTH AND SANITATION

Contents:

ARTICLE 6.01 GENERAL PROVISIONS*

ARTICLE 6.02 UNSANITARY AND UNSIGHTLY CONDITIONS ON PRIVATE PREMISES†

ARTICLE 6.03 MOSQUITO CONTROL*

ARTICLE 6.01 GENERAL PROVISIONS*

(Reserved)

ARTICLE 6.02 UNSANITARY AND UNSIGHTLY CONDITIONS ON PRIVATE PREMISES†

Division 1. Generally

Sec. 6.02.001 Stagnant water

It shall be unlawful for the owner of any lot or other premises in the city to allow or permit holes or places where water may accumulate and become stagnant to be or remain on such lot or premises or to allow or permit the accumulation of stagnant water thereon, or to permit the same to remain thereon. (1998 Code, sec. 92.01)

State law reference–Municipal power concerning stagnant water and other unsanitary conditions, V.T.C.A., Health and Safety Code, secs. 342.001, 342.005 et seq.

Sec. 6.02.002 Carrion, filth or other unwholesome matter

It shall be unlawful for the owner of any lot, building, house, establishment or premises in the city to allow or permit any carrion, filth or any other impure or unwholesome matter of any kind to accumulate or remain thereon. (1998 Code, sec. 92.02)

Sec. 6.02.003 Accumulations of waste or unsanitary matter; outdoor storage

(a) Prohibited conditions. It shall be unlawful for any person having supervision or control of any lot, tract or parcel of land, whether occupied or unoccupied, within the city limits, to:

(1) Permit the accumulation of rubbish, trash, solid waste, garbage or debris on such premises;

(2) Permit the accumulation of unsanitary matter upon such premises;

(3) Permit or allow the accumulation, in view from public property or from adjacent private property, of materials, equipment, merchandise or personal property of any kind;

(4) Permit or allow the outdoor storage of materials, equipment, or merchandise of any type, unscreened, that is required to be screened by other sections of this code.

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

Debris. Generally encompasses the entire gamut of unused material substances which may be from a natural or manmade cause, but whose attributes constitute at least the common elements of rubbish, trash, and garbage.

Garbage. Putrescible animal and vegetable waste materials resulting from the storage, handling, preparation, cooking or consumption of food.

Rubbish. Nondecayable wastes, except ashes, from a public or private establishment or residence.

Solid waste. Any organic or nonorganic material created as a result of human or animal physical accretions, secretions, or discharge; residual results, products, discharges, or any creation of byproducts or products from manufacturing, research, or testing activities.

Trash. Nonputrescible waste consisting of both combustible and noncombustible waste materials, including, but not limited to, paper, rags, cartons, wood, rubber, plastics, yard or lawn trimmings, tree or shrub trimmings, leaves, glass, crockery, tin cans, aluminum cans, scrap metal, scrap lumber, discarded appliances, furniture, vehicle parts, construction waste, ashes and similar material.

(c) Removal required. It shall be the duty of any person having supervision or control of any premises as described in subsection (a) of this section to remove or cause to be removed all such grass, weeds, rubbish, trash, debris, brush,

rubber or any other objectionable unsightly or unsanitary matter of whatever nature as often as may be necessary to comply with this section.

(1998 Code, secs. 92.03, 92.03.1, 92.03.2)

Sec. 6.02.004 Vegetation

(a) It shall be unlawful for any person having supervision or control of any lot, tract or parcel of land occupied or unoccupied within the city limits to allow grass, weeds or any uncultivated plantings to grow in rank profusion:

(1) When weed and uncultivated growth is 12 inches or more in height and 20% or more of the subject property is covered by said vegetation growth.

(2) Along the sidewalk or street adjacent to the premises, between the property line and the curb, or if there is no curb, then within ten feet outside that property line.

(3) In any alley or easement adjacent to the premises measured to the centerline of such alley or easement.

(1998 Code, sec. 92.04)

(b) The city may abate, without notice, the nuisance of weeds in excess of forty-eight (48) inches in height which are an immediate danger to the health, life or safety of any person. (Ordinance adopting Code)

State law references–Authority of municipality to regulate weeds, grass, etc., V.T.C.A., Health and Safety Code, sec. 342.004 et seq.; additional authority to abate dangerous weeds without notice, V.T.C.A., Health and Safety Code, sec. 342.008.

Secs. 6.02.005–6.02.030 Reserved

Division 2. Abatement

Sec. 6.02.031 Notice of violation; hearing; failure to abate

(a) The director of planning and zoning shall cause to be examined any lot, tract or parcel of land suspected of being in violation of the provisions of this article, and where a violation exists, the director of planning and zoning shall give the owner or the person in control of the property, or both, written notice which must be given personally to the owner in writing; by letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or if personal service cannot be obtained: (1) by publication at least once; (2) by posting the notice on or near the front door of each building on the property to which the violation relates; or (3) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates. The notice is still effective if the notice is returned by the United States Postal Service. The notice of violation may inform the owner that, if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city without notice may take any action permitted by this section and assess its expenses as provided by section 6.02.032(b). (1998 Code, sec. 92.05; Ordinance adopting Code)

(b) Should the person notified fail to remedy such violations, the director of planning and zoning may file charges in municipal court and may report such violations to the building standards commission.

(c) Upon report of violations of this section, the building standards commission may schedule a public hearing to determine whether or not such violations constitute a nuisance and should be ordered to be abated.

(d) Should the building standards commission schedule a public hearing, the owner or person in charge of such property shall be given a notice by personal service or certified mail, return receipt requested, at his last known address and by publication at least one time in a newspaper of general circulation in the city, of the time, place and subject matter of such public hearing.

(1998 Code, sec. 92.05)

(e) Should the building standards commission upon such public hearing determine that violations of this section exist and that such violations constitute a nuisance, then the building standards commission may enter an order commanding the owner or person in control, or both, of the property on which such violations exist to abate such nuisance within seven days. Such order shall also state that, should the nuisance continue after the expiration of seven days from the date of the order, the director of planning and zoning may cause the nuisance to be abated at the expense of the property owner.

(f) Should the owner or person in charge of such property, or both, fail to abate the nuisance found to exist by the building standards commission within seven days following the order of the building standards commission, then the director of planning and zoning may cause the nuisance to be abated. The director of planning and zoning, upon completion of such work, shall submit an invoice of the charges for such work to the owner or person in control of such property, or both, which invoice shall request payment within 30 days. If the person to whom the invoice is submitted shall fail to pay the same as requested, then the director of planning and zoning may file a lien, which shall bear interest at the rate of 10% per annum, against the property on which the work was done in the appropriate county deed records.

(1998 Code, sec. 92.05; Ordinance adopting Code)

(g) Any person, firm or corporation who may be aggrieved by the decision of the commission shall have a right of appeal to the city council within ten days from the rendition of such decision, order or requirement by the commission. Said appeals shall be submitted by written notice of appeal to the city council requesting a hearing before the city council, and the action of the city council thereon shall be final. Due process shall not be denied and further appeal may be made to the court of proper jurisdiction. (1998 Code, sec. 92.05)

State law reference–Notice of work or improvements by city, V.T.C.A., Health and Safety Code, sec. 342.006.

Sec. 6.02.032 Abatement by city; recovery of costs incurred by city

(a) Correction or removal of conditions by city. At the expiration of seven days after notification as provided in section 6.02.031, the city may enter upon such premises and may do such work as necessary or cause the same to be done in order that the premises comply with the requirements set forth in Division 1 of this article.

(b) Collection of costs; filing of statement of expenses.

(1) Mailing of bill; due date; administrative charge. The bill for the cost incurred by the city resulting from the abatement of the condition existing by reason of the owner's failure to comply with Division 1 of this article shall be mailed to the owner of the premises and must be satisfied within 30 days of the mailing of the bill. In addition to all other costs an administrative charge of $50 shall be added to cover the city's cost of inspection, reinspection, mailing, publication, bookkeeping and other related administrative expenses.

(1998 Code, sec. 92.06; Ordinance adopting Code)

(3) Filing of statement of expenses. If the bill has not been satisfied within the period specified in subsection (b)(1) of this section, the director of the planning and zoning department may file a statement signed by the mayor with the office of the county clerk for the expenses incurred in the abatement of the above-described condition on the premises, including the administrative costs set out in subsection (b)(1).

(4) Privileged lien; interest. The city shall have a privileged lien on any lot upon which such expense is incurred, second only to tax liens and liens for street improvements, for the cost as specified in subsection (b)(1) of this section plus interest of 10% per annum from the date payment is due.

(5) Suit for recovery and foreclosure. For any such expenditure and interest as aforesaid, suit may be instituted and recovery and foreclosure had in the name of the city.

(6) Proof of amount. The statement made by the director of the planning and zoning department as provided in subsection (b)(2) of this section, or a copy thereof, shall be prima facie proof of the amount expended in any such work performed by the city.

(1998 Code, sec. 92.06)

State law reference–Assessment of expenses, lien, V.T.C.A., Health and Safety Code, sec. 342.007.

ARTICLE 6.03 MOSQUITO CONTROL*

Sec. 6.03.001 Definitions

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning:

Collections of water. Those collections of water contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks or flush closets or other similar water containers.

(1998 Code, sec. 92.15)

Sec. 6.03.002 Treatment of standing and flowing water required

(a) Treatment required. It shall be unlawful to have, keep, maintain, cause or permit within the city any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as effectually to prevent such breeding.

(b) Presence of larvae. The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding therein, and failure to prevent such breeding within three days after notice by the health officer shall be deemed a violation of this article.

(c) Methods of treatment. The method of treatment of any collections of water directed toward the prevention of breeding of mosquitoes shall be approved by the accredited health officer, and may be any one or more of the following:

(1) Screening with wire netting of at least 16 meshes to the inch each way or with any other material which will effectually prevent the ingress or egress of mosquitoes.

(2) Complete emptying every seven days of unscreened containers, together with their thorough drying or cleaning.

(3) Using a larvicide approved and applied under the direction of the health officer.

(4) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven days.

(5) Cleaning and keeping sufficiently free of vegetable growth and other obstructions, and stocking with mosquito-destroying fish.

(6) Filling or draining to the satisfaction of the health officer.

(7) Proper disposal, by removal or destruction, of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water.

(1998 Code, sec. 92.16)

Sec. 6.03.003 Abatement by city

Should the person responsible for conditions giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent the same within three days after due notice has been given to him, the health officer is hereby authorized to do so, and all necessary cost incurred by him for this purpose shall be a charge against the property owner or other person offending, as the case may be. (1998 Code, sec. 92.17)

Sec. 6.03.004 Right of entry; noncompliance

For the purpose of enforcing the provisions of this article, the health officer, or his duly accredited agent, acting under his authority, may at all reasonable times enter in and upon any premises within his jurisdiction; and any person or persons charged with any of the duties imposed by this article failing, within the time designated by this article, or within the time stated in the notice of the health officer, as the case may be, to perform such duties, or to carry out the necessary measures to the satisfaction of the health officer, shall be deemed guilty of a separate violation of this article. (1998 Code, sec. 92.18)

CHAPTER 7 MUNICIPAL COURT

Contents:

ARTICLE 7.01 GENERAL PROVISIONS*

ARTICLE 7.02 BUILDING SECURITY FUND†

ARTICLE 7.03 TECHNOLOGY FUND*

ARTICLE 7.01 GENERAL PROVISIONS*

(Reserved)

ARTICLE 7.02 BUILDING SECURITY FUND†

Sec. 7.02.001 Assessment of fee

(a) All defendants convicted in trial of a misdemeanor offense in municipal court shall be assessed a $3 security fee as cost of court.

(b) A person shall be considered convicted if:

(1) A sentence is imposed on the person;

(2) The person receives community supervision, including deferred adjudication; or

(3) The court defers final disposition of the person's case.

(1998 Code, sec. 36.01(A), (B))

Sec. 7.02.002 Use of fund; administration

The costs collected shall be paid to the finance director and deposited in a fund to be known as the municipal court building security fund. This fund shall be administered under the direction of the city council and may be used only to finance the following items when used for the purpose of providing security services for the municipal court building:

(1) The purchase or repair of X-ray machines and conveying systems;

(2) Handheld metal detectors;

(3) Walk-through metal systems;

(4) Identification cards and systems;

(5) Electronic locking and surveillance equipment;

(6) Bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;

(7) Signage;

(8) Confiscated weapon inventory and tracking systems;

(9) Locks, chains, or other security hardware;

(1998 Code, sec. 36.01(C))

(10) The purchase or repair of bullet-proof glass; and

(11) Continuing education on security issues for court personnel and security personnel.

(Ordinance adopting Code)

ARTICLE 7.03 TECHNOLOGY FUND*

Sec. 7.03.001 Fund established

(a) There is hereby created and established a municipal court technology fund, herein known as the fund, pursuant to Tex. Code Crim. Proc. art. 102.0172.

(b) The fund may be maintained in an interest-bearing account and may be maintained in the general revenue account.

(1998 Code, sec. 36.15)

Sec. 7.03.002 Assessment of fee

(a) The fee shall be in the amount of $4.

(b) The fee shall be assessed and collected from the defendant upon conviction for a misdemeanor offense in the municipal court as a cost of court. A defendant is considered convicted if:

(1) A sentence is imposed on the person;

(2) The person is placed on community supervision, including adjudication community supervision; or

(3) The court defers final disposition of the person's case.

(c) The fee shall be collected on conviction for an offense committed on or after October 1, 2001.

(d) The clerk of the court shall collect the fee and pay the fee to the city finance director, who shall deposit the fee into the municipal court technology fund.

(1998 Code, sec. 36.16)

Sec. 7.03.003 Use of fund; administration

(a) The fund shall be used only to finance the purchase of technological enhancements of the city municipal court, including:

(1) Computer systems;

(2) Computer networks;

(3) Computer hardware;

(4) Computer software;

(5) Imaging systems;

(6) Electronic kiosks;

(7) Electronic ticket writers; or

(8) Docket management systems.

(b) The fund shall be administered by or under the direction of the city council.

(1998 Code, sec. 36.17)

CHAPTER 8 OFFENSES AND NUISANCES

Contents:

ARTICLE 8.01 GENERAL PROVISIONS*

ARTICLE 8.02 PROPERTY OFFENSES

ARTICLE 8.03 PUBLIC PEACE AND SAFETY

ARTICLE 8.04 NOISE*

ARTICLE 8.05 CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES

ARTICLE 8.06 CURFEW FOR MINORS*

ARTICLE 8.07 ABANDONED AND JUNKED MOTOR VEHICLES*

ARTICLE 8.08 IMPOUNDMENT AND SALE OF NUISANCE PROPERTY

ARTICLE 8.09 SEXUAL OFFENDERS' RESIDENCY*

ARTICLE 8.10 ILLICIT SYNTHETIC AND MISBRANDED SUBSTANCES

ARTICLE 8.11 ELECTRONIC CIGARETTES

ARTICLE 8.01 GENERAL PROVISIONS*

Sec. 8.01.001 Adoption of state law

Any act the commission of which constitutes a misdemeanor under the laws of the state is prohibited within the city, and if committed within the city, is hereby declared to be an offense; provided, however, that the penalty therefor shall not exceed the penalty prescribed in section 1.01.009 or the penalty prescribed by state law, whichever is less. (1998 Code, sec. 130.01)

Sec. 8.01.002 Obstructing public ways

(a) General prohibition; exceptions. It shall be unlawful for any person within the city to erect, construct, or permit the erection or construction of any character of obstruction over, on, or across any public way, street, sidewalk, alley, or public property, or between the property line of any lot and a public street or alley line, with the following exceptions:

(1) Fences or canopies temporarily erected for the protection of pedestrians and/or vehicular traffic as required by the building code during the construction or demolition of a building.

(2) Barricades or warning signs required to be placed in the street or right-of-way in connection with utility repairs, street repairs or excavations and other work activities as may be authorized by a permit issued by the building inspector.

(3) Commercial signs or canopies installed in compliance with applicable City Codes or ordinances that extend over the street right-of-way and are a minimum height of eight feet above the sidewalk or grade and which do not project closer than two feet horizontally to the curbline. In the absence of a curb, the curbline shall be established by the city.

(4) The reerection, reconstruction, alteration or repair of any fence, wall or structure authorized by a permit issued by the building inspector. (No permit shall be issued for the repair of any structure of whatever nature if said structure constitutes a sight obstruction or a hazard to the safety of persons or property.)

(5) Hedges or plantings may be placed in the area between the property line and the edge of the street provided their height does not exceed three feet above the gutter flow line, pavement edge or ditch line, and provided the outer limits of such hedge or plantings extend no closer to the curb, pavement edge or ditch than two feet on the property side.

(6) Tree limbs may extend into the area between the property line and the curb, pavement edge, or ditch line and over the street; provided that over the street and for a distance of two feet behind the curb, pavement edge or ditch line the limbs are a minimum height of 15 feet, and from two feet behind the curb, pavement edge or ditch line the limbs are a minimum height of eight feet. Tree limbs extending into the alley shall be a minimum height of 15 feet above the alleyway.

(b) Removal of obstruction. An obstruction of whatever character which is found to be located over, on, or across any public way, street, sidewalk, alley, or public property, or between the property line of any lot and a public street or alley line, that impedes the safe movement of vehicular traffic or pedestrians, or which is a hindrance to or prevents the maintenance of said public ways or utilities placed therein, shall be deemed in violation of this section and shall be removed by the owner or person responsible therefor upon notice from the designated authority of the city. The notice shall contain a reasonable time for removal of the obstruction depending upon the severity of the situation, but in no case shall the time allowed to remove the obstruction exceed ten days. Failure of the owner or person responsible to remove the obstruction in the required time can result in the removal of same by city personnel and the cost of removal being assessed against the owner or person responsible.

(c) Obstruction by individuals. A person shall not stop or stand in the way so as to in any manner obstruct the use of the sidewalks, streets, or any other public place in the city by loafing, lounging or standing in or upon the same.

(d) Placing objects in streets, alleys, or sidewalks. It shall be unlawful for any person to place any materials, boxes, or other objects whatever in or upon any street, alley or sidewalk in the city without first obtaining the written permission of the building inspector. If written permission is obtained, then it shall be unlawful to remove the material so placed without first obtaining the written permission of the city engineer to remove the same.

(1998 Code, sec. 96.01)

Charter reference–Altering streets, obstructions, encroachments, etc., sec. 100.

State law reference–Obstruction of highway or other passageway, V.T.C.A., Penal Code, sec. 42.03.

Sec. 8.01.003 Riding or using bicycles, roller skates, etc., on sidewalks in central business district

(a) Prohibition. It shall be unlawful for any person to ride, operate or move a bicycle, wagon, go-cart or other toy vehicle or to use roller skates as a means of movement on sidewalks within the central business district as that area is designated by the zoning ordinance.

(b) Procedure when violator is minor. In the event the person violating the provisions of this section is a minor as that term is defined under the penal laws of the state, any peace officer of the city shall take possession of the means of movement and take the same to the police station and duly notify the parents of such minor of the violation and surrender possession of such article upon call of one or more parents at the police station.

(1998 Code, sec. 96.02)

ARTICLE 8.02 PROPERTY OFFENSES

Sec. 8.02.001 Climbing water towers, poles and similar structures

It shall be unlawful for any person, not employed to do so, to climb or ascend any water tower, windmill tower, telephone, telegraph, electric light or any other publicly or privately owned pole in the city. (1998 Code, sec. 130.15)

ARTICLE 8.03 PUBLIC PEACE AND SAFETY

Sec. 8.03.001 Abandoning refrigerators or similar containers

It shall be unlawful for any person to place or permit to remain outside of any dwelling, building, or other structure, or within any warehouse or storage room or any unoccupied or abandoned dwelling, building, or other structure, under such circumstances as to be accessible to children, any icebox, refrigerator, or other airtight or semi-airtight container which has a capacity of 1-1/2 cubic feet or more and an opening of 50 square inches or more and which has a door or lid equipped with a latch or other fastening device capable of securing such door or lid shut. (1998 Code, sec. 130.25)

State law reference–Regulation of abandoned refrigerators, freezers, and similar containers, V.T.C.A., Health and Safety Code, sec. 756.011 et seq.

Sec. 8.03.002 Discharging weapons

It shall be unlawful for any person to discharge any gun, pistol or firearm of any kind, or to discharge an air rifle or air pistol of any description, by whatever name known, that by means of compressed air, compressed gas, springs, or any other means is capable of discharging shots, pellets, or any solid object at a velocity in excess of 300 feet per second, or to discharge any cannon cracker or torpedo on or across any public square, street, alley, or other public or private property within the city; provided, however, this section shall not apply to law enforcement officers in the discharge of their duty or training. A "cannon cracker" is any combustible package more than two inches long and more than one inch through. (1998 Code, sec. 130.26)

State law references–Authority of municipality regarding firearms and explosives, V.T.C.A., Local Government Code, sec. 229.001; disorderly conduct, V.T.C.A., Penal Code, sec. 42.01.

Sec. 8.03.003 Refusing to aid peace officer

It shall be unlawful for any person being called on by the chief of police or any other peace officer to refuse or fail to aid such officer in any manner in which, by law, he may be rightfully called on to aid or assist in the execution of a duty incumbent upon such officer. (1998 Code, sec. 130.27)

Sec. 8.03.004 Loitering

(a) A person commits a violation if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances make it impractical, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting the person to identify himself or herself and to explain his or her presence or conduct. Before this explanation is requested by the police officer, the person must be given his or her Miranda warning. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding two sentences, or if it appears at trial that the explanation given by the person was true and, if it had been believed by the police officer at the time, would have dispelled the alarm. Any police officer may arrest any person suspected of being a loiterer or prowler without a warrant if it reasonably appears that the delay in arresting the suspect caused by obtaining a warrant would result in the suspect's escape.

(b) It shall be unlawful for any person, after first being warned by a police officer, or where a "no loitering" sign or signs have been posted, to loiter, stand, sit, or lie in or upon any public or quasi-public sidewalk, street, curb,

crosswalk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon. It shall be unlawful for any person to block, obstruct, or prevent free access to the entrance to any building open to the public.

(c) For the purpose of this section, “public place” has the following definition unless the context clearly indicates or requires a different meaning: an area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(1998 Code, sec. 130.28)

ARTICLE 8.04 NOISE*

Sec. 8.04.001 Unreasonable noises prohibited

The creation of any unreasonable loud, disturbing and unnecessary noises in the city is hereby prohibited. Noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of any ordinary reasonable person, or disturb the comfort and repose of any reasonable person of normal sensibilities in the vicinity, are hereby prohibited. (1998 Code, sec. 93.01)

Sec. 8.04.002 Examples of unreasonable noises

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article; provided, however, that such enumeration shall not be construed to be exclusive of other noises:

(1) The playing of any radio, phonograph, amplifier, loudspeaker or any musical instrument in such manner, or with such volume, as to create a noise such as is reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity.

(2) The use of any motor vehicle so out of repair, so loaded or operated in such manner as to create loud or unnecessary noises such as spinning or squealing tires, grating, grinding, rattling or other noise.

(3) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

(4) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(5) The use of any mechanical device operated by compressed air or otherwise, except pneumatic drills, unless the noise thereby created is effectively muffled and reduced.

(6) The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public safety, and then only with a permit from the chief of police, which permit may be renewed for a period of three days or less while the emergency continues.

(7) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the working of such institution, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(8) The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.

(9) The shouting and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.

(10) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale of merchandise.

(11) The use of loudspeakers or amplifiers on any vehicle.

(12) Yelling, shouting, hooting, whistling, or singing on the public streets at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(13) The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort or repose of any persons in the vicinity.

(1998 Code, sec. 93.02)

ARTICLE 8.05 CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES

Sec. 8.05.001 Definitions

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

Alcoholic beverage shall mean an alcoholic beverage as defined in the Texas Alcoholic Beverage Code.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Downtown Borger Area shall mean the area contained within the following boundaries:

From the centerline of Weatherly Street to the centerline of Deahl Street from their intersection with Third Street (State Highway 152) at their intersection with10th Street.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Open container shall mean any bottles or other containers of alcoholic beverages which have had the seal broken, but have the cap or lid on the container, and shall also include containers such as cups, mugs, glasses, thermos bottles, and flasks.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Possession shall mean being in close proximity to an open container of alcoholic beverage and not just the physical possession of said container.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Right-of-way shall mean the entirety of any public street area. A strip of land including the public roadway and adjacent pedestrian ways, being all property owned by the city in fee simple and any dedications to the public.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sidewalk area shall mean those portions of a street right-of-way not used as a roadway, generally located between the curb or edge of the roadway and the adjacent property line.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 8.05.002 Prohibition

Except as hereinafter provided, it shall be unlawful for any person to consume any alcoholic beverages (as defined in Tex. Alcoholic Beverage Code section 1.04(1)) while in any of the public parks, streets, alleys and parking lots as described in section 8.05.004.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 8.05.003 Prima facie evidence of consumption

The possession of an open container of alcoholic beverage shall be deemed prima facie evidence of the consumption of alcoholic beverages.

(1998 Code, sec. 94.51; (Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 8.05.004 Prohibited locations

Except as hereinafter provided, it shall be unlawful for any person to consume or possess any alcoholic beverage (as defined in Texas Alcoholic Beverage Code, section 1.04(1)) while in any public park, public-owned parking lot, municipal facility, municipal building, Marcy Trail and Gregg Drive (located on the campus of Frank Phillips College), or on any street or alley within the city.

Exceptions:

(1) The Municipal Golf Course property.
(2) Johnson Park softball field area.
(3) Johnson Park horseshoe pitching and picnic area.
(4) Johnson Park soccer/football field area.
(5) Huber Park recreational vehicle parking area.
(6) Huber Park, Cofield Park, or the Cofield Community Building with a Park Alcohol Permit issued in compliance with Section 4.02.007 of this code.
(7) The Come Civic and Convention Center with a Park Alcohol Permit issued in compliance with Section 4.02.007 of this code.
(8) A special event in the Downtown Borger Area that:
    (A) Has a Park Alcohol Permit issued in compliance with Section 4.02.007 of this code; and,
    (B) Has an Event Permit issued in compliance with ARTICLE 4.11 of this code; and,
    (C) Has a valid permit or license to sell or serve alcoholic beverages issued by the Texas Alcoholic Beverage Commission.

(Ordinance O-007-03, sec. 94.52, adopted 7/1/03; (Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

Sec. 8.05.005 State law to control

The penalties provided for by this chapter are subject to the limitations of the Texas Alcoholic Beverage Code, and if there is any conflict between the penalties of this chapter and the state law, then to that extent the state law controls, and the municipal court of the city will have jurisdiction of any offense under this chapter and under the state law only where the Constitution and the general law of this state confer such jurisdiction.

(Ord. # O-005-22, 06/21/2022)

Effective on: 6/21/2022

ARTICLE 8.06 CURFEW FOR MINORS*

Sec. 8.06.001 Definitions

Curfew hours.

(1) From 11:01 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day;

(2) From 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

Emergency. Any unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment. Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian.

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

Minor. Any person under 17 years of age.

Operator. Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and officers of a corporation.

Parent. A person who is:

(1) A natural parent, adoptive parent, or stepparent of another person, but does not include a parent whose parental rights have been terminated; or

(2) A person who is at least 18 years of age and has supervision of the minor may qualify for care and custody for any signal event, if such authorization is in writing and can be presented and established.

Public place. Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain. To:

(1) Linger or stay;

(2) Walk, run, idle, wander, stroll, or aimlessly drive or ride about in or upon any public place; or

(3) Fail to leave the 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.

Sec. 8.06.002 Penalties

(a) A person who violates a provision of this article 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 as provided in section 1.01.009.

(b) When required by section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 8.06.003 and shall refer the minor to juvenile court.

Sec. 8.06.003 Offenses

(a) A minor commits an offense if he remains in any public place or on the premises of an establishment within the city during curfew hours.

(b) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(c) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Sec. 8.06.004 Defenses

(a) It is a defense to prosecution under section 8.06.003 above that the minor was:

(1) Accompanied by the minor's parent or guardian;

(2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(5) Involved in an emergency;

(6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(7) Attending an official school, religious, charitable, or other recreational activity supervised by adults and sponsored by the city, Borger Independent School District, a civic organization, or another similar entity that has undertaken responsibility for the minor, or going to or returning home from such activity, without any detour or stop;

(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, and exercising rights protected by the Texas Constitution;

(9) Married or had been married or had disabilities of minority removed in accordance with chapter 31 of the Texas Family Code (as amended); or

(10) Acting at the direction of a peace officer.

(b) It is a defense to prosecution under section 8.06.003 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.

Sec. 8.06.005 Enforcement

Before taking any enforcement action under this article, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defenses are available in section 8.06.004.

(Ordinance O-002-10 adopted 7/6/10)

ARTICLE 8.07 ABANDONED AND JUNKED MOTOR VEHICLES*

Division 1. Generally

Sec. 8.07.001 Definitions

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

Abandoned motor vehicle. A motor vehicle is abandoned if the motor vehicle:

(1) Is inoperable, is more than five (5) years old, and has been left unattended on public property for more than 48 hours;

(2) Has remained illegally on public property for more than 48 hours;

(3) Has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;

(4) Has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours; or

(5) Has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the state turnpike authority or a controlled-access highway. For the purpose of this subsection (5), "controlled-access highway" has the meaning assigned by Tex. Transp. Code section 541.302.

(Ordinance O-005-03, sec. 95.01, adopted 5/6/03)

Antique vehicle. A passenger car or truck that is at least 25 years old. (Ordinance O-005-03, sec. 95.01, adopted 5/6/03; Ordinance adopting Code)

Department. The state department of transportation.

Garagekeeper. An owner or operator of a storage facility.

Junked vehicle. A vehicle that is self-propelled and inoperable and:

(1) Does not lawfully have affixed to it:

(A) An unexpired license plate;

(Ordinance O-005-03, sec. 95.01, adopted 5/6/03)

(B) A valid motor vehicle inspection certificate; and (Ordinance O-005-03, sec. 95.01, adopted 5/6/03; Ordinance adopting Code)

(2) Is wrecked, dismantled or partially dismantled, or discarded; or

(3) Has remained inoperable for more than 30 consecutive days if on private property, or

(4) Has remained inoperable for more than 72 consecutive hours, if on public property.

Law enforcement agency.

(1) Department of public safety;

(2) Police department of the city;

(3) Police department of an institution of higher education; or

(4) Sheriff's department or constable of the county.

Motor vehicle. A vehicle that is subject to registration under Texas Transportation Code chapter 501, except that for purposes of section 8.07.031 through section 8.07.033 "motor vehicle" includes a motorboat, outboard motor, personal watercraft or vessel subject to registration under Texas Parks and Wildlife Code chapter 31.

Motor vehicle collector. A person who:

(1) Owns one or more antique or special interest vehicles; and

(2) Acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Motor vehicle demolisher. A person in the business of:

(1) Converting motor vehicles into processed scrap or scrap metal; or

(2) Wrecking or dismantling motor vehicles.

Police department. The police department of the city.

Special interest vehicle. A motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Storage facility. Includes a garage, parking lot, or establishment for the servicing, repairing, or parking of motor vehicles.

(Ordinance O-005-03, sec. 95.01, adopted 5/6/03)

Sec. 8.07.002 Right of entry; enforcement

Any person duly authorized by the city to administer the procedures authorized by this article may enter private property for the purposes specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. The municipal court may issue orders necessary to enforce the procedures. (Ordinance O-005-03, sec. 95.02, adopted 5/6/03)

Sec. 8.07.003 Effect of article on other laws authorizing removal of vehicles

This article relating to junked and abandoned motor vehicles does not affect any law or ordinance authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property. (Ordinance O-005-03, sec. 95-03, adopted 5/6/03)

Secs. 8.07.004–8.07.030 Reserved

Division 2. Abandoned Motor Vehicles

Sec. 8.07.031 Authority to move and remove vehicles

(a) Whenever a police officer finds a vehicle unattended upon a street or highway in violation of any provisions of a statute or ordinance, such police officer is authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same to a position off the paved or main-traveled part of such highway or street.

(b) Any police officer is authorized to remove a vehicle from any public or private property to the nearest garage, or other place of safety, or to a storage place designated by the city, under the following circumstances:

(1) When any vehicle is left unattended upon any bridge or causeway where such vehicle is an obstruction to traffic;

(2) When any vehicle is illegally parked so as to block the entrance to any private driveway and it is impractical to move such vehicle from in front of the driveway to another point along the highway;

(3) When any vehicle is found upon a highway and report has previously been made that such vehicle has been stolen or complaint has been filed and warrant thereon issued charging that such vehicle has been embezzled;

(4) When any such police officer has reasonable grounds to believe that any vehicle has been abandoned;

(5) After a vehicle that does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, or is so disabled that its normal operation is impossible or impractical, has been parked on any public highway, and after the owner has been given at least 48 hours' notice either in person or in writing attached to the windshield at the beginning of the 48-hour period that the vehicle will be removed after the expiration of such period; and

(6) When an officer arrests any person driving or in control of a vehicle for an alleged offense and such officer is authorized by this code or other law to take the person arrested into custody or to take the person immediately before a magistrate.

(c) Any vehicle standing unattended may be moved by any member of the police or fire department, and any police officer or firefighter may require the moving of any such vehicle if it obstructs the free movements of such persons in the actual discharge of their duties.

(d) Any member of the police department is hereby authorized to remove any vehicle parked or standing in or on any portion of a highway when, in the opinion of the member of the police department, the vehicle is a hazard, or interferes with a normal function of a governmental agency, or because of any catastrophe, emergency or unusual circumstance the safety of the vehicle is imperiled.

(e) The police department may employ its own personnel, equipment, and facilities to remove, preserve and store such vehicles it takes into custody.

(Ordinance O-005-03, sec. 95.10, adopted 5/6/03)

Sec. 8.07.032 Notice of removal; storage fees

(a) The police department that takes into custody an abandoned motor vehicle shall notify, no later than the tenth day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lienholders of record pursuant to the Certificate of Title Act, or Texas Parks and Wildlife Code chapter 31, that the vehicle has been taken into custody. The notice shall describe the year, make, model and vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, and inform the owner and any lienholders of their right to reclaim the motor vehicle not later than the 20th day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges if notice is given under section 8.07.034. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lienholders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

(b) If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and address of all lienholders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this section. The notice by publication may contain multiple listings of abandoned vehicles, shall be published with the same requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle are as set forth in a valid notice given under this section.

(d) The police department or agent of the police department that takes custody of an abandoned motor vehicle is entitled to reasonable storage fees for:

(1) A period of not more than ten days beginning on the day the department takes custody and continuing through the day the department mails notice as provided by this section; and

(2) A period beginning on the day after the day the department mails notice and continuing through the day any accrued charges are paid and the vehicle is removed.

(Ordinance O-005-03, sec. 95.11, adopted 5/6/03)

Sec. 8.07.033 Auction of unclaimed vehicles; transfer of title; disposition of proceeds

If an abandoned motor vehicle has not been reclaimed as provided by section 8.07.032, the police department shall sell the abandoned motor vehicle at a public auction. Proper notice of the public auction shall be given, and in the case of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of the auction. The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department, and is entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under section 8.07.032. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage and all notice and publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned vehicle are insufficient to meet these expenses and costs. The city may transfer funds in excess of $1,000.00 from the account to the general revenue account to be used by the police department. (Ordinance O-005-03, sec. 95.12, adopted 5/6/03)

Sec. 8.07.034 Disposition of vehicles abandoned at garagekeeper's establishment

(a) A motor vehicle left for more than ten (10) days in a storage facility operated for commercial purposes after notice is given by registered or certified mail, return receipt requested, to the owner and to any lienholder of record under the Certificate of Title Act to pick up the vehicle, or for more than ten (10) days after a period when under a contract the vehicle was to remain on the premises of the storage facility, or a motor vehicle left for more than ten (10) days in a storage facility by someone other than the registered owner or by a person authorized to have possession of the motor vehicle under contract of use, service, storage or repair is considered an abandoned vehicle, and shall be reported by the garagekeeper to the police department. If the notice to the owner or a lienholder is returned by the post office unclaimed, notice by one publication in one newspaper of general circulation in the area in which the vehicle was left in storage is sufficient notice. (Ordinance O-005-03, sec. 95.13, adopted 5/6/03)

(b) If a garagekeeper or storage facility acquires possession of a motor vehicle for a purpose other than repair, the garagekeeper or storage facility is entitled to towing, preservation, and notification charges and to reasonable storage fees, in addition to storage fees earned pursuant to contract for each day, up to a maximum of five days only until notification is mailed to the last known registered owner and all lienholders of record as provided by this section. After such notice is mailed, storage fees may continue until the vehicle is removed and all accrued charges are paid. A garagekeeper who fails to report the possession of an abandoned vehicle to the police department within seven days after it becomes abandoned may no longer claim reimbursement for storage of the vehicle. (Ordinance O-005-03, sec. 95.13, adopted 5/6/03; Ordinance adopting Code)

(c) The police department, upon receipt of a report from a garagekeeper of the possession of a vehicle considered abandoned under the provisions of this section, shall follow the notification procedures provided by section 8.07.032, except that custody of the vehicle shall remain with the garagekeeper until after compliance with

the notification requirements. A fee of $5 shall accompany the report of the garagekeeper to the police department. The $5 fee shall be retained by the police department receiving the report and used to defray the cost of notification or other costs incurred in the disposition of an abandoned motor vehicle. (Ordinance O-005-03, sec. 95.13, adopted 5/6/03)

(d) An abandoned vehicle left in a storage facility and not reclaimed after notice is sent in the manner provided by section 8.07.032 shall be taken into custody by the police department and sold in the manner provided by section 8.07.033. The proceeds of sale under this section shall first be applied to the garagekeeper's charges for servicing, storage and repair, but as compensation for the expense incurred by the police department in placing the vehicle in custody and the expense of auction, the police department shall retain 2% of the gross proceeds of the sale of each vehicle auctioned, unless the gross proceeds are less than $10.00. If the gross proceeds are less than $10.00, the department shall retain the $10.00 to defray expenses of custody and auction. Surplus proceeds remaining from an auction shall be distributed in accordance with section 8.07.033. An abandoned vehicle left in a storage facility and not reclaimed after notice is sent in the manner provided by this article may be taken into custody by the police department and used for police department purposes. (Ordinance O-005-03, sec. 95.13, adopted 5/6/03; Ordinance adopting Code)

(e) Except for the termination or limitation of a claim [for] storage for failure to report an abandoned motor vehicle, nothing in this section may be construed to impair a lien of a garagekeeper under the laws of this state.

(f) A person charging fees under this section commits an offense if the person charges a storage fee for a period of time not authorized under this section. Such offense is a misdemeanor punishable by a fine as provided in section 1.01.009.

(Ordinance O-005-03, sec. 95.13, adopted 5/6/03)

Sec. 8.07.035 Disposal of vehicles to demolishers

(a) A person, firm, corporation or unit of government on whose property or in whose possession is found any abandoned motor vehicle or a person who is the owner of a motor vehicle whose title certificate is faulty, lost or destroyed may apply to the state department of transportation for authority to sell, give away, or dispose of the vehicle to a demolisher. (Ordinance O-005-03, sec. 95.14, adopted 5/6/03; Ordinance adopting Code)

(b) A person, firm, corporation or unit of government may dispose of a motor vehicle to a demolisher if:

(1) The abandoned motor vehicle is eight (8) years of age or older;

(2) The abandoned motor vehicle either has no motor or is otherwise totally inoperable; or

(3) The abandoned motor vehicle does not comply with applicable air pollution emissions control related requirements required by state law;

(4) The abandoned motor vehicle was authorized to be towed by a law enforcement agency; and

(5) The law enforcement agency approves the application; and

(6) The person submits a $2 fee, unless the application is submitted by a unit of government.

(Ordinance O-005-03, sec. 95.14, adopted 5/6/03)

Sec. 8.07.036 Duties of demolishers

(a) A demolisher who purchases or otherwise acquires a motor vehicle to wreck, dismantle or demolish shall obtain a valid certificate of title, sales receipt or transfer document under section 8.07.033 and section 8.07.064, respectively, or certificate of authority from the person delivering the vehicle for demolition, but the demolisher is not required to obtain a certificate of title for the motor vehicle in the demolisher's name. On demand of the department of transportation, the demolisher shall surrender for cancellation the certificate of title or authority. The department of transportation shall issue such forms and rules governing the surrender of auction sales

receipts and certificates of title as are appropriate. The Certificate of Title Act governs the cancellation of title of the motor vehicle. (Ordinance O-005-03, sec. 95.15, adopted 5/6/03; Ordinance adopting Code)

(b) A demolisher commits an offense if the demolisher fails to keep an accurate and complete record of a motor vehicle purchased or received in the course of business in the manner provided by this subsection. These records must contain the name and address of the person from whom each motor vehicle was purchased or received and the date of the purchase or receipt. The records shall be open for inspection by the department of transportation or any police department at any time during normal business hours. A record required by this subsection must be kept by the demolisher for at least one year after the transaction to which it applies. A demolisher who commits an offense under this section is on conviction subject to a fine of not less than $100 or more than $1,000, or a term of no less than ten (10) days or more than six (6) months in county jail, or both fine and confinement. (Ordinance O-005-03, sec. 95.15, adopted 5/6/03)

Secs. 8.07.037–8.07.060 Reserved

Division 3. Junked Vehicles

Sec. 8.07.061 Public nuisance

A junk vehicle, including a part of a junk vehicle, that is located in a place where it is visible from a public place or right-of-way:

(1) Is detrimental to the safety and welfare of the public;
(2) Tends to reduce the value of private property;
(3) Invites vandalism;
(4) Creates a fire hazard;
(5) Constitutes an attractive nuisance creating a hazard to the health and safety of others;
(6) Produces urban blight adverse to the maintenance and continuing development of the city; and
(7) Is a public nuisance.

(Ordinance O-005-03, sec. 95.25.1, adopted 5/6/03)

Sec. 8.07.062 Offenses; penalty

A person commits an offense if the person maintains a public nuisance described by section 8.07.061 and upon conviction, shall be deemed guilty of a misdemeanor punishable by a fine as provided in section 1.01.009, and each and every day such offense shall continue shall be deemed a separate offense. The court, upon conviction of the person maintaining a public nuisance, will order abatement and removal of the public nuisance. (Ordinance O-002-07 adopted 2/6/07)

Sec. 8.07.063 Procedure for abatement and removal by city

(a) The city hereby adopts procedures for the abatement and removal of a junk vehicle, or a part of a junk vehicle, as a public nuisance, from public or private property or public rights-of-way. Such vehicle or part of a junk vehicle will not be reconstructed or made operable after removal of the public nuisance.

(b) For a nuisance on private property the city shall give not less than ten (10) days' notice stating the nature of the public nuisance on private property, that the nuisance must be abated or removed not later than the tenth day after the date on which the notice was personally delivered or mailed, and if a hearing is desired a written request for hearing must be made before the ten-day period expires. The notice must be personally delivered or sent by certified mail, five-day return receipt requested, to:

  (1) The last known registered owner of the nuisance;

  (2) Each lienholder 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 public right-of-way, the property adjacent to the right-of-way.

(c) If the notice is returned undelivered, official action to abate the nuisance shall be continued to not earlier than the eleventh day after the date of the return. 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.

(d) For a nuisance on public property, the city shall give not less than ten days' notice, stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within ten (10) days, and if a hearing is desired, a written request for hearing must be made before expiration of the ten-day period. The notice must be personally delivered or mailed by certified mail, with a five-day return receipt requested, to the last known registered owner of the public nuisance, each lienholder of record of the nuisance, and the owner or occupant of the private property, or if the nuisance is located on public right-of-way the property adjacent to the right-of-way. If the notice is returned undelivered, official action to abate the nuisance shall be continued to not earlier than the eleventh day after the date of return.

(Ordinance O-005-03, sec. 95.26, adopted 5/6/03)

(e) Upon request for a hearing as provided herein, a public hearing shall be held before the municipal court of the city for determination of the existence of a junked vehicle as a public nuisance, and for the purpose of entering an order requiring removal of the junk vehicle or junk vehicle part as a public nuisance. Where a request for a hearing has not been received, the judge of municipal court, if shown a public nuisance exists, may conduct a public hearing and enter an order requiring the removal of the junk vehicle or vehicle part as a public nuisance. (Reference Texas Transportation Code as it now exists or may be amended in the future.) The order requiring the removal of the vehicle or vehicle part must include a description of the vehicle and the vehicle identification number and license number of the vehicle if the information is available at the site. A fifty dollar ($50) administrative fee shall be assessed against the owner or lienholder of the vehicle or vehicle part. (Ordinance O-005-03, sec. 95.26, adopted 5/6/03; Ordinance O-009-05 adopted 9/6/05)

(f) Notice shall also be given to the state department of transportation not later than the fifth day after removal. The notice must identify the vehicle or vehicle part. The department shall immediately cancel the certificate of title to the vehicle pursuant to the Certificate of Title Act.

(g) Where the vehicle is declared a public nuisance by the municipal court judge and is ordered to be removed, it shall not thereafter be reconstructed or made operable.

(h) This section does not apply to a vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; a vehicle or vehicle part that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or an unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other approved means.

(i) This section shall be administered by regularly salaried, full-time employees of the city, except that removal of a vehicle or parts thereof from public or private property or public rights-of-way may be by any other duly authorized person under the direction of the city.

(j) The person designated by the city authorized by this section to administer the procedures of this article may enter upon private property for the purposes specified in these procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle and remove or cause the removal of a vehicle or vehicle part that constitutes a public nuisance. The judge of municipal court may issue orders necessary to enforce these procedures.

(k) The relocation of a junk vehicle that is a public nuisance to another location within the corporate limits of the city after a proceeding for the abatement or removal of the public nuisance has commenced has no effect on the proceedings if the junk vehicle constitutes a public nuisance at the new location.

(Ordinance O-005-03, sec. 95.26, adopted 5/6/03)

Sec. 8.07.064 Disposal

A junk vehicle or vehicle part may be disposed of by removal to a scrapyard, demolisher or any suitable site operated by the city for processing as scrap or salvage. The process of disposal must comply with the provisions of section 8.07.063. Upon proper authorization by the city council, the city may operate a disposal site if the city council determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of the vehicles or vehicle parts, or the city may transfer the vehicle or vehicle parts to another disposal site if the disposal is only as scrap or salvage. (Ordinance O-005-03, sec. 95.27, adopted 5/6/03)

ARTICLE 8.08 IMPOUNDMENT AND SALE OF NUISANCE PROPERTY

Sec. 8.08.001 Effect of article on other laws

(a) Nothing contained in this article shall apply to, alter or affect the provisions of this code regulating the impounding and sale of livestock, fowl and dogs.

(b) Nothing contained in this article shall be deemed to abrogate or supersede the abandoned motor vehicle and junked motor vehicle procedures established in ARTICLE 8.07. The provisions of ARTICLE 8.07 shall govern the disposition of abandoned motor vehicles and junked motor vehicles, as those terms are defined in ARTICLE 8.07.

(1998 Code, sec. 97.01)

Sec. 8.08.002 Nuisance property defined

Any property or obstruction placed, left standing, parked, erected or lying in violation of any provision of this code, state law or city ordinance, rule or regulation or left unattended for more than 48 continuous hours in or on any public street, alley, sidewalk, park, or other public place within the city is declared to be a nuisance. (1998 Code, sec. 97.02)

Sec. 8.08.003 Removal authorized

Members of the police department are hereby authorized to remove property of any description from a street or highway to a place designated or maintained by the police department when:

(1) Such property is left unattended upon any public right-of-way and constitutes an obstruction to traffic;

(2) Such property upon a street or highway is disabled so as to constitute an obstruction to traffic, and the person in charge of it because of physical injury or illness is incapacitated to such an extent as to be unable to provide for its custody or removal;

(3) Such property is left unattended on a street either in a place at which parking is prohibited, or beyond the legal limit of parking time;

(4) Such property is declared a nuisance according to section 8.08.002;

(5) Such property is left unattended in a clearly marked fire lane.

(1998 Code, sec. 97.03)

Sec. 8.08.004 Notice of impoundment

(a) If the property removed from the street, as authorized in sections 8.07.031 and 8.08.003, is a motor vehicle and the officer knows or can decide from motor vehicle registration records the name and address of the owner thereof, such officer shall, when practicable, give or cause to be given notice in writing to said owner of the fact of such removal, the reasons therefor, and of the place to which said vehicle has been removed.

(b) If the property removed from the street, as authorized by sections 8.07.031 and 8.08.003, is a motor vehicle and the officer does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as provided in subsection (a) of this section, and if the vehicle is not returned to the owner as provided in section 8.08.005, notice shall be given as provided in ARTICLE 8.07 of this code and Tex. Transp. Code section 683.001 et seq.

(1998 Code, sec. 97.04)

Sec. 8.08.005 Redemption of impounded property before sale

(a) Property removed under the provisions of this article shall be kept at such place as designated by the chief of police and kept there until application for its redemption shall be made by the owner or his authorized agent, who shall be entitled to the possession thereof upon payment of fines and costs of removal and storage that may have accrued thereon.

(b) A reasonable fee for removing the vehicle or other property and for storage shall be charged against the vehicle or other property.

(1998 Code, sec. 97.05)

Sec. 8.08.006 Sale of unredeemed property; bill of sale; redemption after sale

(a) When the property impounded pursuant to this article is not redeemed by the owner or his authorized agent within the time provided by law, it shall be disposed of in the manner prescribed by law.

(b) When an impounded property is not redeemed by the date and time designated in the notice of sale, the chief of police shall sell such property at public auction, and, as city auctioneer, shall execute a bill of sale of the property to the purchaser thereof; provided, he shall not execute or deliver any but a conditional bill of sale unless and until the title of the buyer has become absolute by an expiration of 30 days in time, exclusive of the day of sale, without being redeemed by the owner of the impounded property.

(1998 Code, sec. 97.06)

Sec. 8.08.007 Lien for costs incurred by city; disposition of proceeds of sale

(a) Lien on impounded property. The city shall have a lien on all impounded personal property declared to be a nuisance for all costs incurred in impounding, storing, and advertising such property. Such lien shall be prior and superior to all other liens of every kind, save and except liens for ad valorem taxes; and the city may retain possession thereof until all costs are paid or may sell the same.

(b) Disposition of proceeds of sale. After deducting the impounding fee and all other actual expenses incurred by the city in impounding, storing and selling of property declared to be a nuisance, as determined by the chief of police, not to exceed a reasonable amount for each impounded article, he shall pay the balance of the proceeds of such sale, if any, to the owner of the property. Within six months after such auction sale, the owner may apply in writing to the chief of police, and upon satisfactory proof of ownership, shall be entitled to receive the amount of the proceeds delivered to the city treasury.

(1998 Code, sec. 97.07)

Sec. 8.08.008 Disposal of property not sold at auction

Property declared to be a nuisance which is offered for sale at public auction in accordance with the procedure herein prescribed, and upon which no person bids, shall thereafter be sold or otherwise disposed of as junk. Money received for junk property shall be disposed of in the same manner as proceeds from an auction sale under this article. (1998 Code, sec. 97.08)

Sec. 8.08.009 Records

The chief of police shall keep a record book which shall contain: a description of all property impounded; the date and time of such impounding; the date notices of sale were posted, advertised and mailed to owners and lienholders; the return receipts of registered notices; the date of the sale at auction; the amount realized for each article at such sale; the name and address of the owner and lienholders, if known; the name and address of the auction buyer; and any such other information as he may deem necessary. (1998 Code, sec. 97.09)

ARTICLE 8.09 SEXUAL OFFENDERS' RESIDENCY*

Sec. 8.09.001 Findings and intent

(a) Repeat sexual offenders, sexual offenders that use physical violence and sexual offenders who prey on children present an extreme threat to the public safety. Sexual offenders are likely to use physical violence and to repeat their offenses and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens, particularly children, by prohibiting certain sexual offenders from establishing temporary or permanent residence in certain areas where children are known to regularly congregate and to restrict certain sexual offenders access to parks, public swimming pools, child-care facilities, public or private youth centers, and video arcade facilities.

Sec. 8.09.002 Definitions

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

Child or children. Any person(s) less than seventeen (17) years of age.

Child-care facility. Day nurseries and family day-care homes, as defined in article 42.002, Human Resources Code of the state.

Convicted or conviction. A determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including a court-marshal conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in any sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

Legal guardian or guardian. Biological or adoptive parent of a child, or a person who is responsible for the care and maintenance of said child pursuant to Texas Statutes or similar laws of another jurisdiction.

Minor. A minor is a person younger than seventeen (17) years of age.

Park. Public parks and ball fields, school athletic facilities and playgrounds, and youth centers whether public or private where children under the age of seventeen (17) are known to regularly congregate.

Permanent residence. A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.

Reside or residence. To have a place of permanent or temporary residence.

School. A public or private kindergarten, elementary, middle or secondary (high) school.

Sexual offender. Any person required to register on the state department of public safety's sex offender database because of a violation involving a victim who was less than seventeen (17) years of age as required by chapter 62, Texas Code of Criminal Procedure.

Sexual offense. A conviction under article 21.08, article 21.11, article 22.011, article 22.021, article 25.02, article 43.05, article 43.25 or article 43.26, Penal Code, Texas Statutes, or similar law of another jurisdiction in which the victim of the sexual offense was less than seventeen (17) years of age.

Temporary residence. A place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 8.09.003 Residence prohibition; exceptions

(a) It is unlawful for any person who has been convicted of a violation of article 21.08, article 21.11, article 22.011, article 22.021, article 25.02, article 43.05, article 43.25 or article 43.26, Penal Code, Texas Statutes, regardless of whether the adjudication was deferred, in which the victim of the offense was less than seventeen (17) years of age, to establish a permanent or temporary residence within 500 feet of any premises where children are known to regularly congregate, including but not limited to, a school or school athletic facility, day-care facility, park, public or private youth center, public swimming pool, or video arcade facility, as those terms are defined in article 481.134, Health and Safety Code, Texas Statutes.

(b) The 500-foot distance shall be measured in a straight line from the outer boundary of the real property that comprises a sexual offender's residence to the nearest boundary line of any premises where children are known to regularly congregate, including but not limited to, a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility. The distance may not be measured by a pedestrian route or automobile route, but instead by the shortest distance between the two points.

(c) The planning and zoning department shall develop and update as needed a map of known locations where children regularly congregate, including but not limited to, a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility. This map shall be used by the police department and made available to sexual offenders during the registration process. The revision date of the map used during the registration process of each sexual offender shall be maintained by the police department, ensuring the exception in subsection (d)(4) below, as locations are updated on the map.

(d) Exceptions. A person residing within 500 feet of those places where children are known to regularly congregate, as specified herein does not commit a violation of this article if any of the following apply:

  (1) The person established the permanent or temporary residence prior to the dated adoption of this article and has complied with all the sex offender registration laws of the state.

  (2) The person was a minor when he/she committed the offense and was not convicted as an adult.

  (3) The person is a minor.

  (4) The premises where children are known to regularly congregate, as specified herein, within 500 feet of the person's residence was opened after the person established the permanent or temporary residence, and the person has complied with all the sex offender registration laws of the state.

(e) Subsections (d)(1) and (d)(4) above shall not apply to a sexual offender who is convicted of a subsequent offense as an adult after residing at an established permanent or temporary residence within 500 feet of where children are known to regularly congregate, as specified herein.

Sec. 8.09.004 Access to parks, public swimming pools, child-care facilities, public or private youth centers and video arcade facilities

(a) It is unlawful for a sexual offender convicted of a sexual offense, as defined in section 8.09.003, to knowingly be present in a public park or swimming pool, when a child under the age of seventeen (17) years is present, unless the sexual offender is the parent or legal guardian of a child present in the park or swimming pool.

(b) It is unlawful for a sexual offender convicted of a sexual offense, as defined in section 8.09.003, to knowingly enter or remain at a child-care facility or on its premises unless the sexual offender:

(1) Is dropping off or picking up a child registered at the facility and is the parent or legal guardian of said child.

(2) Remains under the supervision of a facility supervisor or his/her designee while on the facility premises.

(c) It is unlawful for a sexual offender convicted of a sexual offense, as defined in section 8.09.003, to knowingly be present in a public or private youth center or video arcade facility when a child under the age of seventeen (17) years is present, unless the sexual offender is the parent or legal guardian of a child present in the center or facility.

Sec. 8.09.005 Penalties

A violation of any provision of this article shall be a misdemeanor, and any person, firm or corporation convicted hereunder, shall be punished as specified in section 1.01.009, general penalty for violation of code.

(Ordinance O-003-07 adopted 4/3/07)

ARTICLE 8.10 ILLICIT SYNTHETIC AND MISBRANDED SUBSTANCES

Sec. 8.10.001 Covered substances

Under this article, covered substances includes any substance listed as a controlled substance as defined in chapter 481 of the Texas Health and Safety Code (Texas Controlled Substances Act), a controlled substance analogue, or any other compound, mixture or product including but not limited to the following:

(1) [(1R, 2R, 5R)-2-[2, 6-dimethoxy-4-(2-methyloctan-2-yl) phenyl]-7, 7-dimethyl-4-bicyclo [3.1.1] hept-3-enyl] methanol, commonly known as HU-308;

(2) (6aR, 10aR)-3-(1, 1-Dimethylbutyl)-6a, 7, 10, 10a-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran, commonly known as JWH-133;

(3) (-)-2ß-Carbomethoxy-3ß-(4-fluorophenyl) tropane, commonly known as ß-CFT, WIN-35, 428;

(4) (6aR, 10aR)-1-methoxy-6, 6, 9-trimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [c] chromen, commonly known as L-759, 633;

(5) Any aromatic plant material in granular, loose leaf or powder form, or in liquid form or as a food additive, and any herbal incense type stimulant commonly characterized or represented to be legal spice/synthetic cannabinoids/synthetic "legal" marijuana, sold under numerous brand names such as "K-2," and "Spice." Other common brand names may include, but are not limited to: Blaze, Blueberry Haze, Dank, Demon Passion Smoke, Genie, Hawaiian Hybrid, Magma, Mr. Nice Guy, Ninja, Nitro, Ono Budz, Panama Red Ball, Puff, Red X Dawn, Sativah Herble Smoke, Sence, Skunk, Smoke, Ultra Chronic, Voodoo Spice, Yucatan Fire, Zohai, etc.

(6) Any crystalline or powder product in crystalline, loose-powder, block tablet, or capsule form, or any stimulant-type product commonly characterized or represented to be bath salts/synthetic cathinones/synthetic stimulants, sold under numerous brand names such as "Bliss," "Euphoria," "Kratom," and "Super Coke." Other common brand names may include, but are not limited to: Ivory Wave, Purple Wave, Red Dove, White Dove, Blue Silk, Zoom, Bloom, Cloud Nine, Charge +, Ocean Snow, Lunar Wave, Vanilla Sky, White Lightening, Scarface, Snow Leopard, Tranquility, Eight Ballz, Hurricane Charlie, White Rush, Pure Ivory, etc.

(7) Any other substance or substances similar to the above described substances which when inhaled or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or which, in any manner, changes, distorts, or disturbs the auditory, visual, or mental process of the user, when the substance has no other legitimate, nonnarcotic purpose.

(Ordinance O-012-13 adopted 12/3/13)

Sec. 8.10.002 Prohibition on the sale, possession or use

(a) It shall be unlawful for any person to market, publicly display for sale, package or repackage for sale any substance listed or described in section 8.10.001(1) through (7) in such a manner, as to imply or create the impression, under the "totality of the circumstances," that the ingestion or use of the substance will result in any form of euphoria, or will mimic the effect on the human body typically associated with naturally occurring cannabinoids or any other substance listed or described in any penalty group contained in the Texas Controlled Substances Act as it now exists or may be amended. A culpable mental state is not required, and need not be proved, for an offense under this subsection.

(b) It shall be unlawful for any person to knowingly possess, purchase, barter, give, display, breath, inhale, drink, or otherwise ingest, any compound, liquid, or chemical listed or described in section 8.10.001(1) through (7), for the

purpose of inducing a condition of intoxication, stupefaction, giddiness, paralysis, irrational behavior, or which, in any manner, changes, distorts, or disturbs the auditory, visual, or mental process of the user.

(c) The fact that a product's labeling is inconsistent with the regulations of the U.S. Food and Drug Administration or other federal or state law may be considered as an element of the "totality of the circumstances."

Sec. 8.10.003 Prohibition on use or possession of ingestion device paraphernalia

(a) It shall be unlawful for any person to use or possess with intent to use, an ingestion device to inject, ingest, inhale or otherwise introduce into the human body an illicit synthetic or misbranded drug [substance] (as described in this article).

(b) For the purposes of this section an "ingestion device" shall mean any type of equipment or any type of product or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illicit synthetic or misbranded drug [substance] into the human body, including but not limited to:

(1) A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;

(2) Water pipe;

(3) Carburetion tube or device;

(4) Smoking or carburetion mask;

(5) Chamber pipe;

(6) Carburetor pipe;

(7) Electric pipe;

(8) Air-driven pipe;

(9) Chillum;

(10) Bong; or

(11) An ice pipe or chiller.

(Ordinance O-004-13 adopted 3/19/13)

Sec. 8.10.004 Prohibition on use or possession of other paraphernalia or other substances

It shall be unlawful for any person to knowingly or intentionally use or possess any item with the intent to sell or use such item as illicit synthetic or misbranded substance, or paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal an illicit synthetic or misbranded substance in violation of this article. (Ordinance O-012-13 adopted 12/3/13)

Sec. 8.10.005 Exceptions

(a) The prohibitions set forth in section 8.10.002(a) shall not apply to any person or facility regulated under the Texas Pharmacy Act.

(b) The prohibitions set forth in section 8.10.002 shall not apply to any substance if the substance's packaging includes:

(1) The name and physical address of the manufacturer of the product and each ingredient or component thereof;

(2) The name and physical address of each distributor; and

(3) A complete list of all ingredients and components of the product, including their chemical composition, sufficient to provide full disclosure.

(c) The prohibitions set forth in section 8.10.002 shall not apply to any substance labeled in accordance with the regulations of the U.S. Food and Drug Administration or other federal or state law.

(d) It is not a violation of this article if a person purchased, sold, breathed, inhaled, drank, or otherwise ingested the substance under the lawful supervision of an authorized law enforcement officer to enforce or ensure compliance with this article.

(e) It is not a violation of this article if a person breathed, inhaled, drank, or otherwise ingested a substance described in this article pursuant to the lawful direction or prescription of a licensed physician, dentist, etc.

(f) This article does not apply to the inhalation of a lawfully prescribed anesthesia for medical or dental purposes.

Sec. 8.10.006 Penalties

Any person, partnership, corporation, association or legal entity found to have violated any provision of this article or to have failed to comply with any provision of this article shall, upon conviction, be fined in accordance with section 1.01.009 of this code. The imposition of a fine shall be in addition to all other remedies provided in this article. Each day that a violation exists shall constitute a separate offense.

Sec. 8.10.007 Alternative enforcement

(a) The city council having determined and found that this article is intended for the preservation of public health and safety, the city attorney or his/her designee is expressly authorized to institute civil proceedings to obtain temporary and permanent injunctive relief against any violation hereof, to recover any civil penalties permitted by law, and to recover the city's costs.

(b) In any proceeding hereunder, the city shall also request entry of an order for the seizure of any substances or products that violate the provisions of this article.

(Ordinance O-004-13 adopted 3/19/13)

ARTICLE 8.11 ELECTRONIC CIGARETTES

Sec. 8.11.001 Purpose

This article is adopted so that the city council may promote, protect, and improve the health, safety, and general welfare of the citizens of the city under the age of 18 from the hazards of nicotine addiction and the dangers of ingesting products with no clear regulatory oversight as to their purity, contents, and potential negative health impacts, through the regulation of the sale and merchandising of electronic cigarettes, liquid nicotine products, and other flavored liquid products designed to be used in conjunction with electronic cigarettes, the regulation of which is not preempted by federal or state law.

Sec. 8.11.002 Definitions

Electronic cigarette or e-cigarette. An electronic device usually composed of a mouthpiece, a heating element or atomizer, a battery, and electronic circuits that all work together to provide a gas derived from liquid nicotine, and/or other substances, which is inhaled by a user simulating smoking. The term includes such devices, regardless of the details of the product appearance or marketed name, generally manufactured to resemble cigarettes, cigars, pipes, or other smoking devices.

Liquid nicotine. Any liquid product composed either in whole or in part of nicotine, propylene glycol and/or other similar substances, and manufactured for use with an e-cigarette to be converted into a gas for inhaling.

Minor. A person less than 18 years of age.

Person. Any natural person, individual, corporation, limited liability company, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business of any kind.

Photographic identification. A state-issued, district, national or other equivalent government driver's license, identification card or military card, in all cases bearing a photograph and a date of birth; or a valid passport.

Sec. 8.11.003 Prohibited acts and exceptions

(a) A person who is a minor commits an offense if the person:

(1) Possesses, purchases, consumes, or accepts an electronic cigarette, liquid nicotine, or any flavored liquid product designed to be used in conjunction with an electronic cigarette; or

(2) Falsely represents himself or herself to be 18 years of age or older by displaying proof of age that is false, fraudulent, or not actually proof of the individual's own age in order to purchase, receive or obtain possession of an electronic cigarette, liquid nicotine, or any flavored liquid product designed to be used in conjunction with an electronic cigarette.

(b) No person may give, distribute, transfer, sell, market, or offer electronic cigarettes, liquid nicotine, or any flavored liquid product designed to be used in conjunction with an electronic cigarette, to a minor.

(c) No person shall sell, or permit to be sold, through a mechanical dispensing device or vending machine, electronic cigarettes, liquid nicotine, or any flavored liquid product designed to be used in conjunction with an electronic cigarette, unless the dispensing device or vending machine is located fully within premises from which minors are prohibited.

(d) It shall be a defense to prosecution for a violation of this section if the minor possessed the electronic cigarette, liquid nicotine, or any flavored liquid product designed to be used in conjunction with an electronic cigarette, in the presence of his or her own adult parent, guardian, or a spouse who is at least 18 years of age.

(e) It shall be a defense to prosecution for a violation of this section if possession or receipt of the electronic cigarette, liquid nicotine, or any flavored liquid product designed to be used in conjunction with an electronic cigarette is

required in the performance of the minor's duties as an employee. This defense to prosecution only extends to the possession or receipt of a prohibited item, as described in subsection (a)(1) above, and is not a defense to prosecution for purchase or consumption of a prohibited item.

(f) It shall be a defense to prosecution for a violation of this section if a minor is participating in an inspection or test of compliance, acting under the supervision and instruction of a law enforcement agency performing compliance operations.

Sec. 8.11.004 Enforcement

This article shall be enforced by the city's police department.

Sec. 8.11.005 Penalty

(a) A person who violates a provision of this article 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 fine as provided in section 1.01.009.

(b) When required by section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 8.11.003 and shall refer the minor to juvenile court.

(Ordinance O-004-14 adopted 5/20/14)

CHAPTER 9 PERSONNEL

Contents:

ARTICLE 9.01 GENERAL PROVISIONS*

ARTICLE 9.02 TEXAS MUNICIPAL RETIREMENT SYSTEM*

ARTICLE 9.01 GENERAL PROVISIONS*

Sec. 9.01.001 Response time for employees required to respond to fire calls

(a) A reasonable response time is hereby established by the city for employees who are required to respond to fire calls. Such individuals are hereby required to establish residence within a 20-minute response time from the City of Borger Central Fire Station.

(b) (1) Individuals who are hired as new employees by the city, and are required to respond to fire calls, shall establish a residence within the 20-minute response area no later than 60 days subsequent to actual employment.

(2) Acquisition of a mailing address inside the 20-minute response area shall not be considered sufficient to meet the requirements of this section. The individual to which this section applies must establish, maintain, and actually reside within the 20-minute response area.

(c) Individuals living inside the 20-minute response area at the time of the adoption of this section (September 21, 2021) will be subject to the same requirements as new employees.

(d) This section shall not be applied retroactively. Individuals residing outside the 20-minute response area at the time of the adoption of this section (September 21, 2021) shall not be required to move inside the 20-minute response area. Nothing in this section shall be intended to conflict with other state statutory enactments, such as the Health and Safety Code.

(e) Compliance with the provisions of this sub-section shall be determined by the fire chief on an individual basis.

State law reference–Residency requirements for municipal employees, V.T.C.A., Local Government Code, sec. 150.021.

Cross reference–Fire prevention and protection, ch. 5.

(Ord. # O-014-21, 09/21/2021)

Effective on: 9/21/2021

Sec. 9.01.002 Response time for employees required to respond to police calls

(a) A reasonable response time is hereby established by the city for employees who are required to respond to police calls. Such individuals are hereby required to establish residence within a 60-minute response time from the city's police station.

(b) (1) Individuals who are hired as new employees by the city, and are required to respond to police calls, shall establish a residence within the 60-minute response area no later than 60 days subsequent to actual employment.

(2) Acquisition of a mailing address inside the 60-minute response area shall not be considered sufficient to meet the requirements of this section. The individual to which this section applies must establish, maintain, and actually reside within the 60-minute response area.

(c) Individuals living inside the 60-minute response area at the time of the adoption of this section (September 4, 2012) will be subject to the same requirements as new employees.

(d) This section shall not be applied retroactively. Individuals residing outside the 60-minute response area at the time of the adoption of this section (September 4, 2012) shall not be required to move inside the 60-minute response area. Nothing in this section shall be intended to conflict with other state statutory enactments, such as the Health and Safety Code.

(e) Compliance with the provisions of this section shall be determined by the police chief on an individual basis.

(Ordinance O-008-12 adopted 9/4/12)

State law reference–Residency requirements for municipal employees, V.T.C.A., Local Government Code, sec. 150.021.

Sec. 9.01.003 Health benefits coverage for city retirees

(a) The city hereby elects to provide health benefits coverage to its retirees through TML Intergovernmental Employee Benefits Pool under the pool's interlocal agreement.

(b) The city hereby adopts the following definition of "retiree" for purposes of this section:

(1) Twenty (20) years of service at any age.

(2) Ten (10) years of service at sixty (60) years of age.

(c) The interlocal agreement in effect between the city and the TML Intergovernmental Employee Benefits Pool provides that the board of trustees may adopt rules and regulations. The rules and regulations of the TML Intergovernmental Employee Benefits Pool allow the participating member entity to provide retiree medical coverage at the same contribution as charged to active employees, to select a contribution level which is an elevated percentage (which may change from time to time) of the active employee contribution, or to offer over age 65 retirees a Medicare supplement.

(d) The city elects to offer to retirees and their dependents that are under the age of sixty-five (65):

(1) The same medical plan(s) offered to active employees at the same rate as the active employees for as long as the TML Intergovernmental Employee Benefits Pool offers this rate structure for retiree medical coverage.

(2) Retiree continuum of care plan for those retirees and their dependents not entitled to Medicare and/or Medicare supplement or advantage plans.

(e) The city elects to offer Medicare supplement or Medicare advantage plans with/without prescription drug coverage as established annually by the TML Intergovernmental Employee Benefits Pool board of trustees for retirees and their dependents who are sixty-five (65) years of age or older at the Medicare supplement or Medicare advantage rate.

(f) The city elects to offer the following optional life insurance coverages:

(1) Retiree basic life.

(2) Retiree optional life.

(3) Retiree dependent life.

(g) The city may adopt on an annual basis, any additional or alternative retiree benefit plans to be provided through TML Intergovernmental Employee Benefits Pool.

(h) The entire cost of these plans shall be paid for entirely by the retiree.

(i) This section will apply to individuals retiring after the effective date of this section, and to employees who retired under a previous ordinance that elected to continue their healthcare coverage through TML-IEBP. For individuals retiring after the effective date of this section to qualify, they must enroll for this coverage within thirty (30) days of their retirement.

(j) This section may be repealed or modified at any time, but will remain in effect for any employee retiring while it is in effect.

(Ordinance O-005-09, secs. 2, 4 and 5, adopted 9/1/09)

Editor's note–Former sections 9.01.004 and 9.01.005 pertaining to health benefits coverage for city retirees (2005) and (2007) deriving from sections 2–7 of Ordinance O-015-05 adopted by the city on September 13, 2005 and Ordinance O-007-07 adopted by the city on September 11, 2007 have been repealed by SECTION 3 of Ordinance O-005-09 adopted by the city on September 1, 2009.

ARTICLE 9.02 TEXAS MUNICIPAL RETIREMENT SYSTEM*

Sec. 9.02.001 Election to participate; applicable regulations adopted by reference

(a) Election to participate in TMRS. On behalf of the city, the city council hereby exercises its option and elects to have the city and all of the employees of all departments participate in the Texas Municipal Retirement System (hereinafter "TMRS") as provided in Tex. Gov't. Code section 851.001 et seq., as amended; and all of the benefits and obligations of such system are hereby accepted.

(b) Election to participate in TMRS supplemental benefits fund. The city council elects to have the employees of all participating departments of the city participate in and be covered by the supplemental benefits fund of the Texas Municipal Retirement System, as provided by Tex. Gov't. Code section 851.001 et seq.; and all the benefits and obligations of participation in said fund are hereby accepted by the city as to such employees.

(c) Adoption of regulations by reference. Ordinances effecting the plan for participation in the TMRS, employee contributions, updated service credits, increases in benefits and retirement annuities and any other applicable legislation of the city and state are adopted by reference into this code as if fully set forth herein and shall be kept on file in the office of the city secretary.

(1998 Code, sec. 33.01)

Sec. 9.02.002 Vesting not provided

The city council elects not to provide five-year vesting under the Texas Municipal Retirement System ("TMRS") as provided in Tex. Gov't. Code section 854.205, and the city is hereby authorized and directed to file notice of this election with the board of trustees of TMRS before December 31, 2001. (1998 Code, sec. 33.02)

CHAPTER 10 REPEALED

Contents:

(Ord. # O-006-22, 07/19/2022)

Effective on: 8/9/2022

CHAPTER 11 TAXATION

Contents:

ARTICLE 11.01 GENERAL PROVISIONS*

ARTICLE 11.02 PROPERTY TAXES†

ARTICLE 11.03 SALES AND USE TAXES*

ARTICLE 11.04 HOTEL/MOTEL OCCUPANCY TAX†

ARTICLE 11.05 VENUE TAX

ARTICLE 11.01 GENERAL PROVISIONS*

Sec. 11.01.001 Adoption of state law relative to payment of taxes and penalties

The provisions of state law applicable to municipalities shall apply to and govern the payment of taxes due and owing to the city and penalties in connection therewith, to the same extent as if such provisions had been, by the terms thereof, made applicable to city taxes by ordinances of the city. (1998 Code, sec. 35.01)

State law reference–Imposition of penalty for collection of delinquent taxes, V.T.C.A., Tax Code, secs. 33.01, 33.07, 33.08.

Sec. 11.01.002 Licenses and permits not to be issued to persons in debt to city

No license or permit required by the provisions of this code shall issue to any person who is in debt to the city. (1998 Code, sec. 35.04)

Charter reference–Issuance of licenses, sec. 104.

ARTICLE 11.02 PROPERTY TAXES†

Sec. 11.02.001 Property subject to tax; assessment

All property, real, personal and mixed, shall be subject to taxation, and assessed by the city as provided and in accordance with the charter and state law. (1998 Code, sec. 35.02)

Sec. 11.02.002 Residence homestead exemption for elderly or disabled

That, beginning January 1, 2009, the total amount of ad valorem taxes imposed by the city on the residence homestead of a person who is disabled or is sixty-five (65) years of age or older may not be increased while that homestead remains the residence homestead of that person or that person's qualified spouse, as provided by section 1-b(h), article VIII, Texas Constitution, and in accordance with provisions of the Texas Tax Code, section 11.261 as it exists now and as may be amended, except that any statutory amendment allowing an option for local government must be expressly adopted by separate ordinance in order to become effective in this municipality. (Ordinance O-003-08 adopted 3/4/08)

State law reference–Residence homestead tax exemptions, V.T.C.A., Tax Code, sec. 11.13.

Sec. 11.02.003 Penalty to defray costs of collection of delinquent property taxes

The city council hereby adopts a 15% penalty to defray the costs of collection of delinquent taxes as authorized by Tex. Tax Code, sections 33.07 and 33.08, for the current year and each succeeding year thereafter. (1998 Code, sec. 35.07)

State law reference–Imposition of penalty for collection of delinquent taxes, V.T.C.A., Tax Code, secs. 33.01, 33.07, 33.08.

Sec. 11.02.004 Leased vehicles not exempt

The city chooses not to exempt leased vehicles and will assess and levy ad valorem taxes on the vehicles as authorized by Tex. Tax Code, section 11.252. (1998 Code, sec. 35.08)

State law reference–Authority of municipality to impose tax on leased vehicles otherwise exempted, V.T.C.A., Tax Code, sec. 11.252.

Sec. 11.02.005 Goods in transit

Goods in transit, as defined in Texas Tax Code, section 11.253(a)(2), as amended by House Bill 621, enacted by the 80th Texas Legislature in Regular Session, shall remain subject to taxation by the city. (Ordinance O-010-07 adopted 11/6/07)

State law reference–Tax exemption for goods in transit, V.T.C.A., Tax Code, sec. 11.253.

ARTICLE 11.03 SALES AND USE TAXES*

Sec. 11.03.001 Sales and use tax on gas and electricity for residential use

The city, by majority vote of the membership of its governing body, votes to continue the taxes authorized by the Municipal Sales and Use Tax Act (Tex. Tax Code section 321.105) on the receipts from the sale, production, distribution, lease or rental of, and use, storage or other consumption of gas and electricity for residential use, effective October 1, 1979, as authorized by section 6 of House Bill No. 1 Acts 1978, 65th Legislature, Second Called Session. (1998 Code, sec. 35.06)

State law reference–Authority of municipality to impose tax on sales of gas and electricity, V.T.C.A., Tax Code, sec. 321.105.

ARTICLE 11.04 HOTEL/MOTEL OCCUPANCY TAX†

Sec. 11.04.001 Definitions

The following words, terms, and phrases, for the purpose of this article, except where the context clearly indicates another meaning, are respectively defined as follows:

City Manager. The city manager or his or her authorized designee.

(Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Consideration. The cost of a room, sleeping space, bed, or dormitory space in a Hotel, Motel, or other such facility does not include the cost of food served by the facility or the cost of personal services rendered to the occupants of the room or space not related to cleaning and readying the room for occupancy.

(Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Governmental Entity. The United States, the State, or an agency, institution, board, or commission of the State, other than an institution of higher education.

(Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Hotel. A building in which members of the public obtain sleeping accommodations for consideration, including a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast, and does not include (i) a hospital, sanitarium, or nursing home, (ii) a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code, as amended, and used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution, or (iii) an oilfield portable unit, as defined by Section 152.001, Texas Tax Code, as amended. The term “hotel” includes a short-term rental in which the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101, Texas Tax Code, as amended.

(Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Occupancy. The use or possession or the right to the use or possession of any room in a hotel if the room is one ordinarily used for sleeping.

(Ordinance O-012-03, sec. 2, adopted 6/17/03) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Occupant. A person who, for consideration, uses, possesses, or has a right to use or possess any room ordinarily used for sleeping in a hotel under any lease, concession, permit, right of access, license, contract, or agreement.

(Ordinance O-012-03, sec. 2, adopted 6/17/03; Ordinance adopting Code) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Person. Any individual, partnership, trust, company, corporation, association, or other entity.

(Ordinance O-012-03, sec. 2, adopted 6/17/03) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

State. shall mean the State of Texas.

(Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.04.002 Levy

There is hereby levied and imposed a tax upon the occupant of any room in a hotel within the City for which the cost of occupancy is at the rate of $2.00 or more per day, and such tax shall be equal to seven percent (7%) of the price paid for the occupancy of a room in the hotel, except as follows:

A. No tax shall be imposed on a United States governmental entity described in Section 156.103(a), Texas Tax Code, as amended.

B. A State governmental entity described in Section 156.103(b), Texas Tax Code, as amended, which shall pay the 7% Hotel Occupancy Tax, is entitled to a refund of the 7% Hotel Occupancy Tax paid.

C. A person who is described by Section 156.103(d), Texas Tax Code, as amended, is exempt from the payment of the 7% Hotel Occupancy Tax.

D. A person who is described by Section 156.103(c), Texas Tax Code, as amended, shall pay the 7% Hotel Occupancy Tax but the State governmental entity with whom the person is associated is entitled to a refund of the 7% Hotel Occupancy Tax paid.

(Ordinance O-012-03, sec. 1, adopted 6/17/03) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.04.003 Collection

Every person owning, operating, managing, or controlling any hotel shall collect the 7% Hotel Occupancy Tax imposed on behalf of the City on every occupancy occurring on and after the effective date, and such person shall report and pay the 7% Hotel Occupancy Tax to the City in accordance with all requirements and procedures set forth in this Article.

Each bill or other receipt for a hotel charge subject to the 7% Hotel Occupancy Tax imposed by this Article shall contain a statement, with the appropriate taxing jurisdiction references, in a conspicuous location stating:

> THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED BY THIS HOTEL FROM THE CUSTOMER FOR THE STATE OF TEXAS IS [__]%. [THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED FROM THE CUSTOMER BY THIS HOTEL, LOCATED WITHIN THE CITY LIMITS OF THE CITY OF BORGER, TEXAS, IS [__]%.] THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED BY THIS HOTEL FROM THE CUSTOMER FOR HUTCHINSON COUNTY, TEXAS IS [__]%.

To receive a refund of the 7% Hotel Occupancy Tax paid, the governmental entity entitled to the refund must file a refund claim on a form provided by the City and containing the information required by the City. The State Comptroller by rule shall prescribe the form that must be used and the information that must be provided.

A governmental entity may file a single refund claim with the City for each calendar quarter for all reimbursements accrued during that quarter.

The right to use or possess a room in a hotel is exempt from taxation if the person required to collect the 7% Hotel Occupancy Tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption. The exemption must be supported by the documentation required under rules adopted by the State Comptroller and the City.

(Ordinance O-012-03, sec. 3, adopted 6/17/03) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.04.004 Adoption of procedures; rules and regulations; access to books and records

The city manager shall adopt such procedures, rules and regulations as are reasonably necessary to effectively collect the 7% Hotel Occupancy Tax levied herein, and shall, upon request of any person owning, operating, managing or controlling any hotel, furnish a copy of such procedures, rules and regulations for the guidance of such person and facilitate the collection of the 7% Hotel Occupancy Tax as such collection is required herein. Such procedures, rules and regulations shall be in writing and a copy thereof shall be placed on file with the city secretary. The city manager shall be permitted to have access to books and records during reasonable business hours as shall be necessary to enable the city manager to determine the correctness of the amount due under the provisions of this article, or to determine whether or not a report should have been filed and the amount, if necessary, of taxes due.

(Ordinance O-012-03, sec. 5, adopted 6/17/03) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.04.005 Reports, Payments and Fees

On the 20th day of the month following each month in which the 7% Hotel Occupancy Tax is earned, every person required by this Article to collect the 7% Hotel Occupancy Tax shall file an online report with the City showing:

A. the consideration paid for all occupancies in the preceding month

B. the amount of 7% Hotel Occupancy Tax collected on the occupancies

C. any other information the City or any third-party collection agency as may reasonably require in order to assist the City in properly accounting for the collection of the 7% Hotel Occupancy Tax imposed herein, and

D. Shall certify that the consideration and other associated information reported to the City for this period is identical to the consideration and associated information reported to the Texas Comptroller on Form 12-100.

Every person required by this Article to collect the 7% Hotel Occupancy Tax shall pay the 7% Hotel Occupancy Tax due on all occupancies in the preceding month to the City at the time of filing the report required by this Section.

Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted. If the last day is a Saturday, Sunday, or legal holiday, the period is extended until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(Ordinance O-012-03, sec. 4, adopted 6/17/03) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.04.006 Sale of Properties

If the person who is liable for the payment of a the 7% Hotel Occupancy Tax under this Article is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount of 7% Hotel Occupancy Tax due until the seller provides a receipt by a person designated by the City to provide the receipt showing that the amount has been paid or a certificate showing that no 7% Hotel Occupancy Tax is due.

The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this Section is liable for the amount required to be withheld to the extent of the value of the purchase price.

The purchaser of a hotel may request that the person designated by the City to provide a receipt under this Section to issue a certificate stating that no 7% Hotel Occupancy Tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The person designated by the City shall issue the certificate or statement not later than the 60th day after the date the person receives the request.

If the person designated by the City to provide the receipt under this Section fails to issue the certificate or statement within the period provided by this Section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

(Ordinance O-012-03, sec. 7, adopted 6/17/03) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.04.007 Exemptions

A person or governmental entity described in Sections 156.101, 156.103(a), or 156.103(d) of the Texas Tax Code, as amended, is exempt from the payment of the 7% Hotel Occupancy Tax imposed under this Article.

A governmental entity excepted from the tax imposed by Chapter 156, Texas Tax Code, as amended, under Section 156.103(b) of the same shall pay the 7% Hotel Occupancy Tax imposed by this Article, but is entitled to a refund of the 7% Hotel Occupancy Tax paid.

A person described in Section 156.103(c), Texas Tax Code, as amended, shall pay the 7% Hotel Occupancy Tax imposed by this Article, but the State governmental entity entitled to the refund must file a refund claim with the City providing all information on the form prescribed by the State Comptroller and provided by the City. A governmental entity may file a refunded claim with the City only once for each calendar quarter for all reimbursements accrued during that quarter.

(Ordinance O-012-03, sec. 8, adopted 6/17/03) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.04.008 Violations; penalties; additional enforcement actions

Any owner of a hotel who fails to report when required by this Article or who fails to pay the 7% Hotel Occupancy Tax when due and as required in this Article, shall pay a penalty of five percent (5%) of the amount of 7% Hotel Occupancy Tax due. If the owner of a hotel fails to file the report or pay the 7% Hotel Occupancy Tax before the 31st day after the date that the report or 7% Hotel Occupancy Tax payment was due, the owner of a hotel shall pay an additional penalty of five percent (5%) of the amount of the 7% Hotel Occupancy Tax due.

Delinquent 7% Hotel Occupancy Taxes and accrued penalties draw interest, to the extent permitted by current law, at the rate of ten percent (10%) per year beginning sixty (60) days after the date on which the 7% Hotel Occupancy Tax was due to the City.

In addition to the amount of tax, penalties, and interest, the City shall be entitled to all its costs and reasonable attorneys' fees incurred in enforcing this Article against the person owning, controlling, operating, or managing a hotel and in collecting any 7% Hotel Occupancy Tax owed by the person under this Article.

As set forth in the Act, an attorney acting on behalf of the City, or the Criminal District Attorney for the City, may bring suit against a person who is required to collect the tax imposed hereby and who has failed to file a 7% Hotel Occupancy Tax report or pay the 7% Hotel Occupancy Tax when due in order to either (i) collect the 7% Hotel Occupancy Tax not paid, or (ii) enjoin the person from operating a hotel in the City until the tax is paid or the report is filed. The remedies provided by this Section are in addition to other available remedies.

(Ordinance O-012-03, sec. 6, adopted 6/17/03) (Ord. # O-001-21, 01/05/2021)

Effective on: 1/5/2021

ARTICLE 11.05 VENUE TAX

(Ord. # O-002-21, 01/05/2021)

Sec. 11.05.001 Definitions

The following words, terms, and phrases, for the purpose of this article, except where the context clearly indicates another meaning, are respectively defined as follows:

City Manager. The city manager or his or her authorized designee.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Consideration. The cost of a room, sleeping space, bed, or dormitory space in a Hotel, Motel, or other such facility does not include the cost of food served by the facility or the cost of personal services rendered to the occupants of the room or space not related to cleaning and readying the room for occupancy.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Governmental Entity. The United States, the State, or an agency, institution, board, or commission of the State, other than an institution of higher education.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Hotel. A building in which members of the public obtain sleeping accommodations for Consideration, including a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast, and does not include (i) a hospital, sanitarium, or nursing home, (ii) a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code, as amended, and used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution, or (iii) an oilfield portable unit, as defined by Section 152.001, Texas Tax Code, as amended. The term “hotel” includes a short-term rental in which the rental of all or part of a residential property to a Person who is not a permanent resident under Section 156.101, Texas Tax Code, as amended.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Occupancy. The use or possession or the right to the use or possession of any room in a Hotel if the room is one ordinarily used for sleeping.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Occupant. A Person who, for Consideration, uses, possesses, or has a right to use or possess any room ordinarily used for sleeping in a Hotel under any lease, concession, permit, right of access, license, contract, or agreement.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Person. Any individual, partnership, trust, company, corporation, association, or other entity.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

State. Shall mean the State of Texas.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.05.002 Levy

There is hereby levied and imposed a tax upon the occupant of any room in a hotel within the City for which the cost of occupancy is at the rate of $2.00 or more per day, and such tax shall be equal to two percent (2%) of the price paid for the occupancy of a room in the hotel, except as follows:

A. No tax shall be imposed on a United States governmental entity described in Section 156.103(a), Texas Tax Code, as amended.

B. A State governmental entity described in Section 156.103(b), Texas Tax Code, as amended, which shall pay the 2% Hotel Occupancy Tax, is entitled to a refund of the 2% Hotel Occupancy Tax paid.

C. A person who is described by Section 156.103(d), Texas Tax Code, as amended, is exempt from the payment of the 2% Hotel Occupancy Tax.

D. A person who is described by Section 156.103(c), Texas Tax Code, as amended, shall pay the 2% Hotel Occupancy Tax but the State governmental entity with whom the person is associated is entitled to a refund of the 2% Hotel Occupancy Tax paid.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.05.003 Collection

Every person owning, operating, managing, or controlling any hotel shall collect the 2% Hotel Occupancy Tax imposed on behalf of the City on every occupancy occurring on and after the effective date, and such person shall report and pay the 2% Hotel Occupancy Tax to the City in accordance with all requirements and procedures set forth in this Article.

Each bill or other receipt for a hotel charge subject to the 2% Hotel Occupancy Tax imposed by this Article shall contain a statement, with the appropriate taxing jurisdiction references, in a conspicuous location stating:

> THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED BY THIS HOTEL FROM THE CUSTOMER FOR THE STATE OF TEXAS IS [__]%. [THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED FROM THE CUSTOMER BY THIS HOTEL, LOCATED WITHIN THE CITY LIMITS OF THE CITY OF BORGER, TEXAS, IS [__]%.] THE APPLICABLE HOTEL OCCUPANCY TAX RATE COLLECTED BY THIS HOTEL FROM THE CUSTOMER FOR HUTCHINSON COUNTY, TEXAS IS [__]%.

To receive a refund of the 2% Hotel Occupancy Tax paid, the governmental entity entitled to the refund must file a refund claim on a form provided by the City and containing the information required by the City. The State Comptroller by rule shall prescribe the form that must be used and the information that must be provided.

A governmental entity may file a single refund claim with the City for each calendar quarter for all reimbursements accrued during that quarter.

The right to use or possess a room in a hotel is exempt from taxation if the person required to collect the 2% Hotel Occupancy Tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption. The exemption must be supported by the documentation required under rules adopted by the State Comptroller and the City.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.05.004 Adoption of procedures; rules and regulations; access to books and records

The city manager shall adopt such procedures, rules and regulations as are reasonably necessary to effectively collect the 2% Hotel Occupancy Tax levied herein, and shall, upon request of any person owning, operating, managing or controlling any hotel, furnish a copy of such procedures, rules and regulations for the guidance of such person and facilitate the collection of the 2% Hotel Occupancy Tax as such collection is required herein. Such procedures, rules and regulations shall be in writing and a copy thereof shall be placed on file with the city secretary. The city manager shall be permitted to have access to books and records during reasonable business hours as shall be necessary to enable the city manager to determine the correctness of the amount due under the provisions of this article, or to determine whether or not a report should have been filed and the amount, if necessary, of taxes due.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.05.005 Reports, Payments and Fees

On the 20th day of the month following each month in which the 2% Hotel Occupancy Tax is earned, every person required by this Article to collect the 2% Hotel Occupancy Tax shall file a report with the City showing:

A. the Consideration paid for all occupancies in the preceding month
B. the amount of 2% Hotel Occupancy Tax collected on the occupancies
C. any other information the City or any third-party collection agency as may reasonably require in order to assist the City in properly accounting for the collection of the 2% Hotel Occupancy Tax imposed herein, and
D. Shall certify that the consideration and other associated information reported to the City for this period is identical to the consideration and associated information reported to the Texas Comptroller on Form 12-100.

Every person required by this Article to collect the 2% Hotel Occupancy Tax shall pay the 2% Hotel Occupancy Tax due on all occupancies in the preceding month to the City at the time of filing the report required by this Section.

Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted. If the last day is a Saturday, Sunday, or legal holiday, the period is extended until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.05.006 Sale of Properties

If the person who is liable for the payment of a the 2% Hotel Occupancy Tax under this Article is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount of 2% Hotel Occupancy Tax due until the seller provides a receipt by a person designated by the City to provide the receipt showing that the amount has been paid or a certificate showing that no 2% Hotel Occupancy Tax is due.

The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this Section is liable for the amount required to be withheld to the extent of the value of the purchase price.

The purchaser of a hotel may request that the person designated by the City to provide a receipt under this Section to issue a certificate stating that no 2% Hotel Occupancy Tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The person designated by the City shall issue the certificate or statement not later than the 60th day after the date the person receives the request.

If the person designated by the City to provide the receipt under this Section fails to issue the certificate or statement within the period provided by this Section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.05.007 Exemptions

A person or governmental entity described in Sections 156.101, 156.103(a), or 156.103(d) of the Texas Tax Code, as amended, is exempt from the payment of the 2% Hotel Occupancy Tax imposed under this Article.

A governmental entity excepted from the tax imposed by Chapter 156, Texas Tax Code, as amended, under Section 156.103(b) of the same shall pay the 2% Hotel Occupancy Tax imposed by this Article, but is entitled to a refund of the 2% Hotel Occupancy Tax paid.

A person described in Section 156.103(c), Texas Tax Code, as amended, shall pay the 2% Hotel Occupancy Tax imposed by this Article, but the State governmental entity entitled to the refund must file a refund claim with the City providing all information on the form prescribed by the State Comptroller and provided by the City. A governmental entity may file a refunded claim with the City only once for each calendar quarter for all reimbursements accrued during that quarter.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

Sec. 11.05.008 Violations; penalties; additional enforcement actions

Any owner of a hotel who fails to report when required by this Article or who fails to pay the 2% Hotel Occupancy Tax when due and as required in this Article, shall pay a penalty of five percent (5%) of the amount of 2% Hotel Occupancy Tax due. If the owner of a hotel fails to file the report or pay the 2% hotel occupancy tax before the 31st day after the date that the report or 2% Hotel Occupancy Tax payment was due, the owner of a hotel shall pay an additional penalty of five percent (5%) of the amount of the 2% Hotel Occupancy Tax due.

Delinquent 2% Hotel Occupancy Taxes and accrued penalties draw interest, to the extent permitted by current law, at the rate of ten percent (10%) per year beginning sixty (60) days after the date on which the 2% Hotel Occupancy Tax was due to the City.

In addition to the amount of tax, penalties, and interest, the City shall be entitled to all its costs and reasonable attorneys' fees incurred in enforcing this Article against the person owning, controlling, operating, or managing a hotel and in collecting any 2% Hotel Occupancy Tax owed by the person under this Article.

As set forth in the Act, an attorney acting on behalf of the City, or the Criminal District Attorney for the City, may bring suit against a person who is required to collect the tax imposed hereby and who has failed to file a 2% Hotel Occupancy Tax report or pay the 2% Hotel Occupancy Tax when due in order to either (i) collect the 2% Hotel Occupancy Tax not paid, or (ii) enjoin the person from operating a hotel in the City until the tax is paid or the report is filed. The remedies provided by this Section are in addition to other available remedies.

(Ord. # O-002-21, 01/05/2021)

Effective on: 1/5/2021

CHAPTER 12 TRAFFIC AND VEHICLES

Contents:

ARTICLE 12.01 GENERAL PROVISIONS

ARTICLE 12.02 ADMINISTRATION AND ENFORCEMENT

ARTICLE 12.03 ACCIDENTS*

ARTICLE 12.04 TRAFFIC-CONTROL DEVICES†

ARTICLE 12.05 TRAFFIC RULES

ARTICLE 12.06 STOPPING, STANDING AND PARKING*

ARTICLE 12.07 PEDESTRIANS*

ARTICLE 12.08 TRAFFIC SCHEDULES

ARTICLE 12.01 GENERAL PROVISIONS

Sec. 12.01.001 Definitions

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

Alley. A street that:

(1) Is not used primarily for through traffic; and

(2) Provides access to rear entrances of buildings or lots along a street.

Authorized emergency vehicle.

(1) A fire department or police vehicle;

(2) A public or private ambulance operated by a person who has been issued a license by the department of state health services;

(3) A municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of a municipality;

(4) A private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency;

(5) An industrial emergency response vehicle, including an industrial ambulance, when responding to an emergency, but only if the vehicle is operated in compliance with criteria in effect September 1, 1989, and established by the Texas Industrial Fire Training Board of the State Firemen's and Fire Marshals' Association of Texas; or

(6) A vehicle of a blood bank or tissue bank, accredited or approved under the laws of this state or the United States, when making emergency deliveries of blood, drugs, medicines or organs.

Business district. The territory adjacent to and including a highway if buildings used for business or industrial purposes, including a building used as a hotel, bank, office building, public building, or railroad station:

(1) Are located within a 600-foot segment along the highway; and

(2) Within that segment the buildings occupy at least 300 feet of frontage:

(A) On one side of the highway; or

(B) Collectively on both sides of the highway.

Crosswalk.

(1) The portion of a roadway, including an intersection, designated as a pedestrian crossing by surface markings, including lines; or

(2) The portion of a roadway at an intersection that is within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in absence of curbs, from the edges of the traversable roadway.

Digging out. The practice of starting any motor vehicle from a standing position by applying a sudden burst of power, recognized by spinning rear wheels and noise of tires on the surface of the roadway.

Highway or street. The width between the boundary lines of a publicly maintained way, any part of which is open to the public for vehicular travel.

Intersection.

(1) The common area at the junction of two highways, other than the junction of an alley and a highway.

(2) The dimensions of an intersection include only the common area:

(A) Within the connection of the lateral curblines or, in the absence of curblines, the lateral boundary lines of the roadways of intersecting highways that join at approximate right angles; or

(B) At the place where vehicles could collide if traveling on roadways of intersecting highways that join at any angle other than an approximate right angle.

(3) Each junction of each roadway of a highway that includes two roadways at least 30 feet apart with the roadway of an intersecting highway, including each roadway of an intersecting highway that includes two roadways at least 30 feet apart, is a separate intersection.

Laned roadway. A roadway that is divided into at least two clearly marked lanes for vehicular travel.

Loading zone. That portion of any roadway set apart, marked and numbered for the sole use of the public as a place for loading or unloading passengers, merchandise or other cargo.

Motor vehicle. A self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires.

No-parking zone. A space on the roadway adjacent to the curb, whether marked by official signs or not, in which no vehicle may be parked.

Official traffic-control device. A sign, signal, marking, or device that is:

(1) Consistent with this chapter;

(2) Placed or erected by a public body or officer having jurisdiction; and

(3) Used to regulate, warn or guide traffic.

Operator. As used in reference to a vehicle, a person who drives or has physical control of a vehicle.

Park or parking. To stand an occupied or unoccupied vehicle, other than temporarily while loading or unloading merchandise or passengers.

Parking stall or parking space. That portion or section of a roadway adjacent to the curbing or edge, set apart, marked and bounded by lines painted or marked upon the surface of the roadway and extending into the roadway for the use of parking vehicles; or that portion of any alley marked by official signs showing such space to be a parking zone.

Pedestrian. Any person on foot.

Police officer. An officer authorized to direct traffic or arrest persons who violate traffic regulations.

Right-of-way. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian that is approaching from a direction, at a speed, and within a proximity that could cause a collision unless one grants precedence to the other.

Roadway. The portion of a highway, other than the berm or shoulder, that is improved, designed or ordinarily used for vehicular travel. If a highway includes at least two separate roadways, the term “roadway” applies to each roadway separately.

Safety zone. The area in a roadway officially designated for exclusive pedestrian use and that is protected or so marked or indicated by adequate signs as to be plainly visible at all times while so designated.

Sidewalk. The portion of a street that is:

(1) Between a curb or lateral line of a roadway and the adjacent property line; and

(2) Intended for pedestrian use.

Stand or standing. To halt an occupied or unoccupied vehicle, other than temporarily while receiving or discharging passengers.

Stop or stopping.

(1) When required, means to completely cease movement; and

(2) When prohibited, means to halt, including momentarily halting, an occupied or unoccupied vehicle, unless necessary to avoid conflict with other traffic or to comply with the directions of a police officer or traffic-control sign or signal.

Traffic. Pedestrians, ridden or herded animals, and conveyances, including vehicles and streetcars, singly or together, while using a highway for purposes of travel.

Traffic-control signal. A manual, electric or mechanical device that alternately directs traffic to stop and to proceed.

Truck. A motor vehicle designed, used or maintained primarily to transport property.

Vehicle. A device that can be used to transport or draw persons or property on a highway. The term does not include:

(1) A device exclusively used on stationary rails or tracks; or

(2) Manufactured housing as that term is defined by the Texas Manufactured Housing Standards Act (V.T.C.A., Occupations Code, chapter 1201).

(1998 Code, sec. 70.01; Ordinance adopting Code)

Sec. 12.01.002 Penalty

Whenever in this chapter an act is prohibited or is made or declared to be unlawful or a misdemeanor, or wherever in this chapter the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is otherwise provided in this code, the violation shall be punished by a fine not exceeding the amount as provided in section 1.01.009 of this code; provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense of the laws of the state. Each day a violation of this chapter or of any ordinance continues shall constitute a separate offense. (1998 Code, sec. 70.99)

Sec. 12.01.003 Purpose

The purpose of the regulations prescribed by this chapter is to insure to the people the maximum use and benefit of the public streets of the city and yet retain the maximum degree of safety to prevent injury to person and property. (1998 Code, sec. 70.02)

Sec. 12.01.004 Riding on portion of vehicle not intended for passengers

No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. (1998 Code, sec. 70.08)

Sec. 12.01.005 Boarding or alighting from moving vehicle

No person shall board or alight from any vehicle while such vehicle is in motion. (1998 Code, sec. 70.10)

Sec. 12.01.006 Use of toy vehicles on roadway

No person upon roller skates, or riding in or by means of any coaster, skateboard, toy vehicle or similar device, shall go upon any roadway, except while crossing a street on a crosswalk, and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. (1998 Code, sec. 70.12)

Sec. 12.01.007 Depositing injurious substances on streets

No person shall throw or deposit upon any street or alley any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such street or alley. (1998 Code, sec. 70.13(a); Ordinance adopting Code)

ARTICLE 12.02 ADMINISTRATION AND ENFORCEMENT

Sec. 12.02.001 Authority of police officers and fire officials to direct traffic

(a) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with this chapter and other traffic laws. In the event of fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of this chapter and other traffic laws.

(b) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(1998 Code, sec. 70.65)

Sec. 12.02.002 Traffic engineer

(a) Office created. There is hereby created in and for the city the office of city traffic engineer. The authority, powers and duties of the traffic engineer are hereby equally vested in the chief of police.

(b) Duties relative to traffic. It shall be the duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigations of traffic conditions, to plan the operation of traffic on the streets and highways of the city for the purpose of making recommendations to the city council in regard thereto, and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinances of the city.

(1998 Code, sec. 70.67)

Sec. 12.02.003 Temporary and experimental regulations

(a) The chief of police, or the city traffic engineer, by and with the approval of the city manager, is hereby empowered to make regulations necessary to make effective the provisions of this chapter or other traffic ordinances of this city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than 90 days.

(b) The chief of police or the city traffic engineer may test traffic-control devices under actual conditions of traffic.

(1998 Code, sec. 70.68)

ARTICLE 12.03 ACCIDENTS*

Sec. 12.03.001 Accident reports required

When the driver or operator of a vehicle is unable physically to make the required accident report, if there were other occupants of the vehicle at the time of the accident capable of making the report, such occupant or occupants shall make or cause to be made such report. (1998 Code, sec. 70.29(c); Ordinance adopting Code)

State law reference–Written accident reports, V.T.C.A., Transportation Code, sec. 550.061 et seq.

Sec. 12.03.002 Record of accident reports

The police department shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the city traffic engineer. (1998 Code, sec. 70.30)

Sec. 12.03.003 Moving or removal of vehicles by wrecker trucks

It shall be unlawful for the operator of any vehicle equipped with a crane, hoist, winch, or towing device who has answered a call to, or is attending the scene of, any collision or accident of one or more vehicles on any highway or street in the city to remove or attempt to remove any vehicle involved in such collision or accident, or in any way to interfere with or change the position of any such vehicle, except upon authority or direction and in the presence of a police officer of the city, unless such change is made or attempted for the purpose of releasing a person imprisoned within or under such vehicle; provided, however, that it shall be unlawful for the operator of any vehicle equipped with a crane, hoist, winch, or towing device to remove a vehicle from the scene of accident or collision without the consent of the owner of the vehicle, unless directed by a police officer to remove such vehicle as a public safety measure or for the protection of private property. (1998 Code, sec. 70.31)

ARTICLE 12.04 TRAFFIC-CONTROL DEVICES†

Sec. 12.04.001 Adoption of official map

There is hereby adopted by reference a map or plat of all official traffic-control devices authorized by and erected or installed pursuant to the provisions of this article and the other provisions of this chapter relative to speed limits and parking restrictions. Such map shall indicate by appropriate symbols the location and type of each such traffic-control device. Such map shall be on file in the office of the city secretary. (1998 Code, sec. 70.45)

Sec. 12.04.002 Conformity with specifications of state

All traffic-control signs, signals and devices shall conform to the manual and specifications approved by the state transportation commission. All signs and signals required under this chapter for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic-control devices. (1998 Code, sec. 70.46)

State law reference–Adoption of sign manual and specifications, V.T.C.A., Transportation Code, sec. 544.001.

Sec. 12.04.003 Authority of traffic engineer

(a) General powers and duties.

(1) The city traffic engineer shall place and maintain traffic-control signs, signals and devices when and as required under this chapter to make effective the provisions of this chapter, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under this chapter or under state law, or to guide or warn traffic. It shall be the duty of the city traffic engineer to supervise the installation and proper timing and maintenance of traffic-control devices.

(2) The city traffic engineer shall make a written memorandum in duplicate reflecting the need as found in investigations for all traffic-control devices, and the location and date of erecting the same. The original shall be filed with the city secretary and a duplicate retained by the city traffic engineer.

(b) Installation of traffic lights. The city traffic engineer, as authorized by the city council from time to time, shall designate intersections at which traffic shall be controlled by electric traffic-control signals or lights and shall cause such signals or lights to be installed and maintained at such intersections.

(c) Designation of crosswalks and safety zones and marking of traffic lanes. The city traffic engineer is hereby authorized to:

(1) Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at any intersection where, in his opinion, there is particular danger to pedestrians crossing the roadway and at such other places as he may deem necessary.

(2) Establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(3) Mark lanes for traffic on street pavements at such places as he may deem advisable, consistent with this chapter and other traffic ordinances of this city.

(4) Designate and maintain school zones and crosswalks with appropriate pavement markings, signs and/or signals in such locations necessary for the safety of children going to and from school.

(1998 Code, sec. 70.47)

Sec. 12.04.004 Ratification of existing devices

All traffic-control signs, signals, devices, and markings placed or erected prior to the adoption of this code and in use for the purpose of regulating, warning or guiding traffic are 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. (1998 Code, sec. 70.49)

ARTICLE 12.05 TRAFFIC RULES

Division 1. Generally

Sec. 12.05.001 Limitations on turning around

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district; and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic; and at no intersection controlled by a traffic-control sign or signal. (1998 Code, sec. 71.08)

State law reference–Safely turning, V.T.C.A., Transportation Code, sec. 545.103.

Sec. 12.05.002 Obstructing traffic

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (1998 Code, sec. 71.12(b); Ordinance adopting Code)

Sec. 12.05.003 Funerals, parades, and other processions

(a) Funeral processions. Every funeral procession shall be marked with appropriate pennants or other devices or methods, such as burning headlights in daytime, sufficient to show the nature of such procession. Police officers leading funeral processions or assisting in the movement of funeral processions, together with automobiles in such funeral processions, shall, and the same are hereby authorized, to proceed through red lights and stop signs, and all persons approaching such traffic-control devices at intersections shall, notwithstanding any traffic-control device, yield the right-of-way to such police officers and funeral processions.

(b) Driving through processions. No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. This provision shall not apply to authorized emergency vehicles.

(c) Driving in procession. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

(d) Permit for parades and processions. No parade or procession, excepting the forces of the United States army, navy, air force or marines, the military forces of the state, and the forces of the police and fire departments, shall occupy, march or proceed along any street, sidewalk or any other public place or way in the city, except in accordance with a permit therefor issued by the chief of police and such other regulations as are set forth herein which may apply.

(1998 Code, sec. 71.15)

Sec. 12.05.004 One-way streets and alleys

(a) Whenever any ordinance of the city council designates any one-way street or alley, the city traffic engineer shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(b) Upon those streets and parts of streets and in those alleys which are designated as one-way streets or alleys, vehicular traffic shall move only in the indicated direction where signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

(1998 Code, sec. 71.16)

Sec. 12.05.005 Driving on fresh pavement

It shall be unlawful for any person to drive any vehicle upon any portion of any street in the city that has been freshly paved, unless all barriers or signal lights have been lawfully removed therefrom indicating that the street is ready for travel. (1998 Code, sec. 71.18)

Sec. 12.05.006 Operating vehicle off of designated roadways or parking lots

It shall be unlawful for any person to drive or operate any vehicle whatsoever through or upon, or to park such vehicle upon, any park, hospital grounds or other public property within the city except upon official, designated roadways or parking lots. (1998 Code, sec. 71.19)

Sec. 12.05.007 Digging out prohibited

Any driver of any motor vehicle who shall cause such vehicle to "dig out" or shall cause any such vehicle to make unnecessary noise by reason of operating such vehicle in such a manner as to cause the wheels thereof to spin or slide on the roadway of any street when starting such vehicle or while making any turning movement shall be deemed guilty of a misdemeanor. (1998 Code, sec. 71.20)

Sec. 12.05.008 Control of vehicle; duty to avoid collision

It shall be the duty of every person who shall operate any vehicle within the city to keep the same under control at all times and to avoid whenever possible colliding with any other vehicle or person. (1998 Code, sec. 71.21)

Sec. 12.05.009 Truck routes

(a) The city traffic engineer, as authorized from time to time by the city council, may designate such truck routes within the city as may be necessary for the proper flow of traffic through the city.

(b) It shall be unlawful for any truck with a gross vehicle weight rating of over 18,000 pounds (or 18,000 pounds gross cargo weight rating in the case of a truck-trailer or tractor-trailer unit) to use, travel upon or be driven over any street, avenue or highway within the city not designated as a truck route in subsection (a); provided, however, that if the point of origin or destination, for commercial purposes only, for any such truck shall be off such truck route, then such truck may proceed by the shortest possible route to the nearest truck route.

(1998 Code, sec. 71.27)

Secs. 12.05.010–12.05.050 Reserved

Division 2. Intersections

Sec. 12.05.051 Stop intersections

The city traffic engineer, with the approval of the city council, is hereby authorized to determine and designate any street intersection as a stop intersection and designate the streets upon which vehicles shall stop before entering such intersection. Whenever any intersection has been so designated, the city traffic engineer shall cause the same to be identified by the erection of stop signs indicating which vehicles approaching the intersection shall stop. (1998 Code, sec. 71.40(a); Ordinance adopting Code)

State law reference–Authority to designate stop intersections, V.T.C.A., Transportation Code, secs. 542.202, 544.003.

Sec. 12.05.052 Yield intersections

The city traffic engineer, as authorized from time to time by the city council, may install and maintain yield-right-of-way signs at intersections where a special hazard may exist anywhere vehicles shall be required to yield the right-of-way. (1998 Code, sec. 71.41; Ordinance adopting Code)

State law reference–Authority to designate yield intersections, V.T.C.A., Transportation Code, secs. 542.202, 544.003.

Secs. 12.05.053–12.05.080 Reserved

Division 3. Speed

Sec. 12.05.081 Speed limits on specific streets

The city council may alter the maximum speed limit of 30 miles per hour on any street or portion thereof within the city in accord with the provisions of Tex. Transp. Code section 545.356. Whenever signs are posted giving notice of the maximum legal speed limit so established for a particular street or portion thereof, it shall be unlawful for any person to drive or operate any vehicle at a rate of speed in excess of such limit. (1998 Code, sec. 71.57; Ordinance adopting Code)

State law references–Authority to establish or alter prima facie speed limits, V.T.C.A., Transportation Code, sec. 542.202(12); authority of municipality to alter speed limits, V.T.C.A., Transportation Code, sec. 545.356.

Sec. 12.05.082 Speed limit in school zones

It shall be unlawful for any person to operate or drive any vehicle at a speed greater than 20 miles per hour through any school zone as may be marked or designated by signs within the city from 8:00 a.m. to 4:00 p.m. on days when school is in session or during the period that yellow signal lights are flashing in conjunction with a sign indicating a speed limit of 20 miles per hour or whenever children are present in such zones. (1998 Code, sec. 71.58)

Sec. 12.05.083 Maximum speed in alleys

It shall be unlawful for any person to drive any vehicle at a rate of speed in excess of 20 miles per hour upon any alley within the city limits. (1998 Code, sec. 71.61)

ARTICLE 12.06 STOPPING, STANDING AND PARKING*

Sec. 12.06.001 Designation of areas where parking prohibited or limited; overtime parking

(a) The city traffic engineer shall cause parking stalls to be maintained and marked off in and on such streets and parts thereof as may be designated by the city council from time to time, and he shall cause spaces in which parking is prohibited to be maintained and marked off in and on such streets and parts thereof as may be designated by the city council from time to time. The traffic engineer shall also cause time limit parking areas to be maintained and marked off in and on such part or parts of streets as may be designated by the city council from time to time. All such spaces or areas shall be clearly indicated by appropriate signs or by markings on the pavement or curb.

(1) In areas designated as time limit parking areas, parking may be limited to any period prescribed by the city council, the same to be designated with clearly distinguished markings or signs at both ends of the time limit area and at reasonable intervals between the beginning and ending of such time limit area, indicating the time allowed for parking in such area.

(2) Any prohibition of or time limit on parking established under this section shall apply on such days and between such hours as prescribed by the city council.

(b) It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in his name or owned or operated by him or in his possession or under his control to be or remain in any space or area in which parking is prohibited as provided in subsection (a) above, or in a time limit parking area for a longer period of time than that designated by the markings on the street or by signs clearly visible.

(1998 Code, sec. 72.02)

Sec. 12.06.002 Parking or standing in alleys

(a) No person shall park a vehicle within an alley in such a manner or under such conditions as to block the free passage of other vehicles in such alleys.

(b) It shall be unlawful for any person to park a vehicle in any alley within blocks 28, 29, 36, 37, 44 and 45, original townsite, except when such vehicle is actually being used for the purpose of loading or unloading of merchandise.

(1998 Code, sec. 72.03)

Sec. 12.06.003 Parking near hazardous or congested places

(a) The city traffic engineer, with the approval of the city council, is hereby authorized to determine and designate by proper signs places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs are erected at hazardous or congested places as authorized by this section, no person shall stop, stand or park a vehicle in any such designated place.

(1998 Code, sec. 72.04)

Sec. 12.06.004 Parking for certain purposes

No person shall park a vehicle upon any street for the principal purpose of:

(1) Displaying such vehicle for sale.

(2) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency.

(3) Sale or disposal of goods, wares or merchandise from such vehicle.

(1998 Code, sec. 72.05)

Sec. 12.06.005 All-night parking

No person shall park a vehicle on any business street or through street for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day, except physicians on emergency calls, where signs prohibit such parking. (1998 Code, sec. 72.06)

Sec. 12.06.006 Ten feet of roadway to be available for traffic

No person shall stop, stand or park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten feet of width of either lane of a roadway for free movement of the vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals of a police officer. (1998 Code, sec. 72.09)

Sec. 12.06.007 Vehicles in excess of certain length prohibited from parking in central business district

It shall be unlawful for any person to park any vehicle, trailer or combination thereof on the streets, alleys or other public ways of the city in the central business district, as defined in the zoning ordinance, which shall exceed 25 feet in length. (1998 Code, sec. 72.10)

Sec. 12.06.008 Unauthorized designation of parking restriction

It shall be unlawful for any person to paint or cause to be painted upon any sidewalk, curb, alley, street or commons within the city limits, or place or cause to be placed upon any sidewalk, curb, alley, street or commons within the city, a sign or marker of any kind or character designating a reserve zone, no-parking zone, loading zone or restricted parking zone of any kind or character unless such person has been authorized to do so by the city council. (1998 Code, sec. 72.12)

ARTICLE 12.07 PEDESTRIANS*

Sec. 12.07.001 Applicability of traffic regulations

Pedestrians shall be subject to traffic-control signals as provided in this chapter, but at all other places pedestrians shall be granted those rights and be subject to those restrictions stated in this article. (1998 Code, sec. 73.01)

Sec. 12.07.002 Crossing roadway at right angles

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in crosswalks. (1998 Code, sec. 73.06)

ARTICLE 12.08 TRAFFIC SCHEDULES

Sec. 12.08.001 Schedule I: One-way streets and alleys

The following named streets and alleys are hereby designated as one-way streets or alleys, pursuant to the provisions of section 12.05.004, and it shall be unlawful for any person to drive, or cause to be driven, a vehicle in any direction other than that indicated:

The first alley east of Main Street	From 10th Street to 3rd Street	Southerly
The first alley west of Main Street	From 3rd Street to 10th Street	Northerly
The first alley west of Main Street	From Adams Street to 1st Street	Northerly
The first alley west of Deahl Street	From 5th Street to 6th Street	Northerly

(Ordinance O-003-12 adopted 4/3/12)

Sec. 12.08.002 Schedule II: Speed limits

Pursuant to the provisions of section 12.05.081, the following speed limits are hereby established for the streets and portions of streets enumerated below:

Speed Limits			
Street	From	To	Speed Limit
F.M. 1551 (Fairlanes Boulevard)	State Highway 136 (Wilson Street)	330 feet east of centerline Fairview Street	45
F.M. 1551 (Fairlanes Boulevard)	330 feet east of centerline Fairview Street	410 feet west of centerline Huber Avenue	55
F.M. 1551 (Fairlanes Boulevard)	410 feet west of centerline Huber Avenue	State Highway 207 (Cedar Street)	40
Spur 119 (Tenth Street)	Intersection of State Highway 207 (Cedar Street)	60 feet east of centerline Weatherly Street	30
Spur 119 (Tenth Street)	60 feet east of centerline Weatherly Street	North city limits	40
Spur 140 (North Main)	150 feet north of Coble Street	700 feet north of Spur 119 (Tenth Street)	40
Spur 140 (South Main)	State Highway 152 (Third Street)	South side of McGee Street	35
Spur 140 (South Main)	South side of McGee Street	State Highway 207 (Cedar Street)	40
Spur 245 (Carolina Street)	700 feet west of centerline Bunton Street	East city limits (345 feet east of centerline Mary Street)	40
Spur 246 (Florida Street)	Intersection of Spur 119 (Tenth Street)	650 feet south of State Highway 152 (Third Street)	40
Spur 246 (Florida Street)	650 feet south of State Highway 152 (Third Street)	150 feet south of Galahad Street	45
Spur 246 (Florida Street)	150 feet south of Galahad Street	State Highway 207 (Cedar Street)	50
East Wilson Street	300 feet east of Spur 246 (Florida Street)	400 feet north of Gardner Street	45
State Highway 136 (Wilson Street)	Cedar Street	505 feet east of centerline College Avenue	30
State Highway 136 (Wilson Street)	505 feet east of centerline College Avenue	600 feet west of centerline Roosevelt Street	40
State Highway 136 (Wilson Street)	600 feet west of centerline Roosevelt Street	West city limits (0.5 mile east of F.M. 1319)	55
State Highway 152 (Third Street)	State Highway 207 (Cedar Street)	135 feet west of centerline Whittenburg Street	30
State Highway 152 (Third Street)	135 feet west of centerline Whittenburg Street	1,055 feet west of east city limits	40
State Highway 152 (Third Street)	1,055 feet west of east city limits	East city limits (0.2 mile east of Spur 246)	55
State Highway 152	135 feet east of centerline of Whittenburg Street	East city limits	40
State Highway 152	255 feet west of east city limits	East city limits (0.2 mile east of Spur 246)	55
State Highway 207 (Cedar Street)	North city limits (0.3 mile north of Circle)	60 feet south of centerline Home Road	45
State Highway 207 (Cedar Street)	60 feet south of centerline Home Road	65 feet north of centerline Cooley Drive	30
State Highway 207 (Cedar Street)	65 feet north of centerline Cooley Drive	95 feet south of centerline Monroe Street	40
State Highway 207 (Cedar Street)	95 feet south of centerline Monroe Street	875 feet south of centerline Huber Avenue	40
State Highway 207 (Cedar Street)	875 feet south of centerline Huber Avenue	1,906 feet south of centerline F.M. 1551 (Fairlanes Boulevard)	50
State Highway 207	1,906 feet south of centerline F.M. 1551 (Fairlanes Boulevard)	South city limits (0.565 mile south of F.M. 1551 (Fairlanes Boulevard)	55
Cloverleaf Traffic Interchange	On the inside ramps within the interchange		20

(Ordinance O-005-18 adopted 4/3/18) (Ord. # O-001-21(2), 01/05/2021)

Effective on: 1/5/2021

CHAPTER 13 UTILITIES

Contents:

ARTICLE 13.01 GENERAL PROVISIONS*

ARTICLE 13.02 WATER SERVICE*

ARTICLE 13.03 SEWER SERVICE*

ARTICLE 13.04 RATES AND CHARGES GENERALLY*

ARTICLE 13.05 USER CHARGE SYSTEM FOR DOMESTIC WASTEWATER TREATMENT

ARTICLE 13.06 SOLID WASTE*

ARTICLE 13.07 TRANSPORTATION USER FEE

ARTICLE 13.01 GENERAL PROVISIONS*

Sec. 13.01.001 Provisions of chapter incorporated in service contracts

All applicable provisions of this chapter shall be deemed to be incorporated in every contract between the city and its consumers and customers using any utility service furnished by the city, and they are hereby specifically charged with the duty and responsibility of knowing the provisions of this chapter and, by applying for or accepting any such utility service from the city, are deemed to have assented to the provisions of this chapter. (1998 Code, sec. 51.001)

Sec. 13.01.002 Nonliability of city

The city shall not be liable for any damage to the property of any consumer of any utility service furnished by the city due to backflow of the sewer system or any other cause outside the direct control of the city. (1998 Code, sec. 51.002)

Sec. 13.01.003 Rights and duties of city council

The city council shall at all times have the right and it shall be its duty to:

(1) Prescribe rules and regulations pertaining to and providing for the manner and method of operating the city's utility systems;

(2) Provide for their extension and improvement;

(3) Provide for such deposits as in its opinion are reasonable and required;

(4) Enter into valid contracts with property owners within and without the corporate limits of the city for the extension of water and sewer services, not in conflict with applicable provisions of this code, state law or city ordinances, rules or regulations; and

(5) Prescribe charges for such services.

(1998 Code, sec. 51.003)

Sec. 13.01.004 Creation of water and sewer utility department

There is hereby created in and for the city the water and sewer utility department of the city, which shall be known as the water and sewer utility department for the purposes of this chapter, which department shall embrace the entire waterworks system and the sewer system of the city. (1998 Code, sec. 51.004)

Sec. 13.01.005 Disposal of trash, dirt or other material in drainage ditch

It shall be unlawful for any person to dispose of or dump any trash, dirt or any other material, other than natural stormwaters, in natural drainage ditches within the city. (1998 Code, sec. 51.005)

Sec. 13.01.006 Impeding watercourse or drainage ditch

It shall be unlawful for any person to stop, divert, change, dam, impound or impede the flow of any watershed course, drainageway, ditch or other passageway, either natural or created by the city, which serves the purpose of draining surface water from public rights-of-way in the city; provided, however, nothing in this section shall be construed as restricting the authority of the city, in the exercise of its legal right, to direct, order or authorize such changes or disposition of the watercourses as the city council shall deem advisable and to the best interest of the city. (1998 Code, sec. 51.006)

Sec. 13.01.007 Water or sewer service outside city limits

The city shall be authorized to furnish water or sewer service to consumers outside the city limits at a rate as et forth in CHAPTER 1, ARTICLE 1.07, division 9, utilities. The city council may also, by resolution or contract, upon such terms, conditions and rates, provide service for industrial consumers outside the city limits. However, nothing in this section shall be construed to compel the city to furnish such consumers beyond the corporate limits or to continue such supply once begun; and the city reserves the right to furnish such consumers it deems advisable and to, at any time, wholly or partially discontinue the supply upon violation of any of the terms of this chapter as if the consumer resided within the city. (Ordinance O-010-19 adopted 9/17/19)

ARTICLE 13.02 WATER SERVICE*

Division 1. Generally

Sec. 13.02.001 Prohibited acts

It shall be unlawful for any person, except a member of the fire department or other authorized employee of the city, to open or use water from a fire hydrant, or to take off the cap of a fire hydrant, or to commit or assist in committing any of the following acts:

(1) Placing any telegraph, telephone, or electric light pole, or any other obstruction whatsoever, within three feet of any fire hydrant;

(2) Resorting to any fraudulent device or arrangement for the purpose of procuring water for himself or others from private connections or premises contrary to the provisions of this code or city regulation or ordinance;

(3) Turning on or off without authority from the city the water in any street hydrant or other water fixture, or hitching or tying any animal thereto;

(4) Making or assisting in making or permitting to be made any connections with the mains or service pipes of the waterworks system of the city or turning on or using the water of the system without first obtaining a permit;

(5) Covering or concealing from view any water valve box, service or meter box;

(6) Removing any water meter that has been placed by the city, or in any manner changing, interfering with or tampering with any water meter; provided the provisions of this subsection shall not apply to the employees of the city when acting in their official capacity;

(7) Turning on the water supply to any building or supply pipe where the supply has been turned off for the nonpayment of the water charge or for the violation of any provision of this code or city rule or ordinance governing the water system;

(8) Doing or causing to be done any act that shall hinder or delay the city in its operation of its water system, or with the intent to defraud the city.

(1998 Code, sec. 51.056)

Sec. 13.02.002 Use of water from fire hydrants

Under no conditions shall fire hydrants be used for furnishing water except for fire department or sewer and street service; provided, however, that the utilities customer service manager, by and with the consent and approval of the city manager, may grant a special permit in writing to contractors or others engaged in street improvement or other construction work, under such regulations as may be prescribed by the city manager, to use water from not more than one opening on a fire hydrant, the water to be measured and paid for as provided in this chapter. (1998 Code, sec. 51.056)

Sec. 13.02.003 Repair of service pipes

The city reserves the right to make all repairs and renewals of service pipes from main to meter, but may authorize licensed plumbers to make such repairs and renewals. (1998 Code, sec. 51.057)

Sec. 13.02.004 Temporary interruption of service

The right is reserved by the city to temporarily discontinue and to reconnect without notice water supply to all consumers for the purpose of making repairs, connections, extensions and cleaning of mains, machinery, reservoirs or any part of the city's waterworks system. (1998 Code, sec. 51.058)

Secs. 13.02.005–13.02.030 Reserved

Division 2. Drought Contingency Plan*

Sec. 13.02.031 Declaration of policy, purpose and intent

(a) In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection and to protect and preserve public health, safety, and welfare and to minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the municipal water system hereby adopts the following regulations and restrictions on the delivery and consumption of water through an ordinance.

(b) Water uses regulated or prohibited under this drought contingency plan (the plan) are considered to be nonessential and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in section 13.02.041, enforcement, of this plan.

(Ordinance O-07-05, sec. 51.059(A), adopted 9/6/05)

Sec. 13.02.032 Public involvement

Opportunity for the public and wholesale water customers to provide input into the preparation of the plan was provided by the municipal water system by means of a public meeting to accept input into the plan. (Ordinance O-07-05, sec. 51.059(B), adopted 9/6/05)

Sec. 13.02.033 Wholesale and retail water customer education

The municipal water system will periodically provide wholesale water customers and the public with information about the plan, including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of the public access channel of the local cable television company for the city. Also, wholesale customers or the general public may request a copy of the plan at any time during normal business hours at the office of the utility director at City Hall, 600 N. Main, Borger, Texas 79007. (Ordinance O-07-05, sec. 51.059(C), adopted 9/6/05)

Sec. 13.02.034 Coordination with regional planning groups

The water service area of the municipal water system is located within the Panhandle Water Planning Area, Region (A), and the municipal water system has provided a copy of the plan to the Panhandle Water Planning Area, Region (A), located in the Panhandle Groundwater Conservation District, P.O. Box 637, White Deer, Texas 79097. (Ordinance O-07-05, sec. 51.059(D), adopted 9/6/05)

Sec. 13.02.035 Authorization

The mayor, or his/her designee, is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The mayor, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this plan. (Ordinance O-07-05, sec. 51.059(E), adopted 9/6/05)

Sec. 13.02.036 Application

The provisions of this plan shall apply to all persons, customers, and property utilizing water provided by the municipal water system. The terms “person” and “customer” as used in the plan include individuals, corporations, partnerships, associations, and all other legal entities. (Ordinance O-07-05, sec. 51.059(F), adopted 9/6/05)

Sec. 13.02.037 Definitions

For the purposes of this plan, the following definitions shall apply:

Aesthetic water use. Water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use. Water which is integral to the operations of commercial and nonprofit establishments and government entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation. Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer. Any person, company, or organization using water supplied by the municipal water system.

Domestic water use. Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even-number address. Street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial water use. The use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use. Water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Nonessential water use. Water uses that are not essential nor required for the protection of public health, safety, or welfare, including:

(1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this plan;

(2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle;

(3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas.

(4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;

(5) Flushing gutters or permitting water to run or accumulate in any gutter or street;

(6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;

(7) Use of water in a fountain or pond for aesthetic purposes except where necessary to support aquatic life;

(8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

(9) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd-numbered address. Street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

(Ordinance O-07-05, sec. 51.059(G), adopted 9/6/05)

Sec. 13.02.038 Criteria for initiation and termination of drought response stages

(a) The mayor or his/her designee shall monitor water supply and/or demand conditions on a regular basis and shall determine when conditions warrant initiation or termination of each stage of the plan; that is, when the specified "triggers" are reached. Retail and wholesale customer notification of the initiation or termination of drought response stages will be made by mail, telephone, local media, and/or local public access television.

(b) The triggering criteria below are based on statistical water use patterns, current and expected weather conditions, known system capacity limits, and/or current and expected allocation levels from the Canadian River Municipal Water Authority, our primary supplier of raw water.

(1) Stage 1 triggers–Mild water shortage conditions.

(A) Requirements for initiation. Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, as defined in section 13.02.037, definitions, when the municipal water system recognizes that a mild water shortage condition exists. The following are examples of the types of triggering criteria that may be used in one or more successive stages of this drought contingency plan:

(Ordinance O-07-05, sec. 51.059(H), adopted 9/6/05)

(i) When water supply allocations from the Canadian River Municipal Water Authority to the municipal water system are equal to or less than 3600 acre-feet per year, and the projected use from the municipal water system's owned water wells exceeds 6240 acre-feet per year. (Ordinance O-002-14 adopted 4/1/14)

(ii) When, pursuant to the requirements specified in the municipal water system's wholesale water purchase contract with the Canadian River Municipal Water Authority, notification is received from the authority requesting initiation of stage 1 of the drought contingency plan. (Ordinance O-07-05, sec. 51.059(H), adopted 9/6/05)

(iii) When, due to declining water levels, mechanical failure, or any other unforeseen event in the municipal water system's owned wells, an amount of water less than or equal to 6380 acre-feet of water cannot reasonably be expected to be produced, and there are not adequate allocations from the Canadian River Municipal Water Authority to bring the total available water to 9840 acre-feet per calendar year. (Ordinance O-002-14 adopted 4/1/14)

(iv) Any mechanical, accidental, regulatory, or unforeseen event that might negatively affect the daily safe operating capacity of the municipal water system to continually provide a safe and reliable supply of drinking water that meets all state and federal standards. This condition or triggering event must also be expected to persist for several days or weeks.

(B) Requirements for termination. Stage 1 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 30 consecutive days. The municipal water

system will notify its retail and wholesale customers and the media of the termination of stage 1 in the same manner as the notification of initiation of stage 1 of the plan.

(2) Stage 2 triggers–Moderate water shortage conditions.

(A) Requirements for initiation. Wholesale and retail customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in section 13.02.039, drought response stages, of this plan when the municipal water system recognizes that a moderate water shortage condition exists. The following are examples of the types of triggering criteria that may be used in one or more successive stages of this drought contingency plan:

(Ordinance O-07-05, sec. 51.059(H), adopted 9/6/05)

(i) When water supply allocations from the Canadian River Municipal Water Authority to the municipal water system are equal to or less than 3080 acre-feet per year, and the projected use from the municipal water system's owned water wells exceeds 6240 acre-feet per year. (Ordinance O-002-14 adopted 4/1/14)

(ii) When, pursuant to the requirements specified in the municipal water system's wholesale water purchase contract with the Canadian River Municipal Water Authority, notification is received from the authority requesting initiation of stage 2 of the drought contingency plan. (Ordinance O-07-05, sec. 51.059(H), adopted 9/6/05)

(iii) When, due to declining water levels, mechanical failure, or any other unforeseen event in the municipal water system's owned wells, an amount of water less than or equal to 5315 acre-feet of water cannot reasonably be expected to be produced, and there are not adequate allocations from the Canadian River Municipal Water Authority to bring the total available water to 9060 acre-feet per calendar year. (Ordinance O-002-14 adopted 4/1/14)

(iv) Any mechanical, accidental, regulatory, or unforeseen event that might negatively affect the daily safe operating capacity of the municipal water system to continually provide a safe and reliable supply of drinking water that meets all state and federal standards. This condition or triggering event must also be expected to persist for several days or weeks.

(B) Requirements for termination. Stage 2 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 15 consecutive days. Upon termination of stage 2, stage 1 becomes operative.

(3) Stage 3 triggers–Severe water shortage conditions.

(A) Requirements for initiation. Wholesale and retail customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in section 13.02.039, drought response stages, of this plan when the municipal water system recognizes that a severe water shortage condition exists. The following are examples of the types of triggering criteria that may be used in one or more successive stages of this drought contingency plan:

(Ordinance O-07-05, sec. 51.059(H), adopted 9/6/05)

(i) When water supply allocations from the Canadian River Municipal Water Authority to the municipal water system are equal to or less than 2524 acre-feet per year, and the projected use from the municipal water system's owned water wells exceeds 6356 acre-feet per year. (Ordinance O-002-14 adopted 4/1/14)

(ii) When, pursuant to the requirements specified in the municipal water system's wholesale water purchase contract with the Canadian River Municipal Water Authority, notification is received from the authority requesting initiation of stage 3 of the drought contingency plan. (Ordinance O-07-05, sec. 51.059(H), adopted 9/6/05)

(iii) When, due to declining water levels, mechanical failure, or any other unforeseen event in the municipal water system's owned wells, an amount of water less than or equal to 4970 acre-feet of water cannot reasonably be expected to be produced, and there are not adequate allocations from the Canadian River Municipal Water Authority to bring the total available water to 8305 acre-feet per calendar year. (Ordinance O-002-14 adopted 4/1/14)

(iv) Any mechanical, accidental, regulatory, or unforeseen event that might negatively affect the daily safe operating capacity of the municipal water system to continually provide a safe and reliable supply of drinking water that meets all state and federal standards. This condition or triggering event must also be expected to persist for several days or weeks.

(B) Requirements for termination. Stage 3 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 15 consecutive days. Upon termination of stage 3, stage 2 becomes operative.

(4) Stage 4 triggers–Critical water shortage conditions.

(A) Requirements for initiation. Wholesale and retail customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in section 13.02.039, drought response stages, of this plan when the municipal water system recognizes that a critical water shortage condition exists. The following are examples of the types of triggering criteria that may be used in one or more successive stages of this drought contingency plan:

(Ordinance O-07-05, sec. 51.059(H), adopted 9/6/05)

(i) When water supply allocations from the Canadian River Municipal Water Authority to the municipal water system are equal to or less than 1967 acre-feet per year, and the projected use from the municipal water system's owned water wells exceeds 6471 acre-feet per year. (Ordinance O-002-14 adopted 4/1/14)

(ii) When, pursuant to the requirements specified in the municipal water system's wholesale water purchase contract with the Canadian River Municipal Water Authority, notification is received from the authority requesting initiation of stage 4 of the drought contingency plan. (Ordinance O-07-05, sec. 51.059(H), adopted 9/6/05)

(iii) When, due to declining water levels, mechanical failure, or any other unforeseen event in the municipal water system's owned wells, an amount of water equal to or greater than 4623 acre-feet of water cannot reasonably be expected to be produced, and there are not adequate allocations from the Canadian River Municipal Water Authority to bring the total available water to 7549 acre-feet per calendar year. (Ordinance O-002-14 adopted 4/1/14)

(iv) Any mechanical, accidental, regulatory, or unforeseen event that might negatively affect the daily safe operating capacity of the municipal water system to continually provide a safe and reliable supply of drinking water that meets all state and federal standards. This condition or triggering event must also be expected to persist for several days or weeks.

(B) Requirements for termination. Stage 4 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 5 consecutive days. Upon termination of stage 4, stage 3 becomes operative.

(5) Stage 5 triggers–Emergency water shortage conditions.

(A) Requirements for initiation. Wholesale and retail customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in section 13.02.039, drought response stages, of this plan when the municipal water system recognizes that an emergency water shortage condition exists. The following are examples of the types of triggering criteria that may be used in one or more successive stages of this drought contingency plan:

(i) Major water line breaks, pump, or other system failures that occur, which cause unprecedented loss of capacity to provide a safe and adequate supply of water to all or portions of the system.

(ii) Extended electrical power failures, natural or manmade contamination of the water supply source(s) that might cause unprecedented outages.

(B) Requirements for termination. Stage 5 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 4 consecutive hours or immediately when the municipal water system is able to resume normal operations and deliver adequate quantities of safe and reliable water to its wholesale and retail customers.

(6) Stage 6 triggers–Water allocation.

(A) Requirements for initiation. Residential, nonresidential commercial, wholesale, and industrial customers shall be required to comply with the requirements and restrictions of section 13.02.040, pro rata water allocation, of this plan when the municipal water system recognizes that water shortage conditions exist and are expected to persist for several weeks or months that threaten public health, safety, and welfare. Any one or combination thereof of the example triggering criteria listed in stages 1 thru 5 may be used to initiate this stage.

(B) Requirements for termination. Stage 6 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 30 consecutive days and there is no longer a threat to public health, safety, or welfare of either wholesale or retail customers.

(Ordinance O-07-05, sec. 51.059(H), adopted 9/6/05)

Sec. 13.02.039 Drought response stages

(a) Monitoring and notification. The mayor, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in section 13.02.038, criteria for initiation and termination of drought response stages, of this plan, shall determine that a mild, moderate, severe, critical, or emergency condition exists and shall implement the following notification procedures:

(1) Notification of the public. The mayor or his/her designee shall notify the public by publication of notice in a newspaper of general circulation and/or public service announcements on local access channel.

(2) Additional notification. The mayor or his/her designee shall notify directly, or cause to be notified directly, the following individuals and entities as appropriate to respective drought stages:

(A) Mayor and members of the city council.

(B) City manager and staff.

(C) Fire chief and or his/her designee.

(D) City/county emergency management coordinator.

(E) State commission on environmental quality.

(F) Wholesale water customers.

(G) Industrial water customers.

(H) Critical water users.

(b) Stage 1 response–Mild water shortage conditions.

Target: Achieve a voluntary 10-percent reduction in total water use.

(1) Best management practices for supply management.

(A) All operations (e.g., municipal buildings, facilities, and parks) of the municipal water system shall adhere to water use restrictions prescribed for stage 2 of the plan.

(2) Voluntary water use restrictions for retail customers.

(A) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in and even number (0, 2, 4, 6, 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7, 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.

(B) All water customers are requested to practice water conservation and to minimize or discontinue water use for nonessential purposes.

(3) Voluntary water use restrictions for wholesale and industrial customers.

(A) The mayor, or his/her designee, shall contact wholesale and industrial water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate voluntary measures to reduce water use (e.g., implement stage 1 of the wholesale water customers' drought contingency plan).

The mayor, or his/her designee, will provide a weekly report to the news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

(c) Stage 2 response–Moderate water shortage conditions.

Target: Achieve a 20% reduction in total water use.

(1) Best management practices for supply management.

(A) Designate hours for hose-end watering and noncommercial vehicle washing.

(B) Prohibit flushing of fire hydrants.

(C) Designate hours for watering golf courses.

(D) Request wholesale water customers to reduce nonessential water use.

(2) Water use restrictions for retail customers.

(A) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6, 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7, 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days. However, irrigation of landscaped area is permitted at any time if it is by means of a hand-held hose, a faucet-filled bucket or watering can of five (5) gallons or less, or by means of drip irrigation systems.

(B) Use of water to wash any vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial carwash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

(C) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of midnight and 10:00 a.m. and 8:00 p.m. and 12:00 midnight.

(D) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(E) Use of water from fire hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare. Exceptions on the use of water from designated fire hydrants for construction purposes may be allowed under special permit from the municipal water system.

(F) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the municipal water system, the facility shall not be subject to these regulations.

(G) All restaurants are prohibited from serving water to patrons except upon request of the patron.

(H) The following uses of water are defined as nonessential and are prohibited:

(i) Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

(ii) Use of water to wash down buildings or structures for purposes other than immediate fire protection;

(iii) Use of water for any kind of dust control;

(iv) Flushing of gutters or storm drains, permitting water to run or accumulate in any gutter or street; and

(v) Failure to repair a controllable leak within a reasonable period after having been given notice directing the repair of such leak.

(3) Water use restrictions for wholesale and industrial customers.

(A) The mayor, or his/her designee, will initiate weekly contact with wholesale and industrial water customers to discuss water supply and/or demand conditions and the possibility of a pro rata curtailment of water diversions and/or deliveries.

(B) The mayor, or his/her designee, will request wholesale water customers to initiate mandatory measures to reduce nonessential water use (e.g., implement stage 2 of the customer's drought contingency plan).

(C) The mayor, or his/her designee, will initiate preparations for the implementation of pro rata curtailment of water diversions and/or deliveries by preparing a monthly water usage allocation baseline for each wholesale and industrial customer according to the procedures specified in 13.02.036, application, of this plan.

The mayor, or his/her designee, will provide a weekly report to the news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

(d) Stage 3 response–Severe water shortage conditions.

Target: Achieve a 30% reduction in total water use.

All requirements of stage 2 shall remain in effect during stage 3 except:

(1) Best management practices for supply management.

(A) Designate hours for watering landscaped areas.

(B) Install a portable pump to transfer water from the west industrial well field system to the main distribution system.

(C) Initiate preparations for pro rata curtailment of deliveries to wholesale and commercial customers.

(2) Water use restrictions for retail customers.

(A) Irrigation of landscaped areas shall be limited to designated watering days between the hours of midnight and 10:00 a.m. and 8:00 p.m. to 12:00 midnight and shall be by means of hand-held hoses, a faucet-filled bucket or watering can of five (5) gallons or less, or by permanently installed automatic irrigation systems. The use of hose-end sprinklers is prohibited at all times.

(B) The watering of golf course fairways is prohibited unless the golf course utilizes a water source other than that provided by the municipal water system.

(C) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

(3) Water use restrictions for wholesale and industrial customers.

(A) The mayor, or his/her designee, will initiate weekly contact with wholesale and industrial water customers to discuss water supply and/or demand conditions and the possibility of a pro rata curtailment of water diversions and/or deliveries.

(B) The mayor, or his/her designee, will request wholesale water customers to initiate mandatory measures to reduce nonessential water use (e.g., implement stage 3 of the customer's drought contingency plan).

(C) The mayor, or his/her designee, will initiate preparations for the implementation of pro rata curtailment of water diversions and/or deliveries by preparing a monthly water usage allocation baseline for each wholesale and industrial customer according to the procedures specified in section 13.02.036, application, of this plan.

The mayor, or his/her designee, will provide a weekly report to the news media with information regarding current water supply and/or demand conditions, projected water supply and demand conditions if drought conditions persist, and consumer information on water conservation measures and practices.

(e) Stage 4 response–Critical water shortage conditions.

Target: Achieve a 35% reduction in total water use.

All requirements of stage 2 and 3 shall remain in effect during stage 4 except:

(1) Best management practices for supply management.

(A) Prohibit vehicle washing except at commercial carwashes.

(B) Prohibit the filling of swimming pools, etc.

(C) Contract with a private water system to supply one of the local industries.

(2) Water use restrictions for retail customers.

(A) Irrigation of landscaped areas shall be limited to designated watering days between the hours of midnight and 10:00 a.m. and 8:00 p.m. to 12:00 midnight and shall be by means of hand-held hoses, a faucet-filled bucket or watering can of five (5) gallons or less, or by drip irrigation systems. The use of hose-end sprinklers or permanently installed automatic sprinkler systems is prohibited at all times.

(B) Use of water to wash any vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the immediate premises of a commercial carwash or commercial service station and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at

commercial carwashes or commercial service stations shall occur between the hours of 6:00 a.m. to 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.

(C) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.

(D) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(E) No new application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, main line extensions, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher numbered stage shall be in effect.

(3) Water use restrictions for wholesale and industrial customers.

(A) The mayor, or his/her designee, will initiate weekly contact with wholesale and industrial water customers to discuss water supply and/or demand conditions and the possibility of a pro rata curtailment of water diversions and/or deliveries.

(B) The mayor, or his/her designee, will request wholesale water customers to initiate mandatory measures to reduce nonessential water use (e.g., implement stage 4 of the customer's drought contingency plan).

(C) The mayor, or his/her designee, will initiate preparations for the implementation of pro rata curtailment of water diversions and/or deliveries by preparing a monthly water usage allocation baseline for each wholesale and industrial customer according to the procedures specified in section 13.02.036, application, of this plan.

(f) Stage 5 response–Emergency water shortage conditions.

Target: Achieve a 50% to 70% reduction in daily water demand.

Whenever emergency water shortage conditions exist as defined in section 13.02.038, criteria for initiation and termination of drought response stages, of the plan, the mayor, or his/her designated official shall:

(1) Best management practices for supply management.

(A) Arrange to supply bottled water to citizens if necessary.

(2) Assess the severity of the problem and identify the actions needed and time required to solve the problem.

(3) Notify the public as efficiently as possible to reduce water use until service is restored.

(4) Inform critical water customers by telephone or in person of any foreseen situation that might present a threat to public health, safety, and welfare.

(5) Inform the utility director or other responsible official of each wholesale and industrial water customer by telephone or in person and suggest actions, as appropriate, to alleviate anticipated problems.

(6) If appropriate, notify city, county, and/or state emergency response officials for assistance.

(7) Undertake necessary actions, including repairs and/or cleanup as needed.

(8) Prepare a post-event assessment report on the incident and critique of emergency response procedures and actions.

(Ordinance O-07-05, sec. 51.059(I), adopted 9/6/05; Ordinance O-009-09 adopted 10/20/09)

Sec. 13.02.040 Pro rata water allocation

(a) Single-family residential customers. The allocation to residential water customers residing in a single-family dwelling shall be as follows:

Pro Rata Water Allocation	
Persons per Household	**Gallons per Month**
1 or 2	6,000
3 or 4	7,000
5 or 6	8,000
7 or 8	9,000
9 or 10	10,000
11 or more	12,000

"Household" means the residential premises served by the customer's meter. "Persons per household" includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer's household is comprised of two (2) persons unless the customer notifies the municipal water system of a greater number of persons per household on a form prescribed by the mayor. The mayor shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go the municipal water system offices to complete and sign the form claiming more than two (2) persons per household. New customers may claim more than two persons per household at the time of applying for water service on the form prescribed by the mayor. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the municipal water system on such form, and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the municipal water system in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the mayor shall adopt methods to insure accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the municipal water system of a reduction of the number of persons in a household shall be fined not less than $50.00.

Residential water customers shall pay the following surcharges:

(1) A rate one and one-half (1-1/2) times the customer's regular rate for 1 to 3 thousand gallons over allocation.

(2) A rate two (2) times the customer's regular rate for 4 to 9 thousand gallons over the allocation.

(3) A rate two and one-half (2-1/2) times the customer's regular rate for amounts of 10 thousand gallons or more over the allocation.

Surcharges shall be cumulative.

(b) Master-metered multifamily residential customers. The allocation to a customer billed from a master meter that jointly measures water to multiple permanent residential dwelling units (example: apartments, mobile homes, or duplexes) shall be allocated 6,000 gallons per month for each dwelling unit. It shall be assumed that such a customer's meter serves two (2) dwelling units unless the customer notifies the municipal water system of a greater number of units on a form prescribed by the mayor. The mayor shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every such customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go the municipal water system offices to complete and sign the form claiming more than two (2) dwellings. A dwelling unit may be claimed under this provision whether it is occupied or not. New customers may claim more dwelling units at the time of applying for water service on a form prescribed by the mayor. If the number of dwelling units served by the master meter is

reduced, the customer shall notify the municipal water system in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the mayor shall adopt methods for insuring the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to timely notify the municipal water system of a reduction of the number of dwelling units served by a master meter shall be fined not less than $150.00.

Customers billed from a master meter shall pay the following surcharges:

(1) A rate one and one-half (1-1/2) times the customer's regular rate for 1 to 3 times the dwelling unit (3 x # units) per thousand gallons over allocation.

(2) A rate two (2) times the customer's regular rate for 4 to 9 times the number of dwelling units (4 x # units to 9 x # units) per thousand gallons over the allocation.

(3) A rate two and one-half (2-1/2) times the customer's regular rate for amounts of 10 times the number of dwelling units (10 x # units) per thousand gallons or more over the allocation.

Surcharges shall be cumulative.

(c) Commercial customers. The mayor, or his/her designee, for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes, shall establish a monthly water allocation. Generally the allocation shall be approximately 75% of the customer's usage for the preceding 12-month period. However, the impact of each commercial customer's water use for public health, safety, and welfare will be evaluated and allocations set accordingly. The mayor shall give his/her best effort to see that notice of each commercial customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the municipal water system to determine the allocation. Upon request of the customer or at the initiative of the mayor, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage, (2) one nonresidential commercial customer agrees to transfer part of its allocation to another nonresidential commercial customer, or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A nonresidential commercial customer may appeal an allocation established hereunder to the mayor or alternatively to a special water allocation review committee appointed by the city council.

Commercial water customers shall pay the following surcharges:

(1) A rate one and one-half (1-1/2) times the customer's regular rate for 1 to 3 thousand gallons over allocation.

(2) A rate two (2) times the customer's regular rate for 4 to 9 thousand gallons over the allocation.

(3) A rate two and one-half (2-1/2) times the customer's regular rate for amounts of 10 thousand gallons or more over the allocation.

Surcharges shall be cumulative.

(d) Wholesale customers. In the event that the triggering criteria specified in section 13.02.038, criteria for initiation and termination of drought response stages, of the plan for stage 3, severe water shortage conditions, have been met, the mayor is herby authorized to initiate allocation of water supplies on a pro rata basis in accordance with the Texas Water Code section 11.039.

During any period when pro rata allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water diversions and deliveries:

(1) A rate one and one-half (1-1/2) times the customer's regular rate for usage between 0 and 10% over the allocation.

(2) A rate two (2) times the customer's regular rate for usage between 11 and 20% over the allocation.

(3) A rate two and one-half (2-1/2) times the customer's regular rate for all usage above 20% of the allocation.

(e) Industrial customers. The mayor, or his/her designee, for each industrial customer who uses water for processing purposes, shall establish a monthly water allocation. The industrial customer's allocation shall be approximately 90% of the customer's water usage baseline. Ninety (90) days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation shall be further reduced to 80% of the customer's water usage baseline. The industrial customer's water use baseline will be computed on the average of water use for the past 12-month period ending prior to the date of implementation of stage 2 of the plan. The mayor shall give his/her best effort to see that notice of each industrial customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the municipal water system to determine the allocation, and the allocation shall be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the mayor, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water use because the customer had shut down a major processing unit for repair or overhaul during the period, (2) the customer has added or is in the process of adding significant additional processing capacity, (3) the customer has shut down or significantly reduced the production of a major processing unit, (4) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce water use is limited, (5) one industrial customer agrees to transfer part of its allocation to another industrial customer, or (6) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A nonresidential commercial customer may appeal an allocation established hereunder to the mayor or alternatively to a special water allocation review committee appointed by the city council.

Industrial water customers shall pay the following surcharges:

(1) A rate one and one-half (1-1/2) times the customer's regular rate for usage between 0 and 10% over the allocation.

(2) A rate two (2) times the customer's regular rate for usage between 11 and 20% over the allocation.

(3) A rate two and one-half (2-1/2) times the customer's regular rate for all usage above 20% of the allocation.

Surcharges shall be cumulative.

(Ordinance O-07-05, sec. 51.059(J), adopted 9/6/05)

Sec. 13.02.041 Enforcement

(a) No person shall knowingly or intentionally allow the use of water from the municipal water system for residential, commercial, wholesale, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the mayor, or his/her designee, in accordance with provisions of this plan.

(b) Any person who violates this plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than fifty dollars ($50.00) and not more than two hundred fifty dollars ($250.00). Each day that one or more of the provisions of this plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this plan, the mayor shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, and any other costs incurred by the municipal water system in discontinuing service. In addition, suitable assurance must be given to the mayor that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(c) Any person, including a person classified as a water customer of the municipal water system, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did

not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on the property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this plan and the parent could not have reasonably known of the violation.

(d) Any employee of the municipal water system, police officer, or other employee of the city designated by the mayor, may issue a citation to a person he/she reasonably believes to be in violation of this division. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the city municipal court on the date shown on the citation for which the date shall not be less than 3 days nor more than 10 days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in the municipal court to enter a plea of guilty or not guilty for the violation of this plan. If the alleged violator fails to appear in the municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in the municipal court before all other cases.

(Ordinance O-07-05, sec. 51.059(K), adopted 9/6/05)

Sec. 13.02.042 Variances

(a) The mayor, or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, safety, welfare, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

(1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect.

(2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

(b) Persons requesting an exemption from the provisions of this division shall file a petition for variance with the municipal water system within 5 days after the plan or a particular drought stage has been invoked. All petitions for variances shall be reviewed by the mayor, or his/her designee, and shall include the following:

(1) Name and address of the petitioner(s).

(2) Purpose of water use.

(3) Specific provision(s) of the plan from which the petitioner is requesting relief.

(4) Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with this division.

(5) Description of the relief requested.

(6) Period of time for which the variance is sought.

(7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date.

(8) Other pertinent information.

(c) Variances granted by the municipal water system shall be subject to the following conditions, unless waived or modified by the mayor, or his/her designee:

(1) Variances granted shall include a timetable for compliance.

(2) Variances granted shall expire when the plan is no longer in effect, unless the petitioner has failed to meet the specified requirements.

(3) No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.

(Ordinance O-07-05, sec. 51.059(L), adopted 9/6/05)

ARTICLE 13.03 SEWER SERVICE*

Sec. 13.03.001 Definitions

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

Approving authority. The city manager or his duly authorized representative.

BOD (biochemical oxygen demand). The quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20°C.

Building sewer. The extension from the building drain to the public sewer or other place of disposal (also called the house lateral and house connection).

City. The city or any authorized person acting in its behalf.

COD (chemical oxygen demand). The measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Control manhole. A manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Control point. A point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

Discharge. Includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

Garbage. Animal and vegetable wastes and residue from preparation, cooking and dispensing of food, and from the handling, processing, storage and sale of food products and produce.

Industrial waste. Waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater.

Industrial waste charge. The charge made on those persons who discharge industrial wastes into the city's sewer system.

Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the wastewater treatment plant, its treatment processes or operations or its sludge processes, use or disposal, and therefore is a cause of violation of the city's TPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: section 405 of the Clean Water Act (CWA); the Solid Waste Disposal Act (SWDA), including title III, commonly referred to as the Resource Conservation and Recovery Act (RCRA); and state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA; the Clean Air Act (CAA); the Toxic Substances Control Act (TSCA); and the Marine Protection, Research and Sanctuary Act.

mg/l (milligrams per liter). The same as parts per million, and is a weight-to-volume value which when multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Natural outlet. Any outlet into a watercourse, ditch, lake, or other body of surface water or groundwater.

Normal domestic wastewater. Wastewater, excluding industrial wastewater, discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 300 mg/l and BOD is not more than 300 mg/l.

Overload. The imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

Pass-through. A discharge which exits the wastewater treatment plant into waters of the United States 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 requirement of the city's TPDES permit, including an increase in the magnitude or duration of a violation.

Person. Any individual, including any corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership association, or other legal entity.

pH. The logarithm (base 10) of the reciprocal of the hydrogen ion concentration.

Plumbing fixtures. Water closets, lavatories, bathtubs, household laundries, separate showers, kitchen sinks, or any other similar receptacles that discharge waste into the sewer system.

Public sewer. A pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the city.

Residence. A home or dwelling in which no business is conducted that requires plumbing fixtures other than water closets, bathtubs, showers, lavatories, kitchen sinks, household laundry sinks and other plumbing fixtures designed for residential use and that only has sanitary sewage. For the purpose of this definition, roominghouses, duplex apartments, apartment houses, tourist and trailer camps of not more than ten rooms served by one water meter shall be considered as a residence.

Sanitary sewer. A public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which stormwater, surface water, groundwater, and other unpolluted wastes are not intentionally passed.

Sewage. The water or waterborne waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement floor drains, garage floor drains, storerooms, soda fountains, cuspidors, refrigerator drips, drinking fountains, and other similar fixtures and receptacles that discharge waste into the sewer system.

Slug. Any discharge of water, wastewater or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than 15 minutes, five times the average 24-hour concentration or flow during normal operation.

SS (suspended solids). Solids measured in mg/l that either float on the surface of, or are suspended in, water, wastewater, or other liquids, and which are largely removable by a laboratory filtration device.

Standard Methods. The examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater (Standard Methods) as prepared, approved, and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

Storm sewer. A public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

Stormwater. Rainfall or any other forms of precipitation.

TPDES. Texas Pollution Discharge Elimination System.

Trap. A device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Unpolluted wastewater. Water containing the following:

(1) No free or emulsified grease or oil;

(2) No acids or alkalis;

(3) No phenols or other substances producing taste or odor in receiving water;

(4) No toxic or poisonous substances in suspension, colloidal state, or solution;

(5) No noxious or otherwise obnoxious or odorous gases;

(6) Not more than an insignificant amount in mg/l each of suspended solids and BOD, as determined by the state commission on environmental quality; and

(7) Color not exceeding 50 units as measured by the platinum-cobalt method of determination as specified in Standard Methods.

Utility director. The department head of the water and sewer utility department of the city or his duly authorized deputy, agent or representative.

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

Wastewater. A combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments, together with any ground, surface, and storm water that may be present.

Wastewater facilities. Includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes.

Wastewater service charge. The charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Wastewater treatment plant. Any city-owned facilities, devices, and structures used for receiving, processing and treating wastewater, industrial waste, and sludge from the sanitary sewers.

Watercourse. A natural or human-made channel in which a flow of water occurs, either continuously or intermittently.

(1998 Code, sec. 51.020)

Sec. 13.03.002 Connection required

All residences and places of business situated on property which is immediately adjacent to the city sewer mains are hereby required to establish connection with the sewer mains when such connection is reasonably feasible. Such connection shall be made at the expense of the owner of the residence or place of business as is authorized under Tex. Local Gov't Code section 214.013, and all other authority under the laws of the state. (1998 Code, sec. 51.021)

Sec. 13.03.003 Prohibited discharges generally

(a) No person may discharge into public sewers any waste which by itself or by interaction with other wastes may do any of the following:

(1) Injure or interfere with wastewater treatment processes or facilities;

(2) Constitute a hazard to humans or animals; or

(3) Create a hazard in receiving waters of the wastewater treatment plant effluent.

(b) No person shall discharge or cause to be discharged into the public sewers any pollutant or wastewater which causes pass-through or interference at the wastewater facilities.

(c) No person shall discharge or cause to be discharged into the public sewers the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosion hazard in the wastewater facilities, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.(1998 Code, sec. 51.022)

(2) Wastewater having a pH less than 5.5 or more than 9.0, or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel at the wastewater facilities. (Ordinance O-001-12, sec. 1, adopted 2/7/12)

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the wastewater facilities resulting in interference.

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singularly or by interaction with other pollutants, will cause interference with the wastewater facilities.

(5) Liquid or vapor having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the wastewater treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C), or that causes the temperature of the total wastewater plant influent to increase at a rate of 10°F or more per hour.

(6) Petroleum, oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the wastewater facilities in a quantity that may cause acute worker health and safety problems.

(8) Trucked or hauled pollutants, except at discharge points designated by the utility director.

(d) All discharges shall conform to requirements of this article.

(1998 Code, sec. 51.022)

Sec. 13.03.004 Chemical discharges

(a) No discharge to public sewers may contain any of the following:

(1) Cyanide greater than 1.0 mg/l;

(2) Fluoride other than that contained in the public water supply;

(3) Chlorides in concentrations greater than 350 mg/l;

(4) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; or

(5) Substances causing an excessive COD.

(b) No waste or wastewater discharged to public waters may contain any of the following:

(1) Strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(2) Fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32–150°F (0–65°C);

(3) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater treatment works exceeds the limits established by the approving authority for such materials; or

(4) Obnoxious, toxic or poisonous solids, liquids, or gases in quantities sufficient to violate the provisions of section 13.03.003(a).

(1998 Code, sec. 51.023)

(c) No waste, wastewater, or other substance may be discharged into public sewers which has a pH lower than 5.5 or higher than 9.0, or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel at the wastewater facilities. (Ordinance O-001-12, sec. 2, adopted 2/7/12)

(d) All waste, wastewater, or other substances containing phenols, hydrogen sulfide, or other taste- and odor-producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters.(1998 Code, sec. 51.023)

Sec. 13.03.005 Discharge of hazardous metals and toxic materials

(a) No discharges may contain concentrations of hazardous metals other than amounts specified in subsection (b) of this section.

(b) The allowable concentrations of hazardous metals, in terms of milligrams per liter (mg/l), for discharge to inland waters, and determined on the basis of individual sampling in accordance with Standard Methods, are as follows:

Not to Exceed			
Metal	Average	Daily Composite	Grab Sample
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

(c) No other hazardous metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentration, volumes, and other applicable provisions.

(d) Prohibited hazardous materials include, but are not limited to, the following:

(1) Antimony;

(2) Beryllium;

(3) Bismuth;

(4) Cobalt;

(5) Molybdenum;

(6) Uranyl ion;

(7) Rhenium;

(8) Strontium;

(9) Tellurium;

(10) Herbicides;

(11) Fungicides; and

(12) Pesticides.

(1998 Code, sec. 51.024)

Sec. 13.03.006 Discharge restrictions relating to particle size

(a) No person may discharge garbage or other solids into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than 1/2 inch in any dimension are prohibited.

(b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater.

(1998 Code, sec. 51.025)

Sec. 13.03.007 Discharge of stormwater and other unpolluted drainage

(a) No person may discharge to public sanitary sewers any of the following:
  (1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
  (2) Unpolluted cooling water;
  (3) Unpolluted industrial process waters;
  (4) Other unpolluted drainage.

(b) No person may make any new connections from inflow sources.

(c) In compliance with the Texas Water Quality Control Act, being Tex. Water Code section 26.001 et seq. and other statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) of this section may be discharged.

(1998 Code, sec. 51.026)

Sec. 13.03.008 Discharge restrictions relating to temperature

No person may discharge liquid or vapor having a temperature higher than 150°F (65°C), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of 10°F or more per hour, or a combined total increase of plant influent to 104°F. (Ordinance O-001-12, sec. 3, adopted 2/7/12)

Sec. 13.03.009 Discharge of radioactive wastes

(a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.

(b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

(1998 Code, sec. 51.028)

Sec. 13.03.010 Discharge of substances causing impairment of facilities

(a) No person may discharge into public sewers any substance capable of causing the following:
  (1) Obstruction to the flow in sewers;
  (2) Interference with the operation of treatment processes of facilities; or
  (3) Excessive loading of treatment facilities.

(b) Discharges prohibited by subsection (a) of this section include, but are not limited to, materials which exert or cause concentrations of the following:
  (1) Inert suspended solids greater than 250 mg/l, including, but not limited to:
    (A) Fuller's earth;

(B) Lime slurries; and

(C) Lime residues;

(2) Dissolved solids greater than 1500 mg/l, including, but not limited to:

(A) Sodium chloride; and

(B) Sodium sulfate;

(3) Excessive discoloration, including, but not limited to:

(A) Dye wastes; and

(B) Vegetable tanning solutions; or

(4) BOD, COD, or chlorine demand in excess of normal plant capacity.

(c) No person may discharge into public sewers any substance that may:

(1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;

(2) Overload skimming and grease handling equipment;

(3) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or

(4) Deleteriously affect the treatment process due to excessive quantities.

(d) No person may discharge any substance into public sewers which:

(1) Is not amenable to treatment or reduction by the processes and facilities employed; or

(2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(e) The approving authority shall regulate the flow and concentration of slugs when they may:

(1) Impair the treatment process;

(2) Cause damage to collection facilities;

(3) Incur treatment costs exceeding those for normal wastewater; or

(4) Render the effluent unfit for stream disposal or industrial use.

(f) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size, including, but not limited to, the following:

(1) Ashes;

(2) Cinders;

(3) Sand;

(4) Mud;

(5) Straw;

(6) Shavings;

(7) Metal;

(8) Glass;

(9) Rags;

(10) Feathers;

(11) Tar;

(12) Plastics;

(13) Wood;

(14) Unground garbage;

(15) Whole blood;

(16) Paunch manure;

(17) Hair and fleshings;

(18) Entrails;

(19) Paper products, either whole or ground by garbage grinders;

(20) Slops;

(21) Chemical residues;

(22) Paint residues; or

(23) Bulk solids.

(1998 Code, sec. 51.029)

Sec. 13.03.011 Discharging waste to outlet or location other than sanitary sewer

(a) Unless exception is granted by the approving authority, the public sanitary sewer system shall be used by all persons discharging the following:

(1) Wastewater;

(2) Industrial waste;

(3) Polluted liquids.

(b) Unless authorized by the state commission on environmental quality, no person may deposit or discharge any waste included in subsection (a) of this section on public or private property or into or adjacent to any of the following:

(1) Natural outlet;

(2) Watercourse;

(3) Storm sewer;

(4) Other area within the jurisdiction of the city.

(c) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

(1998 Code, sec. 51.030)

Sec. 13.03.012 Acceptance of restricted wastes

(a) If discharges or proposed discharges to public sewers may deleteriously affect wastewater facilities, processes, equipment, or receiving waters, create a hazard to life or health, or create a public nuisance, the approving authority shall require the following:

(1) Pretreatment to an acceptable condition for discharge to the public sewers;

(2) Control over the quantities and rates of discharge; and

(3) Payment to cover the cost of handling and treating the wastes.

(b) The approving authority is entitled to determine whether a discharge or proposed discharge is included under subsection (a) of this section.

(c) The approving authority shall reject wastes when it determines that a discharge or proposed discharge does not meet the requirements of subsection (a) of this section.

(1998 Code, sec. 51.031)

Sec. 13.03.013 Design and operation of pretreatment and control facilities

(a) If pretreatment or control is required, the approving authority shall review and approve design and installation of equipment and processes.

(b) The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.

(c) Any person responsible for discharges requiring pretreatment, flow equalizing, or other facilities shall provide and maintain the facilities in effective operating condition at his own expense.

(1998 Code, sec. 51.032)

Sec. 13.03.014 Traps

(a) Discharges requiring a trap include the following:

(1) Grease or waste containing grease in amounts that will impede or stop the flow in the public sewers;

(2) Oil;

(3) Sand;

(4) Flammable wastes; and

(5) Other harmful ingredients.

(b) Any person responsible for discharges requiring a trap shall at his own expense and as required by the approving authority provide for the following:

(1) Provide equipment and facilities of a type and capacity approved by the approving authority;

(2) Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and

(3) Maintain the trap in effective operating condition.

(1998 Code, sec. 51.033)

Sec. 13.03.015 Requirements for building sewers carrying industrial wastes

Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense and as required by the approving authority:

(1) Install an accessible control manhole;

(2) Install meters and other appurtenances to facilitate observation, sampling and measurement of the waste;

(3) Install safety equipment and facilities (ventilation, steps, and the like), where needed; and

(4) Maintain the equipment and facilities.

(1998 Code, sec. 51.034)

Sec. 13.03.016 Sampling and testing of wastes

(a) Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb, and property. (Note: The particular analysis involved will determine whether a 24-hour composite sample from all outfalls of the premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and SS analyses are obtained from 24-hour composites of all outfalls. Where applicable, 16-hour, 8-hour or some other period may be required. Periodic grab samples are used to determine pH and oil and grease.)

(b) Examination and analyses of the characteristics of waters and wastes required by this article shall be as follows:

(1998 Code, sec. 51.035)

(1) Conducted in accordance with 40 CFR part 136 approved methods; and (Ordinance O-001-12, sec. 4, adopted 2/7/12)

(2) Determined from suitable samples taken at the control manhole provided or other control point authorized by the approving authority.

(c) BOD and SS shall be determined from composite sampling, except to detect unauthorized discharges.

(d) All samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(e) The approving authority shall determine which users or classes of users may contribute wastewater which is of greater strength than normal domestic wastewater. All users or classes of users so identified shall be sampled for flow, BOD, SS and pH at least annually.

(f) The city may select an independent firm or laboratory to determine flow, BOD, and SS, if necessary. Flow may alternately be determined by water meter measurements if no other flow device is available and no other source of raw water is used.

(1998 Code, sec. 51.035)

Sec. 13.03.017 User charge system

(a) Persons making discharges of industrial waste into the city system shall pay a charge to cover all costs of collection and treatment.

(b) When discharges of any waste into the city system are approved by the approving authority, the city or its authorized representative shall enter into an agreement or arrangement providing the following:

(1) Terms of acceptance by the city;

(2) Payment by the person making the discharge, in accordance with the user charge system as established in subsection (e) of this section;

(3) Sewer connection procedures and requirements which are in accordance with the plumbing code adopted in section 3.06.001;

(4) A sewer application approved with connection fee paid; and

(5) That construction of sewer connections shall be approved by city inspectors prior to sewer use.

(1998 Code, sec. 51.036; Ordinance adopting Code; Ordinance O-010-19 adopted 9/17/19)

Sec. 13.03.018 Permit to discharge

(a) Existing discharge. The city may grant a permit to discharge to a person meeting all the requirements provided that the person:

(1) Secures approval by the approving authority of plans and specifications for the facilities when required;

(2) Gives proof of compliance with all requirements for agreements or arrangements, including, but not limited to, provisions for the following:

(A) Payment of charges;

(B) Installation and operation of the facilities and of pretreatment facilities, if required; and

(C) Sampling and analysis to determine quantity and strength when directed by the city.

(3) Provides a sampling point, when requested by the city, subject to the provisions of this article and approval of the approving authority.

(1998 Code, sec. 51.038; Ordinance adopting Code)

(b) New discharge. A person applying for a new discharge shall:

(1) Meet all conditions of subsection (a) of this section; and

(2) Secure a permit prior to discharging any waste.

(1998 Code, sec. 51.038)

Sec. 13.03.019 Periodic reports

(a) Any person to whom the city has issued a permit pursuant to section 13.03.018 shall, at a frequency determined by the city, but in no case less than twice a year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period.

(b) Any person discharging into the wastewater facilities that is not required to obtain a permit pursuant to section 13.03.018 shall provide appropriate reports to the city as the city may require.

(c) Any person required to complete a compliance report pursuant to 40 CFR 403.12 shall submit such report to the appropriate authority.

(1998 Code, sec. 51.039)

Sec. 13.03.020 Notification requirements

(a) A person must notify the city of any planned significant changes to its operations or systems which might alter the nature, quality, or volume of its wastewater at least 60 days before the change.

(1) The city may require the person to submit such information as may be deemed necessary to evaluate the changed conditions, including the submission of a permit application under section 13.03.018.

(2) The city may issue a permit to discharge under section 13.03.018 or modify an existing permit in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20% or greater, and the discharge of any previously unreported pollutants.

(b) In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the wastewater facilities, the user shall immediately telephone and notify the utility director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(1998 Code, sec. 51.040)

Sec. 13.03.021 Power to enter property

(a) The utility director and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this article.

(b) Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.

(c) Except when caused by negligence or failure of a person to maintain safe conditions, the city shall indemnify the person against loss or damage to property by city employees and against liability claims and demands for personal injury or property damage asserted against the person and growing out of the sampling operation.

(d) The utility director and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter all private properties through which the city holds a negotiated easement for the purposes of the following:

(1) Inspection, observation, measurement, sampling or repair;

(2) Maintenance of any portion of the sewer system lying within the easement; and

(3) Conducting any other authorized activity.

All activities shall be conducted in full accordance with the terms of the negotiated easement pertaining to the private property involved.

(a) No person acting under authority of this section may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers.

(1998 Code, sec. 51.041)

Sec. 13.03.022 Authority to disconnect service

(a) The city may terminate water and wastewater disposal service and disconnect a customer from the system when:

(1) Acids or chemicals which may damage the sewer lines or treatment process are released to the sewer, potentially causing accelerated deterioration of these structures or interfering with proper conveyance and treatment of wastewater;

(2) A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or

(3) The customer:

(A) Discharges waste or wastewater that is in violation of the permit issued by the approving authority;

(B) Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;

(C) Fails to pay monthly bills for water and sanitary sewer services when due; or

(D) Repeats a discharge of prohibited waste to public sewers in violation of section 13.03.003 through section 13.03.010 as stated above.

(b) If service is being disconnected pursuant to subsection (a)(2) of this section the city shall:

(1) Disconnect the customer's service;

(2) Supply the customer with the governmental agency's report and provide the customer with all pertinent information; and

(3) Continue disconnection until such time as the customer provides pretreatment, additional pretreatment or other facilities designed to remove the objectionable characteristics from his waste.

(1998 Code, sec. 51.042)

Sec. 13.03.023 Notice of violation; continuation of violation

(a) The city shall serve persons discharging in violation of this article with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory compliance.

(b) No person may continue discharging in violation of this article beyond the time limit provided in the notice.

(1998 Code, sec. 51.043)

Sec. 13.03.024 Penalty; additional remedies

(a) Continuing prohibited discharge.

(1) A person who continues prohibited discharges shall be deemed guilty of a misdemeanor and upon conviction shall be punished in conformity with section 1.01.009 for each act of violation and for each day of violation.

(2) In addition to proceeding under authority of subsection (a)(1) of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person continuing prohibited discharges.

(b) Failure to pay. In addition to sanctions provided for by this article, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay a bill for water and sanitary sewer service when due.

(c) Penalty for criminal mischief. The city may pursue all criminal and civil remedies to which it is entitled under authority of statutes and ordinances against a person negligently, willfully or maliciously causing loss by tampering with or destroying public sewers or treatment facilities.

(1998 Code, sec. 51.044)

ARTICLE 13.04 RATES AND CHARGES GENERALLY*

Sec. 13.04.001 Application for service

Written application shall be made to the city, upon forms furnished therefor, for water, sewer, refuse collection or any other utility service that may be furnished by the city. Such application shall state the name and address of the applicant, the type of utility service desired, the purposes for which the application is made and such other information as the city may request. (1998 Code, sec. 51.070)

Sec. 13.04.002 No service to defaulters

The city shall not furnish any utility service to any person who shall be in debt to the city, except for taxes. (1998 Code, sec. 51.071)

Sec. 13.04.003 Amount of water deposit

(a) Residential dwelling. A deposit is required for each residential dwelling in an amount appropriate for the meter size as listed in the ARTICLE 1.07, division 9.

(b) Business or commercial establishment. A deposit is required for each business or commercial establishment in an amount appropriate for the meter size as listed in the ARTICLE 1.07, division 9.

Sec. 13.04.004 Water meter installation fee

(a) Water meter installations, upsizing, and/or downsizing for new or existing taps shall be charged as listed in the ARTICLE 1.07, division 9.

(Ordinance O-008-18 adopted 9/18/18)

(b) Water meter installations larger than 2 inch, or which require a nonstandard meter box, additional lines and/or materials, street boring, or other site specific requirements, shall be charged based on the cost of material, labor, and equipment required for the installation plus fifteen percent (15%). (Ordinance O-002-11, sec. 7, adopted 9/20/11)

Sec. 13.04.005 Refund of deposit

Any deposit made to the city by any applicant shall be held by the city until such applicant's utility service for which the deposit was made shall be terminated. Upon termination of such service, the applicant shall be entitled to a refund of such deposit, less any amount which is due and owing to the city. (1998 Code, sec. 51.074)

Sec. 13.04.006 Water meters required; installation and maintenance

(a) Meters shall be required to measure the consumption of water service furnished by the city.

(b) All meters required by this article used to measure the consumption of water service furnished by the city shall be installed and maintained by the city.

(c) All meters used for the measurement of the consumption of water service furnished by the city shall be the property of the city, except under special contract or agreement with the city. It shall be unlawful for any person to install or maintain any meter for such purposes anywhere within the city which is not owned by the city.

(1998 Code, sec. 51.075)

Sec. 13.04.007 Testing of water meters; failure of meter to register correctly

(a) Should any consumer feel that his water meter is registering improperly, he shall make request in writing to the city to have his meter tested. The same shall be tested as quickly as possible and if there is as much as a 2% error in the registering of a meter 1 inch or less, or an error of 3% in a meter larger than 1 inch, there shall be no charge for testing; however, in case there is not such an error, then the consumer shall pay a fee as listed in the ARTICLE 1.07, division 9 multiplied by the size of the meter for the test. (Ordinance O-008-18 adopted 9/18/18)

(b) Should any meter used to measure the consumption of water service furnished by the city fail to register correctly, the amount of water used by any consumer since the previous reading shall be estimated by the city upon the basis of any previous continuous three months' service. (1998 Code, sec. 51.076)

Sec. 13.04.008 Tampering with meters

It shall be unlawful for any person, other than a duly authorized employee of the city, to tamper with any meter; or to in any manner injure any meter; or to manipulate or attempt to manipulate any meter in any manner so as to affect its registration or measurement of the metered utility service. (1998 Code, sec. 51.077)

Sec. 13.04.009 User classifications

(a) Established. A user classification is hereby established for all users of municipal water and wastewater facilities, as follows:

(1) Class A: Residential users.

(2) Class B: Commercial users.

(3) Class C: Industrial or wholesale users.

(b) Defined. The user classifications established in subsection (a) above are herein defined:

(1) Class A users shall include all residential-type users, including, but not limited to, residences, apartment units, trailer court units, duplexes, or any other service primarily intended for domestic or residential-type use. The city may include small office buildings, churches and other low-volume (similar to domestic volume) users in class A.

(2) Class B users shall include commercial users including, but not limited to, restaurants, cafes, carwashes, schools, hospitals, nursing homes, offices, hotels, motels, laundries, grocery stores, department stores, and the like, not included in class A.

(3) Class C users are generally industrial or wholesale customers, including, but not limited to, any users of:

(A) Untreated or raw water;

(B) Effluent or other nonpotable water;

(C) City-produced potable well water;

(D) Canadian River Municipal Water Authority (CRMWA) raw surface water or well water; or

(E) Any combination of the above, that requires, among other things:

(i) Oversized additions to the city's water system;

(ii) Water delivery at a particular range of pressure;

(iii) Delivery of a particular source (city well water and/or CRMWA water);

(iv) Delivery at a high flow rate; and/or

(v) Delivery in quantities in excess of that required by a typical class B commercial customer.

(4) Class C water service will normally be provided pursuant to a written water supply agreement upon such terms and conditions as agreed to by the city council and at a rate for each source of water set to fully

recover the city's cost of providing such service. Class C water rates shall be calculated using a cost-of-service rate methodology developed by the city and designed to recover the cost of providing such service. Rates for each source will be recalculated pursuant to section 13.04.010(c) of this article and effective for water taken on or after each January 1st of every fiscal year.

(Ordinance O-004-15 adopted 9/8/15)

Sec. 13.04.010 Water rates

Base and volumetric rates for each class and size of meter are listed in the ARTICLE 1.07, division 9. (Ordinance O-008-18 adopted 9/18/18)

Sec. 13.04.011 Payment; disconnection for nonpayment

(a) Due date. The rates and charges fixed and prescribed by the provisions of this article shall be due and payable at the city hall on the day as reflected on the bill rendered to the utility customer.

(b) Delinquency. In the event that the rates and charges due and payable under the provisions of this article are not paid by the due date as reflected on the bill rendered to the utility customer, a penalty of ten percent (10%) on the total bill for water, sewer and trash (excluding tax and donation) shall be charged; further, a delinquent notice shall be mailed to the address of the defaulting customer, and shall state that unless the rates and charges are paid within ten days after the date of the notice, all utility services furnished by the city shall be terminated, and the city shall not be liable for any damage to the property of such customer due to such termination of service.

(c) Disconnection for late payment.

(1) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect that:

(A) All bills are due and payable on or before the date set forth on the bill;

(B) If any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(C) Any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a reconnection charge, as set forth in section 13.04.012.

(1998 Code, sec. 51.080)

Sec. 13.04.012 Resumption of service after disconnection for nonpayment; reconnection fee

Any consumer of the utility services furnished by the city whose utility services have been disconnected or terminated for the nonpayment of the rates and charges therefor may have such utility services resumed by paying all rates and charges due by him/her to the city, and, in addition thereto, as listed in the ARTICLE 1.07, division 9 for reconnection during normal working hours or after-hours and holidays will be assessed.

Sec. 13.04.013 Payment by bad check

In the event that a customer tenders payment for service by check, and the same is refused by the paying bank, the bill shall be declared delinquent, and the city shall forthwith notify the customer, either in person or by written notice as above provided, of the refused check, and the consumer shall immediately redeem such check; otherwise, service shall be disconnected. Each consumer who gives the city a check which is refused by the paying bank shall be assessed an additional service charge as listed in the ARTICLE 1.07, division 9.

(Ordinance O-008-18 adopted 9/18/18)

State law references–Issuance of bad checks, V.T.C.A., Penal Code, sec. 32.41; processing fee by holder of dishonored checks, V.T.C.A., Business and Commerce Code, sec. 3.506.

ARTICLE 13.05 USER CHARGE SYSTEM FOR DOMESTIC WASTEWATER TREATMENT

Sec. 13.05.001 User classifications

(a) Established. A user classification is hereby established for all users of the municipal wastewater facilities, as follows:

(1) Class A: Residential users.

(2) Class B: Commercial users.

(b) Defined. The user classifications established in subsection (a) above are herein defined:

(1) Class A users shall include all residential-type users, including, but not limited to residences, apartment units, trailer court units, duplexes, or any other service primarily intended for domestic or residential-type use. The city may include small office buildings, churches and other low-volume (similar to domestic volume) users in class A.

(2) Class B users shall include commercial users, such as, but not limited to, restaurants, cafes, carwashes, schools, hospitals, nursing homes, offices, hotels, motels, laundries, grocery stores, department stores, and the like, not included in class A.

(c) Authority to establish other classifications. In the future, the city may establish other user classifications, as necessary, to meet local, state, or federal regulations, or the general needs of the area.

(1998 Code, sec. 51.095)

Sec. 13.05.002 Rates established; basis of charges

(a) All users of the municipal wastewater facilities shall be charged a minimum base rate per month plus a charge per each one thousand (1,000) gallons of metered water consumption as listed in the ARTICLE 1.07, division 9. (Ordinance O-008-18 adopted 9/18/18)

(b) The water consumption per month to be billed for class A users shall be the average water consumption per month during the January through March period of each year in order not to account for any water used during other months for purposes such as lawn and garden watering from which water is not conveyed into the waste water facilities. The water consumption per month to be billed for class B users shall be the actual water consumption recorded each month for the purpose of water billing. In the case of users not on metered basis, the city shall establish an estimated water consumption on a comparison of the nonmetered user with a metered user of similar class. (Ordinance 0-014-05, sec. 51.096, adopted 9/13/05)

Sec. 13.05.003 Determination of charges

(a) Determination of charges. All users of municipal wastewater facilities shall be charged on a volume basis, as the biochemical oxygen demand (BOD), SS and other pollutant concentrations discharged are approximately equal for both class A and class B users. The charges shall be determined in accordance with the following formula:

$$Cu = C_b + C_t V_{t(Vu)}$$

(b) Symbols and definitions.

Cu	=	A user's charge per unit of time.
C_b	=	A user's base minimum charge per unit of time for costs not associated with operations and maintenance of flow-related units of wastewater facilities.
C_t	=	Total operation and maintenance (O&M) costs per unit of time of flow-related units of wastewater facilities.
V_t	=	Total volume contribution from all users per unit of time. (May include extraneous flows.)
V_u	=	Volume contribution from a user per unit of time.

(1998 Code, sec. 51.097)

Sec. 13.05.004 Excessive strength charges

(a) Calculation of surcharge. For any user, when the BOD exceeds 300 mg/l, or the SS exceed 300 mg/l, or when other pollutant concentrations exceed the range of concentrations of these pollutants in normal domestic sewage, a surcharge shall be added to the basic charge. This surcharge shall be calculated by the following formula:

$$C_s = [B_c(B) + S_c(S) + P_c(P)] V_u$$

(b) Symbols and definitions.

C_s	=	A surcharge for wastewater of excessive strength.
B_c	=	Operation and maintenance (O&M) costs for treatment of a unit of BOD.
B	=	Concentration of BOD from a user above a base level.
S_c	=	O & M cost for treatment of a unit of SS.
S	=	Concentration of SS from a user above a base level.
P_c	=	O & M cost for treatment of a unit of any pollutant.
P	=	Concentration of any pollutant from a user above a base level.
V_u	=	Volume contribution from a user per unit of time.

(1998 Code, sec. 51.098)

Sec. 13.05.005 Review and revision of rates

(a) The user charge ordinance shall be reviewed annually regarding the wastewater contribution of users and user classes, the total costs of the operation and maintenance of the treatment works and the approved user charge system.

(b) The charges for users or user classes shall be revised to:

(1) Maintain the proportionate distribution of operation and maintenance costs among users and user classes.

(2) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works.

(3) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year, and with the rates being adjusted accordingly.

(1998 Code, sec. 51.099)

Sec. 13.05.006 Toxic pollutants charges

Each user that discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the treatment works shall pay for such increased costs. (1998 Code, sec. 51.100)

Sec. 13.05.007 Reserved

Editor's note–Former section 13.05.007 pertaining to notification and deriving from the 1998 Code, sec. 51.101, was deleted in its entirety by Ordinance O-010-19 adopted 9/17/19.

Sec. 13.05.008 Charges for extraneous flows

The costs of operation and maintenance for all flows not directly attributable to users (such as infiltration/inflow) shall be distributed among users on the same basis as operation and maintenance charges. (1998 Code, sec. 51.102)

Sec. 13.05.009 Records

A recordkeeping system shall be established and maintained by the city to document compliance with federal regulations pertaining to the user charge ordinance. (1998 Code, sec. 51.103)

Sec. 13.05.010 Billing

(a) Procedure; delinquency notice. Users will be billed on a monthly basis with payment due ten days after the date of billing. Users on metered water service will be billed on the same notice as water charges and will be designated as a separate entry. Users of the wastewater system not on metered water service will be billed monthly on an individual notice for wastewater service at the rate established by the city. Users with delinquent accounts will be notified in writing by the city that water and/or wastewater services will be terminated within ten days unless the account is paid in full. The city will utilize its current utilities collection procedures as required in the control and management of the user charge system.

(b) Disconnection for late payment.

(1) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect that:

(A) All bills are due and payable on or before the date set forth on the bill;

(B) If any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(C) Any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(1998 Code, sec. 51.104)

(c) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a reconnection charge, as set forth in the ARTICLE 1.07, division 9. (Ordinance O-008-18 adopted 9/18/18)

Sec. 13.05.011 Precedence of system over terms of contracts or agreements

The user charge system shall take precedence over any terms or conditions of agreements or contracts between the city and any of the users which are inconsistent with applicable federal regulations regarding user charge systems. (1998 Code, sec. 51.105(c); Ordinance adopting Code)

ARTICLE 13.06 SOLID WASTE*

Division 1. Generally

Sec. 13.06.001 Definitions

Refuse. Includes all rubbish, such as feathers, coffee grounds, paper boxes, glass, yard clippings and leaves, waste material and refuse from kitchens, residences, grocery stores, butcher shops, restaurants, cafes, hotels, processing plants, and rooming and boarding houses, and other deleterious substances, none of which is liquid. (1998 Code, sec. 50.01)

Sec. 13.06.002 Burning of refuse

No person shall burn trash, construction or demolition debris, landscape waste, or other materials within the city limits unless specific authority is granted by the appropriate state agency and the fire chief. (1998 Code, sec. 50.02)

Sec. 13.06.003 Disposal of used or scrap tires

It shall be a violation of this code for any person, firm or corporation to place within any refuse container provided by the city or its agents or to set out for collection or otherwise dispose of any quantity of used or scrap tires unless the tires are first shredded, split or quartered. (1998 Code, sec. 50.03)

Sec. 13.06.004 Disposal of explosives

It shall be a violation of this code for any person, firm or corporation to place in any container used for storage of refuse any shotgun shells, rifle, pistol, or revolver cartridges, or any other explosive. Disposal of such articles shall be done under the supervision of a member of the police department. (1998 Code, sec. 50.04)

Sec. 13.06.005 Disposal of lead-acid batteries

It shall be a violation of this code for any person, firm or corporation to place within any refuse container provided by the city or its agents or to set out for collection or otherwise dispose of any lead-acid battery. Lead-acid batteries are recyclable and shall be disposed of at the retail level or scrap yard collecting lead acid batteries for recycling. (1998 Code, sec. 50.05)

Sec. 13.06.006 Disposal of refrigerators, freezers, and air conditioners

It shall be a violation of this code for any person, firm or corporation to place within any refuse container provided by the city or its agents or to set out for collection or otherwise dispose of any refrigerator, freezer, or air conditioner unless the refrigerant has been evacuated and recovered by an authorized recycler and the appliance is properly tagged and certified that refrigerant has been removed in accordance with state law. (1998 Code, sec. 50.06)

Sec. 13.06.007 Disposal of oil and oil filters

It shall be a violation of this code for any person, firm or corporation to place within any refuse container provided by the city or its agents or set out for collection any used oil or oil filter. It shall be a violation of this code for any person, firm or corporation to pour, drain, or otherwise dispose of used oil or used oil filters upon the ground or any alleyway, utility easement, street, sewer manhole, or storm drain. (1998 Code, sec. 50.07)

Sec. 13.06.008 Disposal of dead animals

It shall be a violation of this code for any person, firm or corporation to dispose of a dead animal within any refuse container provided by the city or its agents or set out for disposal any dead animal. The owner of any animal which dies within the corporate limits of the city shall cause such animal to be properly disposed of at the owner's expense. (1998 Code, sec. 50.08)

Sec. 13.06.009 Disposal of construction and demolition material; covering of vehicles transporting loose materials

(a) It shall be unlawful for any construction or demolition contractor, or person in charge of such a project, to fail to provide on-site refuse containers, bulk containers, or detachable containers for loose debris, paper, building material waste, scrap building material, and other trash produced by those working at the site. All such debris shall be containerized by the end of each day, and the site shall be kept in a reasonably clean and litter-free condition. Such containers shall be provided by the contractor or person in charge of such a project. Dirt, mud, construction materials, or other debris deposited upon any public or private property because of the construction, demolition, remodel, or repair shall be immediately removed by the contractor or person responsible therefor at their own expense. Construction and demolition sites shall be kept clean and orderly at all times.

(b) It shall be a violation of this code for any person, firm or corporation to operate any vehicle upon public or private streets, alleyways, or other rights-of-way transporting loose materials within the city limits without a suitable cover which prevents any part of the contents from falling or being scattered upon any such public street, alleyway, or other public right-of-way.

(1998 Code, sec. 50.09)

Sec. 13.06.010 Disposal of tree and shrub trimmings

(a) Private contractors engaged in the trimming of trees and shrubs shall remove from any public or private property at their own expense any such tree or shrub trimmings. Such trimmings shall not be placed in any street, alleyway, utility easement, or any other public or private right-of-way for removal by the city.

(b) Residents may deposit tree limbs, tree branches, and shrub trimmings in the alley adjacent to their property. Such limbs, branches, or trimmings shall not be longer than ten feet and not more than a regular pickup load. If the load is larger than a regular pickup load the citizen will be required to remove limbs, branches, or shrub trimmings at their own expense. Depositing of tree and shrub trimmings shall not block any alley or easement way.

(1998 Code, sec. 50.10)

Sec. 13.06.011 Disposal of liquid animal waste, grease and similar waste

Commercial establishments having liquid animal waste, grease, or any similar waste shall provide at their own expense a steel container with a tight-fitting lid or cover. Such container shall not be hauled by the city or its agents. Disposal shall be at the owner's expense. Such waste shall not be placed in any refuse container provided by the city. (1998 Code, sec. 50.11)

Sec. 13.06.012 Littering prohibited

It shall be unlawful for any person, firm or corporation to throw, drop, cast or deposit upon any street, alleyway, sidewalk, or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, bottles or any other form of litter or waste matter. (1998 Code, sec. 50.12)

Sec. 13.06.013 Responsibility of business owners or managers to keep premises clean

The owner or manager of any business situated within the city shall keep the premises clean of waste materials thrown or left on premises by customers, and shall take measures to prevent such material from drifting or blowing to adjacent properties or premises. Containers of sufficient size and number shall be placed on the premises and made readily available to customers for disposal of waste materials. (1998 Code, sec. 50.13)

Sec. 13.06.014 Tampering with refuse

(a) It shall be a violation of this code for any individual, firm or corporation to meddle or tamper with any refuse, trash, or rubbish containers, or any refuse, trash, or rubbish, or to in any manner pilfer such containers or such refuse, trash, or rubbish, or to scatter the contents thereof in any street, alleyway, sidewalk, or any private or public premises within the city.

(b) This section shall not apply to authorized officials, including but not limited to authorized sanitation personnel, firefighters in the performance of their official duties, and law enforcement officers in the performance of their official duties.

(1998 Code, sec. 50.14)

Secs. 13.06.015–13.06.040 Reserved

Division 2. Collection

Sec. 13.06.041 Containers required; use

(a) Every owner, occupant, tenant or lessee using or occupying any building, house or structure within the corporate limits of the city for residences, churches, schools, lodges, commercial, business and other purposes, and served by a container system which is mechanically emptied, shall be provided containers of sufficient number and size to hold all refuse that will normally accumulate on the premises from one collection period until the next.

(b) All refuse accumulated shall be placed in containers provided by the city and all rubbish such as boxes, cartons, and crates shall be collapsed and flattened before placing in containers. Lids shall be kept closed except when placing refuse in containers.

(1998 Code, sec. 50.25)

Sec. 13.06.042 Location and placement of containers

(a) Refuse containers provided by the city shall be assigned locations by the director of public works. Said containers shall be moved by city crews only, and as authorized by the director of public works.

(b) Where hand pickup is provided, trash shall be in secure bags and placed a minimum of three feet behind the curb.

(1998 Code, sec. 50.26)

Sec. 13.06.043 Draining and wrapping of refuse

All refuse that is mixed with water or other liquid shall be drained and wrapped before being placed in a container for collection and removal. (1998 Code, sec. 50.27)

Sec. 13.06.044 Frequency of collection

The frequency of collection and removal of refuse from premises within the corporate limits of the city shall be as frequent as deemed necessary by city officials for maintaining sanitary conditions. (1998 Code, sec. 50.28)

Sec. 13.06.045 Charges

(a) Generally.

(1) Residential single-family property. The per month rate to be charged for the removal of refuse from single-family units shall be as listed in the ARTICLE 1.07, division 8. In the event a single-family unit is vacant, no charge shall be made during the time that the same is unoccupied, provided the utility customer makes application with the customer service office prior to billing, and thence, renews application with each 30-day period of vacancy.

(2) Multiple-family dwelling units, three units or less. Duplexes or triplexes connected to a single water meter shall be charged the same rate as a single-family dwelling unit.

(3) Commercial establishments. The rate to be charged for the removal of refuse from commercial establishments, including schools, churches and multiple-family dwelling units comprised of more than three (3) units, shall be as listed in the ARTICLE 1.07, division 8.

(4) Determination of actual charge. The number of containers utilized by each customer and the number of pickups per week shall determine the actual monthly charge.

(5) Inspections by director. The director of public works is hereby authorized to make such inspections as deemed reasonable to determine the number of containers and the number of pickups per week necessary to provide the level of service commercial establishments require for the removal of refuse; however, in no case shall the rate charged per month be less than the current minimum commercial rate.

(b) Extra charge for vector control program. To each utility account that includes a charge for refuse collection services, there shall be added a monthly surcharge as listed in the ARTICLE 1.07, division 8 beginning with the utility bills due and payable on or after the first day of October, 2005.

(c) Extra pickups from commercial establishments. In the event unscheduled collection and hauling of refuse from commercial establishments is requested an additional charge as listed in the ARTICLE 1.07, division 8 will be assessed for each pickup regardless of the size container.

(Ordinance O-008-18 adopted 9/18/18)

ARTICLE 13.07 TRANSPORTATION USER FEE

(Ord. # O-009-20, 09/15/2020)

Sec. 13.07.01 Definitions

City Limits. Shall mean the city limits of the City of Borger as they exist on the effective date of this Ordinance and as they may be hereinafter amended from time to time.

Effective on: 9/15/2020

Category or Categories. Means one (1) of twenty-two (22) categories recognized in the Trip Factor Index determined from the land uses of all non-residential customers.

Effective on: 9/15/2020

Maintain/Maintaining/Maintenance of the Transportation System. Shall mean planning, construction, operation, monitoring, maintaining, and making additions and improvements to the Transportation System.

Effective on: 9/15/2020

Tier. Means one (1) of six (6) tiers established per Trip Factor Index calculations and the monthly base rate established for each Tier.

Effective on: 9/15/2020

Transportation User Fee ("Fee"). Shall mean the fee that is established by this Ordinance which is assessed against, and collected from, owners or occupants of real property located within the city limits for the purposes of planning, constructing, operating, monitoring, and maintaining the Transportation System of the City.

Effective on: 9/15/2020

Transportation System. Shall mean the streets, curbs, structures, traffic controls, and other facilities in the public right-of-way, such as bridges, sidewalks and alleys which are dedicated to the use of vehicular and pedestrian traffic, all of which are owned and/or controlled in whole by the City and which are dedicated to the transportation system service of the City, including provisions for additions, improvements, maintenance, operations and extensions to the system.

Effective on: 9/15/2020

Trip Factor. Means a basis of service measurement, principally derived from the trip generation rates published by the current edition of the Institute of Transportation Engineers Trip Generation Manual, and as hereinafter may be amended.

Effective on: 9/15/2020

Trip Factor Index. Means the table of applied land uses recognized by the City for purposes of implementing the Transportation User Fee.

Effective on: 9/15/2020

Utility Customer. Means the holder of a City utility account or the person who is responsible for the payment of charges of a Transportation User Fee.

Effective on: 9/15/2020

Sec. 13.07.02 Establishment and Revision of the Transportation User Fee.

(a) The City Council hereby establishes a Transportation User Fee to be paid by Utility Customers within the city limits of Borger, Texas. Said fee shall be set in such amounts to provide sufficient funds to properly maintain the Transportation System.

(b) Collection of the Fee against each developed parcel of real property shall be made by a monthly charge to be added to the City utility bill for such property.

(c) The City Council has established a fee schedule based upon the cost of maintaining the Transportation System which is shown in CHAPTER 1, GENERAL PROVISIONS, ARTICLE 1.07, FEE SCHEDULE, Division 11, Transportation User Fee, Sec. 1.07.111, and may by separate ordinance establish and change the tiered fees based upon changes in the cost of maintaining the Transportation System.

Effective on: 9/15/2020

Sec. 13.07.03 Transportation Fund

(a) A separate fund of the City of Borger shall be created effective October 1, 2020, known as the Transportation Fund. All fees collected by the City for the purpose of additions, improvements, maintenance, operations and extensions of the Transportation System shall be deposited in the Transportation Fund. It shall not be necessary for the expenditures from the Fund to specifically relate to any particular property from which the fees were collected.

(b) An annual report of the Transportation Fund and the Transportation User Fee program will be provided to the City Council.

Effective on: 9/15/2020

Sec. 13.07.04 Imposition of Transportation User Fee

There is hereby imposed upon Utility Customers within the city limits of the City of Borger, Texas, a Transportation User Fee. This fee is deemed reasonable and necessary to pay for the operation, administration, addition, improvement, extension, and maintenance of the Transportation System.

Effective on: 9/15/2020

Sec. 13.07.05 Findings

(a) The number of motor vehicle trips generated by a parcel of real property may reasonably be used to estimate the prorated cost of maintenance of the Transportation System attributable to the property or parcel.

(b) The size and use of a parcel of real property may reasonably be used to estimate the number of motor vehicle trips generated by the property.

(c) Based on the best available data, the method of imposing the Transportation User Fee reasonably prorates the cost of maintaining the Transportation System among the real properties that generate use of the Transportation System.

(d) It is reasonable and equitable to impose a set monthly fee per each developed residential and non-residential parcel of real property in order to avoid a disproportionate burden on any residential or non-residential parcel of real property.

(e) If available, appraisal district property tax records may be relied upon to determine the size of non-residential property for the purpose of assessment of the Transportation User Fee.

(f) It is reasonable and equitable to consider trip generation rates for non-residential parcels of real property from the Institute of Transportation Engineers in determining the Trip Factor to be used for calculation of the Transportation User Fee for non-residential properties.

Effective on: 9/15/2020

Sec. 13.07.06 Determination of Fee

(a) The Fee for residential property shall be charged on the basis of a set fee per lot, unit, tract or parcel (collectively "parcel") for each parcel of residential real property in the city limits of the City of Borger. The person or entity listed as the Utility Customer for said parcel shall be responsible for payment of the Transportation User Fee.

(b) The Fee for non-residential property shall be charged on the basis of using the monthly base trip rate in the City of Borger Transportation User Fee Schedule as listed in Sec. 13.07.06 Trip Rates, and based on land uses to establish categories of non-residential customers. The trip factors listed in the Trip Factor Index are derived from the current edition of the Institute of Transportation Engineers Trip Generation Manual, (currently the 9th Edition or as hereinafter may be amended) and are the number of trips anticipated to and from a property per its land use and established units.

(1) For each non-residential property, (except lodging, schools, and outdoor recreation), the building area, in square footage, on the real property will be multiplied by the appropriate Trip Factor from the Trip Factor Index in Sec. 13.07.07, Trip Rates to arrive at a monthly base trip rate.

(2) Properties fitting in the lodging, school, and outdoor recreation categories will calculate the monthly base trip rate of the property by multiplying the appropriate Trip Factor by the quantity of the unit specified in the Trip Factor Index.

(3) The monthly base trip rate value will determine in which Tier, as defined hereinabove, the non-residential property is classified. The monthly fee for the non-residential property is determined by its Tier as shown listed in the City of Borger Fee Schedule found in ARTICLE 1.07 of this Code.

(4) Non-residential fees for churches or other uses that cannot be determined will be charged the commercial fixed rate as listed in ARTICLE 1.07 of this Code.

(5) The person or entity that is listed as the Utility Customer for each non-residential parcel of real property shall be responsible for payment of the Transportation User Fee.

Effective on: 9/15/2020

Sec. 13.07.07 Trip Rates

Transportation User Fee Trip Generation Rate – ITE 9th Edition				
Class #	**Category**	**Trip Factor**	**Units**	**Description**
1	Auto Part/Service/Wash	4.46	1,000 SF	Quick Lube, Car Wash, Auto Parts Sales, Auto Repair
2	Bank	12.13	1,000 SF	Walk-in or Drive-up bank
3	Building Materials	4.49	1,000 SF	Lumber yard, Hardware/Paint Store, Nursery
4	Car Sales	2.62	1,000 SF	New and Used Car Sales
5	Convenience Market	34.57	1,000 SF	Convenience store with and with out pumps and Gasoline/Service Station
6	Day Care	12.46	1,000 SF	Day cars with less than 50 students
7	Fast Food	26.15	1,000 SF	Fast Food with and without drive through, Donut Place with or without drive through.
8	General Office	1.49	1,000 SF	Single Tenant Office, Post Office, Business Park
9	General Retail	3.71	1,000 SF	Shopping Center, Apparel, Arts & Crafts, General Merch.
10	Hospital/Nursing Home	0.74	1,000 SF	Hospitals and Nursing Homes
11	Indoor Recreation	3.53	1,000 SF	Bowling Alley, Movie Theatre, Health/Fitness Club
12	Industrial	0.73	1,000 SF	General Light and Heavy Industry, Manufacturing, Utilities.
13	Large School/Day Car	0.2	1,000 SF per student	All schools with more than 50 students
14	Lodging	0.47	per room	Hotel, Motel
15	Medical Office	3.57	1,000 SF	Medical or Dental Office, Clinic, Veterinary Clinic
16	Restaurant	11.15	1,000 SF	Restaurant, Bar, Pup, Brewery
17	Salon	1.93	1,000 SF	Hair Salon / Barber Shop
18	Supermarket/Pharmacy	8.40	1,000 SF	Supermarket, grocery store, Drug store
19	Superstore	4.35	1,000 SF	Free-standing Discount Superstore
20	Warehousing	0.32	1,000 SF	Warehousing/Storage
21	Residential / Other	N/A	Flat Rate	Single Family, Multi Family, Churches and unoccupied buildings

Effective on: 9/15/2020

Sec. 13.07.08 Billing and Collection of Fee

The Transportation User Fee shall be billed and collected with the City's monthly utility bill. All such bills shall be rendered monthly and shall be due upon receipt.

Effective on: 9/15/2020

Sec. 13.07.09 Recovery of Unpaid Fee

Any Fee due hereunder which shall not be paid when due may be recovered in action at law by the City. In addition to any other remedies or penalties provided by this Ordinance or the Code of the City, failure of any user of the City utilities within the City to pay the fees promptly when due shall subject such user to the discontinuance of utility services provided by the City.

Effective on: 9/15/2020

Sec. 13.07.10 Administration; Rules and Regulations

The City Manager or designee shall be responsible for the administration of this Ordinance. The City Manager or designee shall be responsible for developing rules, regulations and procedures for the administration of fees and the consideration of petitions for modification and appeals pertaining to the fees charged hereunder; developing maintenance programs; and establishing transportation system criteria and standards for the operation and maintenance of the transportation system.

Effective on: 9/15/2020

Sec. 13.07.11 Disposition of Fees and Charges

The Fee paid and collected by virtue of this Ordinance shall not be used for the general government or proprietary purposes of the City, except to pay for the equitable share of the cost of accounting, management, and government thereof.

Other than as described above, the fees and charges assessed and collected hereunder shall be used solely to pay for the cost of operation, administration, planning, engineering, development of guidelines and controls, inspection, maintenance, repair, improvement, renewal, replacement and reconstruction of the Transportation System and costs incidental thereto.

Effective on: 9/15/2020

Sec. 13.07.12 Exemptions

Property owned by the City is hereby exempt from the provisions of this Ordinance.

Effective on: 9/15/2020

Sec. 13.07.13 Periodic Review of Rates

The City Council will periodically review this Ordinance and the Transportation User Fee and shall be obligated to review them no later than the first month following the third anniversary date of this Ordinance. Notwithstanding, the Transportation User Fees established by this Ordinance will remain unchanged until the first month following the third anniversary date of this Ordinance.

Effective on: 9/15/2020

CHAPTER 14 UNIFIED LAND DEVELOPMENT ORDINANCE (ULDO)

Contents:

ARTICLE 14.01: BASIC PROVISIONS, ZONING DISTRICTS, AND DIMENSIONAL STANDARDS

ARTICLE 14.02: BUILDING AND SITE DESIGN

ARTICLE 14.03: SUBDIVISION STANDARDS

ARTICLE 14.04: ENVIRONMENTAL MANAGEMENT

ARTICLE 14.05: ADMINISTRATIVE BODIES AND PROVISIONS

ARTICLE 14.06: DEVELOPMENT REVIEW PROCEDURES

ARTICLE 14.07: NONCONFORMITIES

ARTICLE 14.08: ENFORCEMENT AND REMEDIES

ARTICLE 14.09: RULES OF CONSTRUCTION AND DEFINITIONS

(Ord. # O-006-22, 07/19/2022)

ARTICLE 14.01: BASIC PROVISIONS, ZONING DISTRICTS, AND DIMENSIONAL STANDARDS

Contents:

Section 14.01.100: Basic Provisions

Section 14.01.200: Base Districts and Standards

Section 14.01.300: Use Standards

Section 14.01.400: Measurements and Allowances

Section 14.01.100: Basic Provisions

Subsection 14.01.101 Title

(a) **Official Title.** This document is known and may be cited as the City of Borger, Texas, Unified Land Development Ordinance (ULDO).

(b) **Short Title**. References to "this Code" or "this Ordinance" are interpreted as references to this ULDO.

Effective on: 8/9/2022

Subsection 14.01.102 Purposes

The City Council adopts this Unified Land Development Ordinance (ULDO) to protect the public health, safety, and general welfare of present and future inhabitants of the City in accordance with the goals of the Comprehensive Plan. The provisions of this ULDO are specifically intended to:

(a) **Economic Development**. Encourage economic opportunities, particularly those that have meaningful multiplier effects in the local economy, by promoting the vitality and development of resilient commercial and industrial districts.

(b) **Public Health and Safety**. Protect public health and safety and environmental quality by:

- (1) Ensuring an adequate street network in order to lessen congestion in the streets;
- (2) Ensuring the provision of adequate open space for light, air, and fire safety;
- (3) Preventing the overcrowding of land and promoting a healthful and convenient distribution of population by regulating the density and intensity of development;
- (4) Promote public safety from fire, flooding, and other natural and man-made disasters through appropriate subdivision and site design;
- (5) Facilitating the adequate provision of transportation, water, drainage, sewerage, schools, parks, and other public requirements; and,
- (6) Preserving and protecting existing trees and vegetation, floodplains, stream corridors, scenic views, and other areas of scenic and environmental significance from adverse impacts of land development.

(C) **Quality of Life**. Protect the quality of life of City residents, business owners, employees, and visitors by:

- (1) Improving the city's appearance through the regulation of design, where such regulations are appropriate;
- (2) Avoiding undue concentration of population and urban sprawl;
- (3) Protecting property against blight and depreciation by facilitating reinvestment, redevelopment, and infill development; and
- (4) Protecting the character and stability of agricultural, residential, institutional, commercial, industrial, and natural areas.

(D) **Fiscal and Functional Health**. Protect the fiscal and functional health of the City by:

(1) Encouraging the most appropriate, efficient, and compatible use of land, buildings, and other structures throughout the City;

(2) Securing economy in government and private sector expenditures by promoting efficiency in development review;

(3) Encouraging infill development, where appropriate, in order to make efficient use of existing public infrastructure;

(4) Facilitating greenfield development, where appropriate, in order to capitalize on valued natural features; and,

(5) Promoting a balanced supply of residential, commercial, and industrial land uses that are compatible with adjacent land uses and have good transportation access.

Effective on: 8/9/2022

Subsection 14.01.103 Authority and Jurisdiction

(a) **Authority**. The City Council adopts this ULDO pursuant to:

(1) *State Statues*. Under the authority of Article XI, Section 5 of the Constitution of the State of Texas and laws of the State of Texas, including but not limited to the following provisions of the Texas Local Government Code (TLGC) and the Texas Water Code (TWC), as amended:

(A) TLGC Chapter 211, *Municipal Zoning Authority;*

(B) TLGC Chapter 212, *Municipal Regulation of Subdivisions and Property Development;*

(C) TLGC Chapter 213, *Municipal Comprehensive Plans*;

(D) TLGC Chapter 214, *Municipal Regulation of Housing and Other Structures;*

(E) TLGC Chapter 216, *Regulation of Signs by Municipalities;*

(F) TLGC Chapter 242, *Authority to Regulate Subdivisions In and Outside Extraterritorial Jurisdiction*;

(G) TLGC Chapter 243, *Municipal and County Authority to Regulate Sexually Oriented Business*;

(H) TLGC Chapter 244, *Location of Certain Facilities and Shelters;*

(I) TLGC Chapter 245, *Issuance of Local Permits*;

(J) TLGC Chapter 246, *Construction of Certain Telecommunications Facilities; and*

(K) TWC Sec. 16.315, *Political Subdivisions.*

(2) *Charter*. Pursuant to the provisions of the City's Home Rule Charter and Code of Ordinances;

(b) **Jurisdiction**.

(1) *Generally*. All provisions of this ULDO apply within the corporate limits of the City of Borger.

(2) *Extraterritorial Jurisdiction (ETJ)*. In order to ensure orderly, fiscally, and environmentally responsible growth of the City and its one-mile area of subdivision control, all provisions of this ULDO apply in the ETJ except for:

(A) Section 14.01.200, *Base Districts and Standards*;

(B) Section 14.01.300, *Use Standards*; and,

(C) Section 14.02.400, *Trees, Landscaping, and Buffering.*

Effective on: 8/9/2022

Subsection 14.01.104 Effective Date

August 9, 2022, shall be the date when this Unified Land Development Ordinance (ULDO) becomes effective and enters into the full force of law.

Effective on: 8/9/2022

Section 14.01.200: Base Districts and Standards

Subsection 14.01.201 District Establishment

(a) **Purpose**. The purpose of this Section is to establish zoning districts and to set out permitted, conditional, and prohibited uses in each zoning district. The zoning districts are shown on the Official Zoning Map, which is established below in Subsection 14.01.201(d), *Official Zoning Map, below*.

(b) **Applicability**. No building or land may be used, and no structure may be erected, altered, or moved that is used or designed to be used for any purpose other than a use that is permitted or conditionally permitted in a zoning district in which that building or land is located.

(c) **Zoning Districts**. This Section divides the City into the zoning districts set forth in Table 14.01.201-1, *Zoning Districts*, below. In addition, the Table shows the future land use class from the Comprehensive Plan that each zoning district implements, lists the available development types that are further articulated in this Section, and establishes purpose statements for each zoning district and development type combination.

Table 14.01.201-1, *Zoning Districts*

Future Land Use Class	Zoning District (Abbreviation)	Development Type	Purpose: The purpose of this zoning district and neighborhood type is to provide for:	Former Zoning District
Residential Districts				
Rural	RE, Rural and Estate	Rural	Lands that are sparsely developed with mainly natural areas, large lots, and very low-density residential uses that reflect a rural character.	Estate and Agriculture (EA)
Estate Residential		Conventional	Subdivisions planned with large acreages that are clearly set apart from other dwellings integrated with areas of open space, nature preserves, and passive recreation areas.	
General Residential	GR, General Residential	Conventional	Moderately-sized lots for single-family detached dwellings in a conventional neighborhood environment.	One-Family Dwelling (1F-1,1F-2) Planned Development (PD)
		Park Proximity	Smaller-sized lots for single-family detached dwellings located totally or partially within an established park service area of a City-owned park site. Park-oriented subdivisions shall be permitted higher densities and require lower amounts of new open space due to the development site's close proximity to existing recreational amenities and open spaces.	
	SU, Semi-Urban Residential	Conventional	Small- to moderate-sized lots for conventional single-family detached and single-family attached dwelling units.	General Residence (GR) Planned Development (PD)
		Park-Proximity	Smaller-sized lots for single-family detached and attached dwellings located totally or partially within an established park service area of a City-owned park site. Park-oriented subdivisions shall be permitted higher densities and require lower amounts of new open space due to the development site's close proximity to existing recreational amenities and open spaces.	
		Alley Loaded	Small-sized lot for single-family detached dwellings that only provide vehicular access to a development lot from the rear yard utilizing a public or private alley.	

Table 14.01.201-1, *Zoning Districts*				
Future Land Use Class	**Zoning District (Abbreviation)**	**Development Type**	**Purpose: The purpose of this zoning district and neighborhood type is to provide for:**	**Former Zoning District**
Multi-Family Residential	MR, Multi-Family Residential	Conventional	Multiple residential unit development at a greater density (units per building or acre) than found in single-family residential. This district can provide a transition from primarily residential to mainly non-residential areas. Higher densities may be appropriate in certain locations. Site design and open space standards may be applied to offset the relative density of this residential type, to ensure adequate recreational space on the site for residents, and to provide buffering and screening between this and less dense residential uses.	General Residence (GR) Planned Development (PD)
Mixed-Use Districts				
Downtown Area Mixed-Use	DA, Downtown Area (Mixed-Use)	Mixed-Use	The most densely developed area of the community in terms of the greatest coverage of sites with building footprints and the least amount of private development devoted to off-street parking and landscaping. Parking is accommodated on-street and/or within public parking areas which facilitate minimal building front setback, the feeling of "architectural enclosure" and a general area more conducive to pedestrian activity and interaction.	Central Business (CB)
Corridor Mixed-Use	C-MU, Corridor Mixed-Use	Mixed-Use	A mix of commercial retail, office, and service uses along and near a high-profile roadway corridor. The mix of uses may include residential, especially to provide additional housing options and forms within the community. Major public and/or institutional facilities may also serve as development anchors within the area.	N/A
Nonresidential Districts				
Suburban Commercial	SC, Suburban Commercial	Nonresidential	Commercial developments, whether at a neighborhood-focused or larger scale that stands apart from most auto-oriented contemporary development.	Commercial (C) Retail (R) Neighborhood Service (NS) Planned Development (PD)
Commercial	C, General Commercial		Properties in commercial retail, office, and service uses, primarily along portions of major roadway corridors within the community for high visibility and accessibility, but also in other locations to accommodate neighborhood-focused businesses. Regional-level commercial uses include typical "big-box" developments that will draw patrons from a wide area, while neighborhood-focused businesses include smaller footprint sites that cater to serving a smaller area.	
Industrial - Light and Heavy	IL, Industrial - Light		The development of heavy commercial, office, and/or light industrial uses with auto-urban character. These uses are generally comprised of enhanced site and building standards (for example, operations are conducted indoors with limited on-site storage or truck traffic, it does not generate noticeable external effects or nuisances, etc.) to create higher quality industrial parks or employment centers.	Light Industrial (LI) Planned Development (PD)
	IH, Industrial - Heavy		The development of a range of industrial enterprises with auto-urban character. These uses may include such things as manufacturing, fabrication, with both indoor and outdoor operations, on-site storage, and display, and may have heavy truck traffic. Environmental effects likely associated with these industrial uses include noise, light, odor, vibration, and other visible and sensory impacts. As such, these uses are generally well buffered against abutting uses. These areas are required to utilize an urban level of services.	Heavy Industrial (HI)

Table 14.01.201-1, *Zoning Districts*				
Future Land Use Class	**Zoning District (Abbreviation)**	**Development Type**	**Purpose: The purpose of this zoning district and neighborhood type is to provide for:**	**Former Zoning District**
Other				
Public/Institutional	PI, Public/ Institutional	Nonresidential	The public facility land uses and their vicinities that warrant special consideration. Such consideration is necessary either to: (1) protect a major community asset or other highly-valued use; or, (2) buffer and protect nearby properties from potential adverse effects depending on the nature and operational aspects of public use.	Park (P)

(d) **Official Zoning Map.**

(1) *Generally*. Zoning districts are shown on the map entitled "Official Zoning Map" of the City of Borger. An official copy of the map is on file and available for inspection during regular business hours at the office of the City Secretary.

(2) *Force and Effect*. The Official Zoning Map, together with all legends, references, symbols, boundaries, and other information, is part of and has the same force of law as the text of this ULDO.

(3) *Status of the Zoning Map*. The Official Zoning Map that is on file with the City Secretary shall control in the event of a conflict between the map that is on file and any other paper or digital reproduction of the map.

(4) *Interpreting the Zoning Map*.

(A) Where the Map appears to be unclear regarding the location of district boundaries, the Director of Planning and Development (Director) shall make a determination using the following criteria:

(i) *Rights-of-Way or Easements*. Where boundary lines appear to follow existing streets, alleys, railroad tracks, utility lines, or similar features, the zoning boundary shall be construed to follow the centerline of the rights-of-way or easement. Where the location of these features on the ground differs from that shown on the Official Zoning Map, the features on the ground control.

(ii) *City Limits*. Where district boundaries are indicated as approximately following City limits, such City limits shall be considered the district boundaries.

(iii) *Property Lines*. Where the boundaries are indicated as approximately following property lines, such lines shall be construed to be the boundaries.

(iv) *Watercourses*. Boundaries shown as following, or approximately following, the centerline of drainage ways, streams, water bodies, or other watercourses shall be construed as following the centerline. In the event of a natural change in the location of such streams or other watercourses, the zoning district boundary shall be construed as moving with the centerline.

(v) *Vacation or Abandonment*. Where a public right-of-way is officially vacated or abandoned, the regulations applicable to the abutting property apply equally to the vacated or abandoned street or alley.

(vi) *Annexed and Undesignated Lands*. For the purposes of ensuring that all land has a zoning designation, any land that is annexed into the City shall be zoned in accordance with its associated future land use class(es) as set forth in the Future Land Use Map in the Comprehensive Plan and in Table 14.01.201-1, *Zoning Districts*.

(B) If the boundary remains uncertain, the Board of Adjustment shall interpret the Official Zoning Map to determine the location of the boundary in question.

Effective on: 8/9/2022

Subsection 14.01.202 RE, Rural and Estate

(a) **Development Standards**. Table 14.01.202-1, *Development Standards*, below, establishes the standards for developing new residential as the conventional development type in this Zoning District. For the standards to develop as the rural development type, see Subsection 14.01.213, *Development Types*. Permitted nonresidential uses shall be developed in accordance with the standards in Subsection 14.01.209, *SC, Suburban Commercial*.

Table 14.01.202-1, *Development Standards*

	Lot and Building Standards	Single-Family Detached
-	Maximum Dwelling Units per Acre	0.5 (1 / 2 ac.)
A	Minimum Lot Area (acres)	2
B	Minimum Lot Width (feet)	100
C	Minimum Street Setback (feet)	35
D	Minimum Interior Side Setback (feet)	10
E	Minimum Exterior Side Setback (feet)	35
F	Minimum Rear Setback (feet)	10
G	Maximum Height (feet)	45
-	Maximum Lot Coverage (percent)[2]	N/A[1]

Figure 14.01.202-1, *Development Standards*

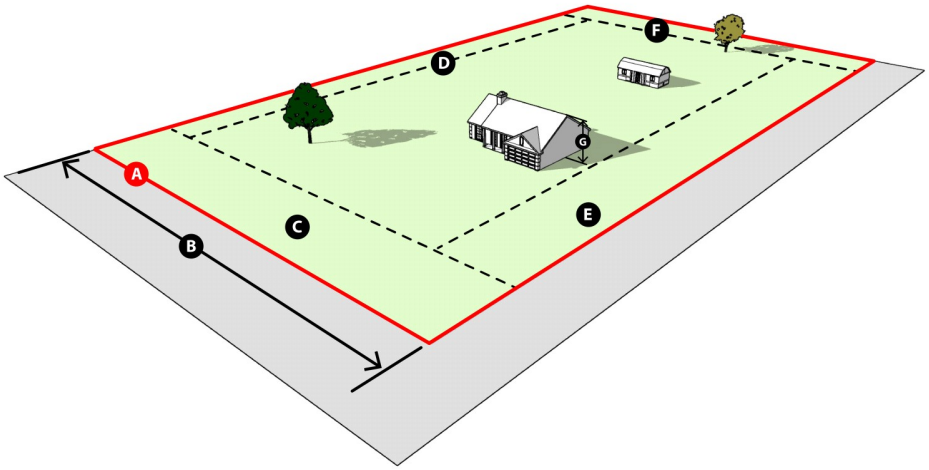


TABLE NOTES:

1. N/A = Not applicable
2. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.

(B) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards*.

(C) **Building Design.** Refer to Subsection 14.02.202, *Single-Family and Duplex Development* for additional standards.

(D) **Landscaping and Buffering.** Not applicable.

(E) **Signage**. Permitted Signage for uses in the RE District shall be in accordance with the standards established in Section. 14.02.500, *Signs*.

Effective on: 8/9/2022

Subsection 14.01.203 GR, General Residential

(a) **Development Standards**. Table 14.01.203-1, *Development Standards*, below, establishes the standards for developing new residential as the conventional development type in this Zoning District. For the standards to develop as the park-proximity development type, see Subsection 14.01.213, *Development Types.* Permitted nonresidential uses shall be developed in accordance with the standards in Subsection 14.01.210, *C, Commercial*.

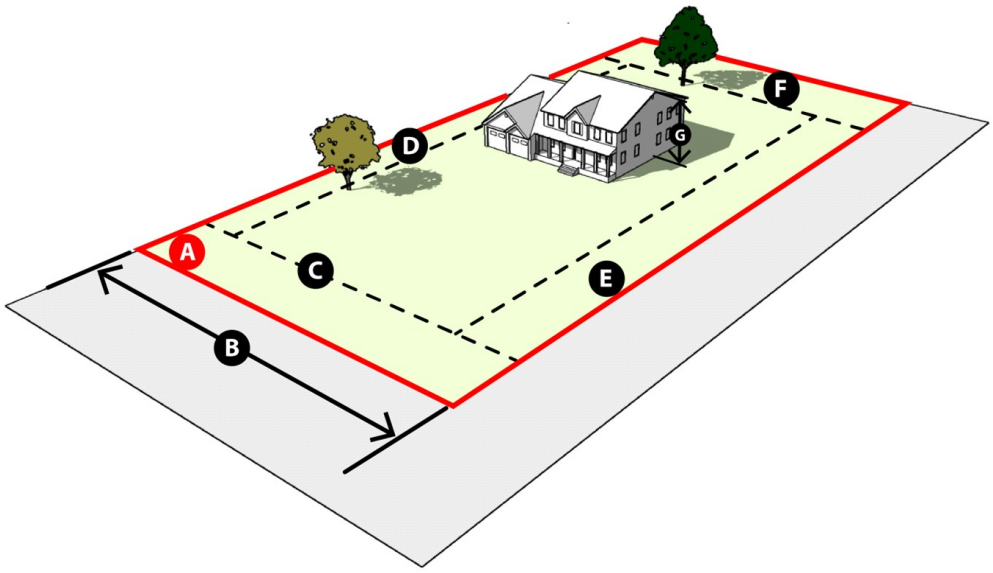
Table 14.01.203-1, *Development Standards*

	Lot and Building Standards	Single-Family Detached
-	Maximum Dwelling Units per Acre	6
A	Minimum Lot Area per Dwelling Unit (square feet)	6,500
B	Minimum Lot Width (feet)	60
C	Minimum Street Setback (feet)	25
D	Minimum Interior Side Setback (feet)	5
E	Minimum Exterior Side Setback	25
F	Minimum Rear Setback (feet)	10
G	Maximum Height (feet)	35
-	Maximum Lot Coverage[1] (percent)	50%
-	Minimum Dwelling Unit Footprint (square feet)	1,000

TABLE NOTES:

1. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.

Figure 14.01.203-1, *Development Standards*



(B) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards*.

(C) **Building Design.** Refer to Subsection 14.02.202, *Single-Family and Duplex Development* for additional standards.

(D) **Landscaping and Buffering**. Landscape and buffering for uses in the GR District shall be in accordance with the standards established in Section. 14.02.400, *Trees, Landscaping, and Buffering*.

(E) **Signage**. Permitted Signage for uses in the GR District shall be in accordance with the standards established in Section. 14.02.500, *Signs*.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Subsection 14.01.204 SU, Semi-Urban Residential

(a) **Development Standards**. Table 14.01.204-1, *Development Standards*, below, establishes the standards for developing new residential as the conventional development type in this Zoning District. For standards to development as the park-proximity or alley loaded development types, see Subsection 14.01.213, *Development Types*. Permitted nonresidential uses shall be developed in accordance with the standards in Subsection 14.01.210, *C, Commercial*.

Table 14.01.204-1, *Development Standards*

	Lot and Building Standards	Single-Family Detached	Duplex or Single-Family Attached	Multiplex
-	Maximum Dwelling Units per Acre	7.0	14.1	16.0
A	Minimum Lot Area per Dwelling Unit (square feet)	5,000	2,500	2,000
B	Minimum Lot Width (feet)	50	25	60
C	Minimum Street Setback (feet)	20	20	20
D	Minimum Interior Side Setback (feet)	5	5	7.5
E	Minimum Exterior Side Setback (feet)	20	20	20
F	Minimum Rear Setback (feet)	25	25	20
G	Maximum Height (feet)	35	35	40
-	Maximum Lot Coverage[1] (percent)	50%	60%	65%

TABLE NOTES:

1. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.

Figure 14.01.204-1, *Development Standards (Single-Family Detached)*

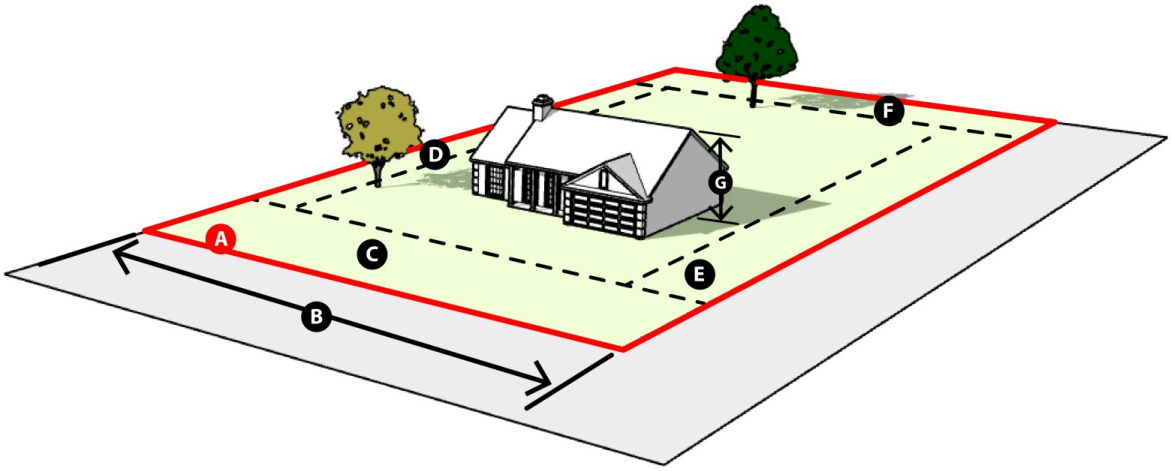


Figure 14.01.204-2, *Development Standards (Duplex)*

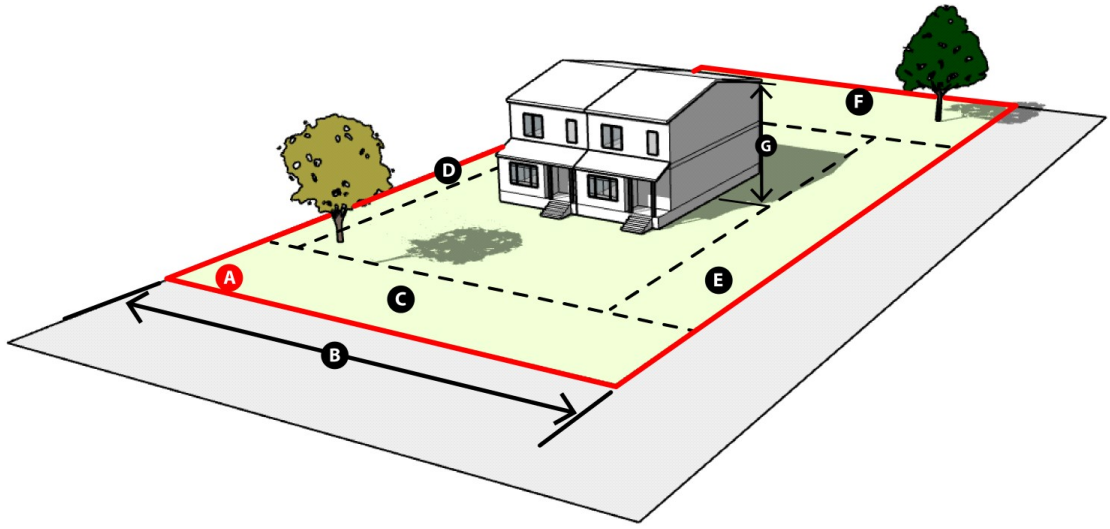


Figure 14.01.204-3, *Development Standards (Single-Family Attached)*

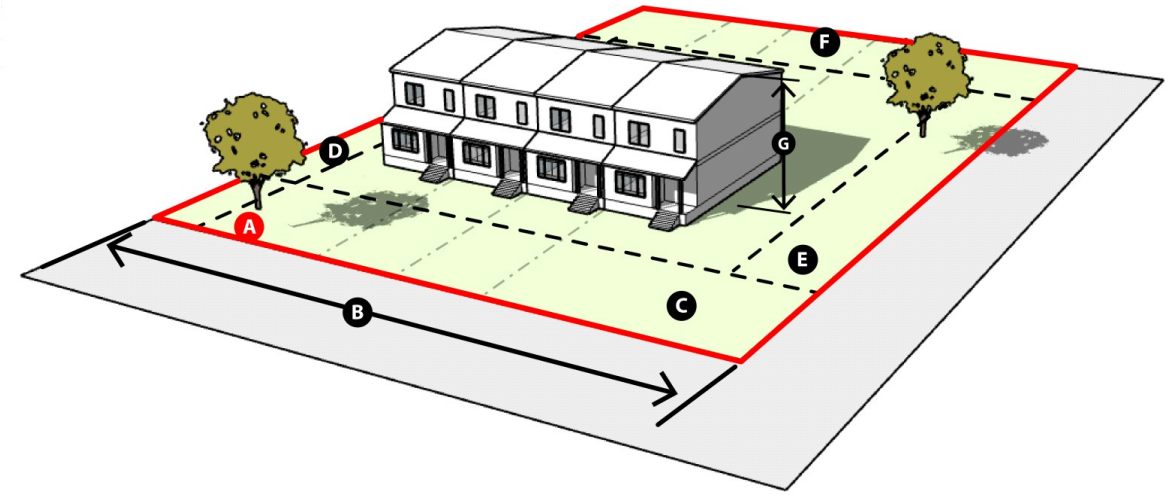
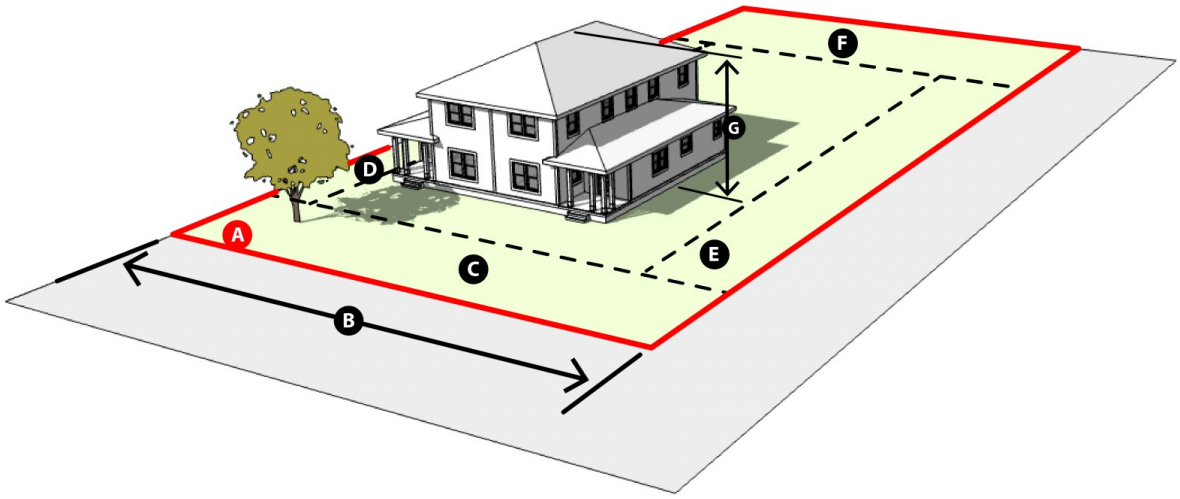


Figure 14.01.204-4, *Development (Multiplex)*



(B) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards*.

(C) **Building Design.** Refer to Subsection 14.02.202, *Single-Family and Duplex Development,* and Subsection 14.02.203, *Multiplexes and Apartments* for additional standards.

(D) **Landscaping and Buffering**. Landscape and buffering for uses in the SU District shall be in accordance with the standards established in Section 14.02.400, *Trees, Landscaping, and Buffering*.

(E) **Signage**. Permitted signage for uses in the SU District shall be in accordance with the standards established in Section. 14.02.500, *Signs*.

Effective on: 8/9/2022

Subsection 14.01.205 MR, Multi-Family Residential

(a) **Development Standards**. Table 14.01.205-1, *Development Standards*, below, establishes the standards for developing new residential in this Zoning District. Permitted nonresidential uses shall be developed in accordance with the standards in Subsection 14.01.208, *C-MU, Corridor Mixed-Use*.

Table 14.01.205-1, *Development Standards*

	Lot and Building Standards	Multiplex or Apartment
-	Maximum Dwelling Units per Acre	19.5
A	Minimum Lot Area per Dwelling Unit (square feet)	2,200
B	Minimum Lot Width (feet)	100
C	Minimum Street Setback (feet)	25
D	Minimum Interior Side Setback (feet)	15
D	Minimum Exterior Side Setback / Building Separation (feet)	20
F	Minimum Rear Setback (feet)	20
G	Maximum Height (feet)	45
-	Maximum Lot Coverage[1] (percent)	70%

TABLE NOTES:
1. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.

Figure 14.01.205-1, *Development Standards (Multiplex)*

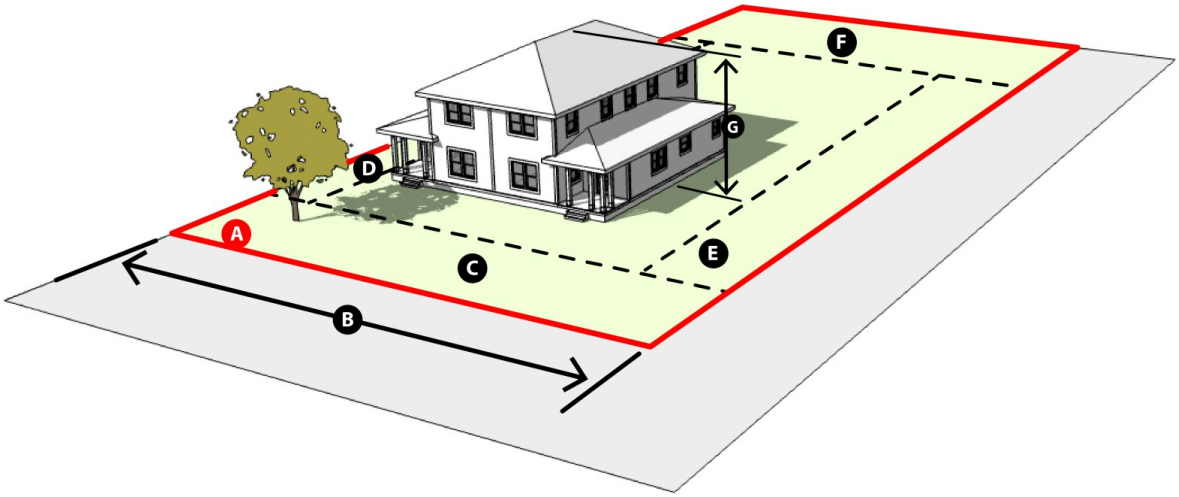
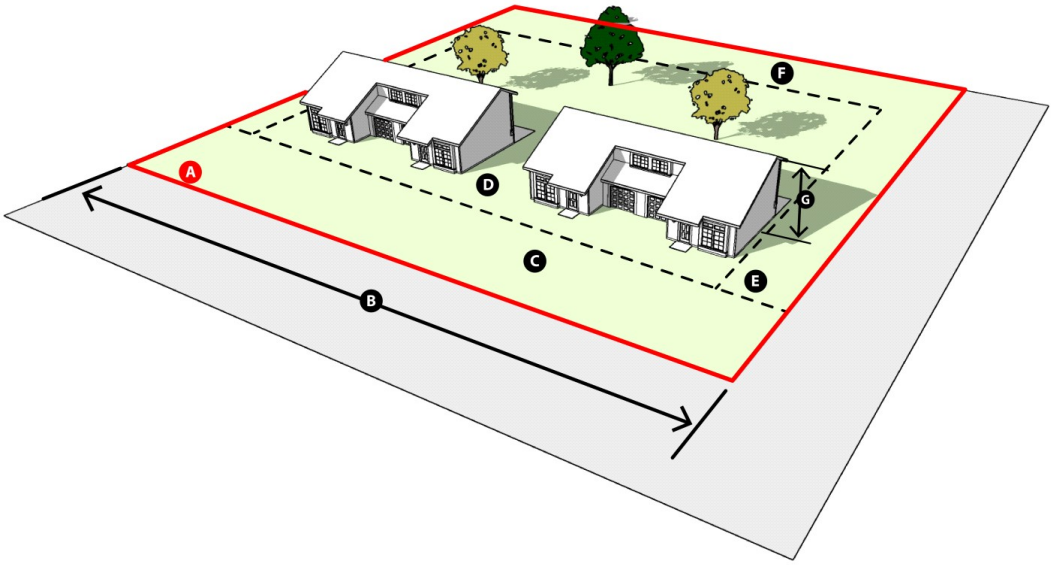


Figure 14.01.205-2, *Development Standards (Apartment)*



(B) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards*.

(C) **Building Design.** Refer to Subsection 14.02.202, *Single-Family and Duplex Development,* and Subsection 14.02.203, *Multiplexes and Apartments* for additional standards.

(D) **Landscaping and Buffering**. Landscape and buffering for uses in the MR District shall be in accordance with the standards established in Section. 14.02.400, *Trees, Landscaping, and Buffering*.

(E) **Signage**. Permitted Signage for uses in the MR District shall be in accordance with the standards established in Section. 14.02.500, *Signs*.

Effective on: 8/9/2022

Subsection 14.01.206 PI, Public/Institutional

(a) **Development Standards**. Table 14.01.206-1, *Development Standards*, below, establishes the standards for development in this Zoning District.

Table 14.01.206-1, *Development Standards*

A	Minimum Lot Area (square feet)	5,000
B	Minimum Lot Width (feet)	50
C	Minimum Street Setback (feet)	10
D	Minimum Interior Setback (feet)	5[1]
E	Minimum Exterior Side Setback (feet)	25
F	Minimum Rear Setback (feet)	35[1]
G	Maximum Height (feet)	45
-	Maximum Lot Coverage[2]	70%

Figure 14.01.206-1 *Development Standards*

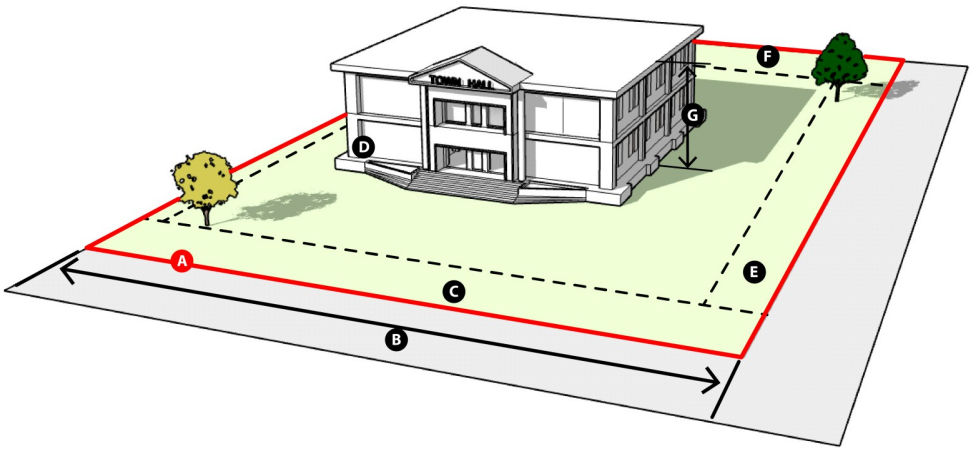


TABLE NOTES:

1. 10 feet if abutting a residentially used or zoned property.
2. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.

(b) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards*.

(c) **Building Design.** Refer to Subsection 14.02.204, *Nonresidential and Mixed-Use* for additional standards.

(d) **Landscaping and Buffering**. Landscape and buffering for uses in the PI District shall be in accordance with the standards established in Section. 14.02.400, *Trees, Landscaping, and Buffering*.

(e) **Signage**. Permitted Signage for uses in the PI District shall be in accordance with the standards established in Section 14.02.500, *Signs*.

Effective on: 8/9/2022

Subsection 14.01.207 DA, Downtown Area

(a) **Development Standards**. Table 14.01.207-1, *Development Standards*, below, establishes the standards for residential, nonresidential, and mixed-use development in this Zoning District.

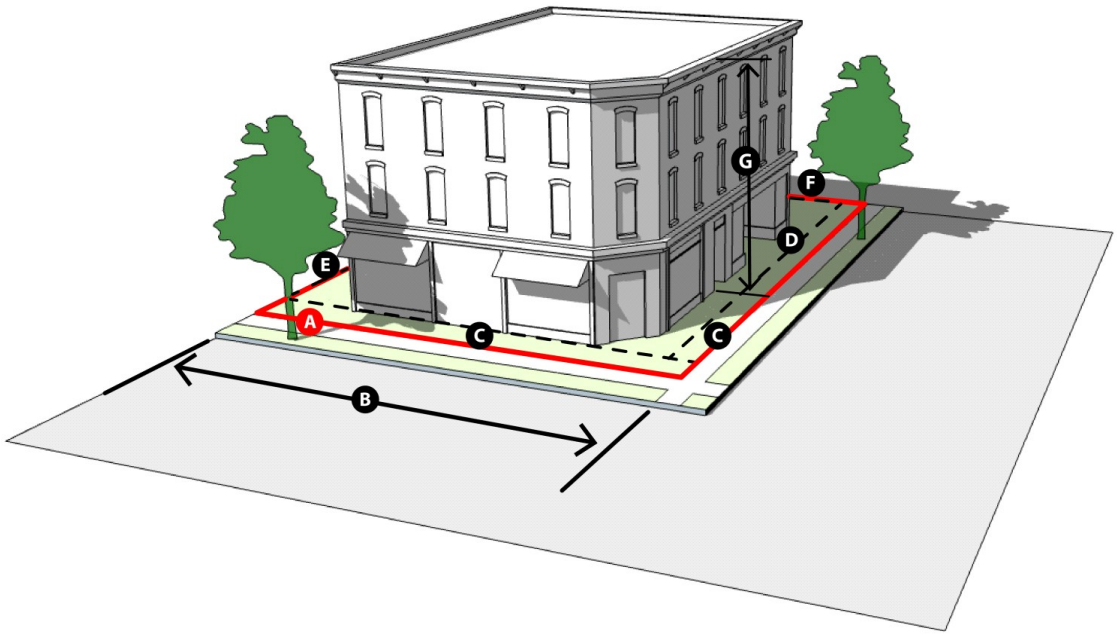
Table 14.01.207-1, *Development Standards*

	Building Types	Single-Family Detached	Duplex	Single-Family Attached and Townhouse	Multi-Family		Mixed-Use or Nonresidential
					Multiplex	Apartment	
A	Minimum Lot Area per Dwelling Unit	NA	NA	NA	1,200 feet	1,000 feet	NA
B	Minimum Lot Width (feet)	35 feet	50 feet[1]	20 feet	NA	NA	25 feet
C	Minimum Street and Exterior Side Setback (feet)	10 feet	10 feet	10 feet	10 feet	0 feet	0 feet
D	Max. Street and Exterior Side Setback (feet)	NA	NA	NA	NA	NA	5 feet
E	Minimum Interior Side Setback (feet)	5 feet	5 feet	5 feet	10 feet	10 feet	0 feet
F	Minimum Rear Setback (feet)	20 feet	5 feet	5 feet	10 feet	0 feet	0 feet
G	Maximum Height (feet)	35 feet	35 feet	35 feet	40 feet	50 feet	80 feet
-	Maximum Lot Coverage[2] (square feet)	70%	70%	85%	80%	90%	NA
-	Maximum Floor Area Ratio (FAR)[3]	NA	NA	NA	2.5	4.5	7.5

TABLE NOTES:

1. The minimum lot width for Duplex units shall include both units.
2. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.
3. See Floor to Area Ratio as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate FAR.

Figure 14.01.207-1, *Development Standards (Downtown/Mixed Use)*



(b) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards*.

(c) **Building Design.** Refer to Section 14.02.200, *Building Design* for additional standards.

(d) **Landscaping and Buffering**. Landscape and buffering for uses in the DA District shall be in accordance with the standards established in Section. 14.02.400, *Trees, Landscaping, and Buffering*.

(e) **Signage**. Permitted Signage for uses in the DA District shall be in accordance with the standards established in Section. 14.02.500, *Signs*.

Effective on: 8/9/2022

Subsection 14.01.208 C-MU, Corridor Mixed-Use

(a) **Development Standards**. Table 14.01.208-1, *Development Standards*, below, establishes the standards for mixed-use and nonresidential development in this Zoning District and for permitted nonresidential development in applicable residential zoning districts. Residential uses permitted in the C-MU District shall comply with the development standards established in Subsection 14.01.204, *SU, Semi-Urban Residential*, and Subsection 14.01.205, *MR, Multi-Family Residential*.

Table 14.01.208-1, *Development Standards*

A	Minimum Lot Area (square feet)	5,000
B	Minimum Lot Width (feet)	25 ft.
C	Minimum Street and Exterior Side Setback (feet)	10 ft.
D	Minimum Interior Side Setback (feet)	5 ft.
E	Minimum Rear Setback(feet)	10 ft[1]
F	Maximum Height (feet)	40
-	Maximum Lot Coverage[2] (percent)	65%

Figure 14.01.208-1, *Development Standards*

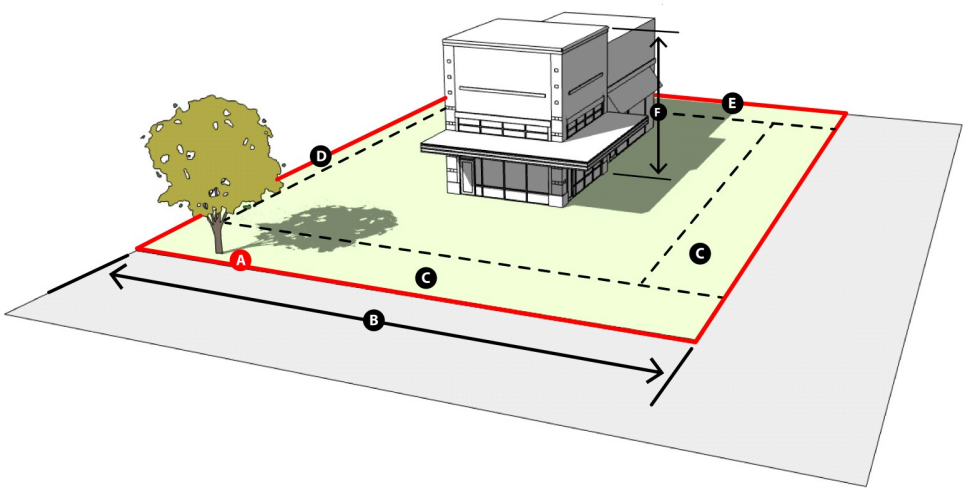


TABLE NOTES:

1. Where a commercial property abuts a residential property.
2. See Lot Coverage as stated in Subsection 14.01.401, *Measurements,* to determine how to calculate lot coverage.

(b) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards*.

(c) **Building Design.** Refer to Section 14.02.200, *Building Design* for additional standards.

(d) **Landscaping and Buffering**. Landscape and buffering for uses in the C-MU District shall be in accordance with the standards established in Section. 14.02.400, *Trees, Landscaping, and Buffering*.

(e) **Signage**. Permitted Signage for uses in the C-MU District shall be in accordance with the standards established in Section 14.02.500, *Signs*.

Effective on: 8/9/2022

Subsection 14.01.209 SC, Suburban Commercial

(a) **Development Standards**. Table 14.01.209-1, *Development Standards*, below, establishes the standards for nonresidential development in this Zoning District and for permitted nonresidential development in applicable residential zoning districts. Residential uses permitted in the SC District shall comply with the development standards established in Subsection 14.01.205, *MR, Multi-Family Residential*.

Table 14.01.209-1, *Development Standards*

A	Minimum Lot Area - Abutting resid. zoning - Abutting other zoning	 20,000 25,000
A	Maximum Lot Area	1 Acre
B	Minimum Lot Width (feet)	100
C	Minimum Street and Exterior Side Setback (feet) - Abutting expressway or arterial - Abutting other street classes	 25 20
D	Minimum Interior Side Setback (feet)	10
E	Minimum Rear Setback	20
F	Maximum Height	35
-	Maximum Lot Coverage[1] (percent)	45%
-	Maximum Floor Area Ratio (FAR)[2] - 1 story - 2 stories	 .4 .35

Figure 14.01.209-1, *Development Standards*

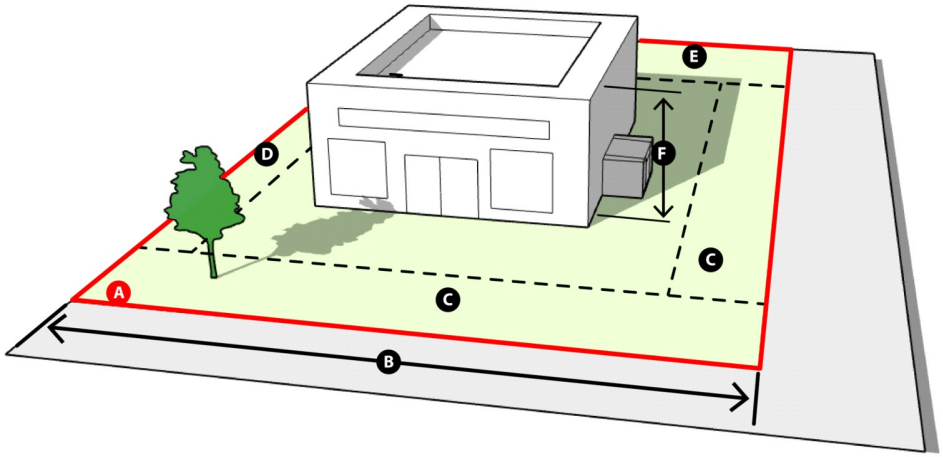


TABLE NOTES:

1. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.
2. See Floor to Area Ratio as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate FAR.

(b) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards.*

(c) **Building Design.** Refer to Subsection 14.02.204, *Nonresidential and Mixed-Use* for additional standards.

(d) **Landscaping and Buffering**. Landscape and buffering for uses in the SC District shall be in accordance with the standards established in Section 14.02.400, *Trees, Landscaping, and Buffering*.

(e) **Signage**. Permitted Signage for uses in the SC District shall be in accordance with the standards established in Section. 14.02.500, *Signs*.

Effective on: 8/9/2022

Subsection 14.01.210 C, Commercial

(a) **Development Standards**. Table 14.01.210-1, *Development Standards*, below, establishes the standards for nonresidential development in this Zoning District. Residential uses permitted in the C District shall comply with the development standards established in Subsection 14.01.205, *MR, Multi-Family Residential*.

Table 14.01.210-1, *Development Standards*

A	Minimum Lot Area (square feet)	5,000
B	Minimum Lot Width (feet)	50
C	Minimum Front Setback	20
D	Minimum Interior Side Setback (feet)	10
E	Minimum Exterior Side Setback (feet)	20
F	Minimum Rear Setback	20
G	Maximum Height (feet)	40
-	Maximum Lot Coverage[1] (percent)	60%

Figure 14.01.210-1, *Development Standards*

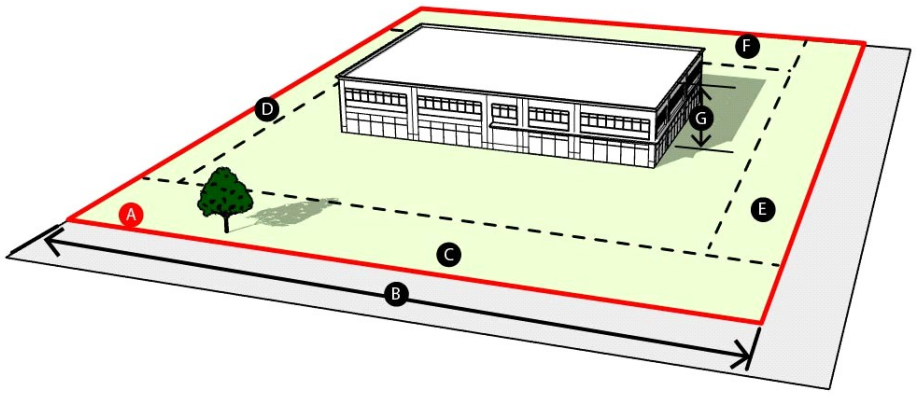


TABLE NOTES:

1. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.

(b) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards*.

(c) **Building Design.** Refer to Subsection 14.02.204, *Nonresidential and Mixed-Use* for additional standards.

(d) **Landscaping and Buffering**. Landscape and buffering for uses in the C District shall be in accordance with the standards established in Section 14.02.400, *Trees, Landscaping, and Buffering*.

(e) **Signage**. Permitted Signage for uses in the C District shall be in accordance with the standards established in Section. 14.02.500, *Signs*.

Effective on: 8/9/2022

Subsection 14.01.211 IL, Industrial – Light

(a) **Development Standards**. Table 14.01.211-1, *Development Standards*, below, establishes the standards for development in this Zoning District.

Table 14.01.211-1, *Development Standards*

A	Minimum Lot Area (square feet)	5,000
B	Minimum Lot Width (feet)	50
C	Minimum Street Setback (feet)	20
D	Minimum Interior Setback (feet)	10
E	Minimum Exterior Side Setback (feet)	20
F	Minimum Rear Setback (feet)	20
G	Maximum Height (feet)	60
-	Maximum Lot Coverage[1] (percent)	70%

Figure 14.01.211-1, *Development Standards*

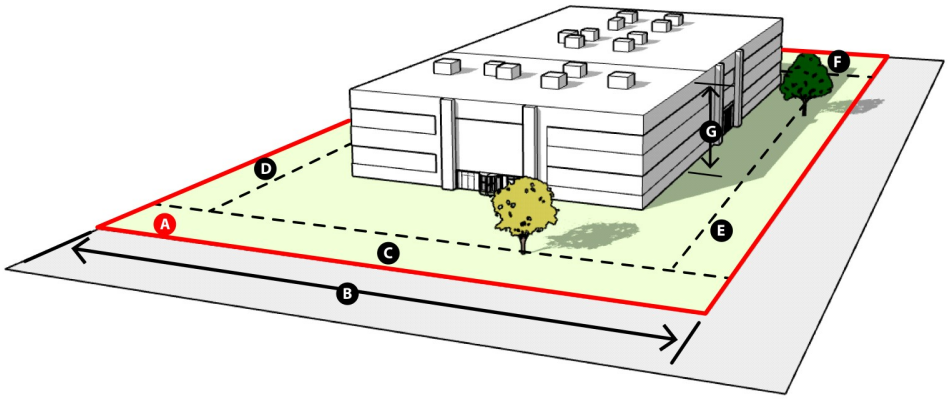


TABLE NOTES:

1. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.

(b) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards*.

(c) **Building Design.** Not applicable.

(d) **Landscaping and Buffering**. Landscape and buffering standards for properties in the IL District shall be in accordance with the standards established in Section 14.02.400, *Trees, Landscaping, and Buffering*.

(e) **Signage**. Permitted Signage for properties and buildings in the IL District shall be in accordance with the standards established in Section 14.02.500, *Signs*.

Effective on: 8/9/2022

Subsection 14.01.212 IH, Industrial – Heavy

(a) **Development Standards**. Table 14.01.212-1, *Development Standards*, below, establishes the standards for development in this Zoning District. See Subsection 14.02.204, *Nonresidential and Mixed-Use* for additional standards.

Table 14.01.212-1, *Development Standards*

A	Minimum Lot Area (Square Feet)	40,000
B	Minimum Lot Width (Feet)	100
C	Minimum Street Setback (Feet)	30
D	Minimum Interior Setback (Feet)	10
E	Minimum Exterior Side Setback (Feet)	20
F	Minimum Rear Setback (Feet)	20
G	Maximum Height (Feet)	80
-	Maximum Lot Coverage[1] (percent)	75%

Figure 14.01.212-1, *Development Standards*

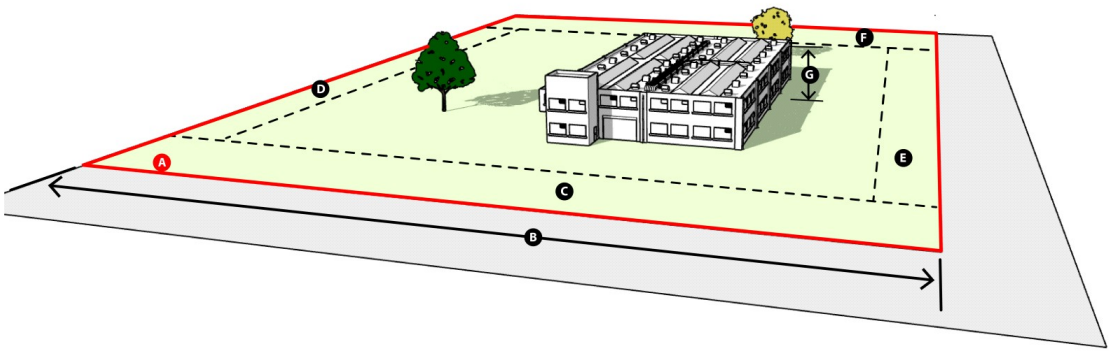


TABLE NOTES:

1. See Lot Coverage as stated in Subsection 14.01.401, *Measurements*, to determine how to calculate lot coverage.

(b) **Permitted Uses**. Refer to Section 14.01.300, *Use Standards.*

(c) **Building Design.** Not applicable.

(d) **Landscaping and Buffering**. Landscape and buffering for properties in the IH District shall be in accordance with the standards established in Section. 14.02.400: *Trees, Landscaping, and Buffering*.

(e) **Signage**. Permitted Signage for properties and buildings in the IH District shall be in accordance with the standards established in Section. 14.02.4500: *Signs*.

Effective on: 8/9/2022

Subsection 14.01.213 Development Types

(a) **Generally**. New residential developments are classified into four types: conventional, rural, park-proximity, and alley loaded, which are detailed in this Section. The conventional development type is the default type for new developments and the establishment of any other development type is at the option of the applicant.

(b) **Applicability**. Table 14.01.213-1, *Permitted Residential Development Types*, denotes which development types are permitted in each residential district.

Table 14.01.213-1
Permitted Residential Development Types

Development Type	Residential Zoning Districts			
	RE	GR	SU	MR
Conventional	P	P	P	P
Rural	P	--	--	--
Park-Proximity	--	P	P	--
Alley Loaded	--	--	P	--

TABLE NOTES:
"--" = Not Permitted | "P"=Permitted

(c) **Development Types.**

(1) *Conventional*. The conventional development type is the default pattern of development that allows residential uses development in accordance with the development standards listed in Subsection 14.01.202, *RE, Rural and Estate;* Subsection 14.01.203, *GR, General Residential;* Subsection 14.01.204, *SU, Semi-Urban; and,* Subsection 14.01.204, MR, Multi-Family Residential. Figure 14.01.213-1, *Illustrative Conventional Development,* depicts an example of the convention development type with the minimum lot size being a primary factor in the character.

(2) *Rural*. The rural development type, as depicted in Figure 14.01.213-2, *Illustrative Rural Neighborhood,* is a pattern of development that allows very low-density residential uses and that provides the majority of property owners with open space on their own property. A rural development type consists of single-family detached dwelling units developed in accordance with the rural development standards of Table 14.01.213-2, *Rural, ParkProximity, and Alley Loaded Development Standards*.

(3) *Park-Proximity*. The park-proximity development type, as depicted in Figure 14.01.213-3, *Illustrative Park Proximity Development,* consists of smaller lots that are permitted to develop at higher densities when all or a portion of the development site is located within an existing City of Borger park service area and developments in accordance with Table 14.01.213-2, *Rural, Park-Proximity, and Alley Loaded Development Standards* (see Park Services Area Map in the Borger Parks, Trails, and Recreation Master Plan to determine if a development site meets this park service area criteria). The park proximity development type may be used in existing neighborhoods or greenfield development sites to increase the permitted density of a new or re-platted subdivision development by reducing the amount of open space required on the development site.

(4) *Alley Loaded*. The alley loaded development type is depicted in Figure 14.01.213-3, *Illustrative Alley Loaded Development,* and is developed in accordance with the alley loaded development standards in Table 14.01.213-2, *Rural, Park Proximity, and Alley Loaded Development Standard*. All residential lots in an alley loaded neighborhoods shall:

(A) Not provide vehicular access from any lot line except the rear lot line of the parcel;

(B) Locate garages and carports in the rear yard; and,

(C) Garage doors or vehicle parking spaces shall face the rear lot line.

Figure 14.01.213-1, Illustrative Conventional Development

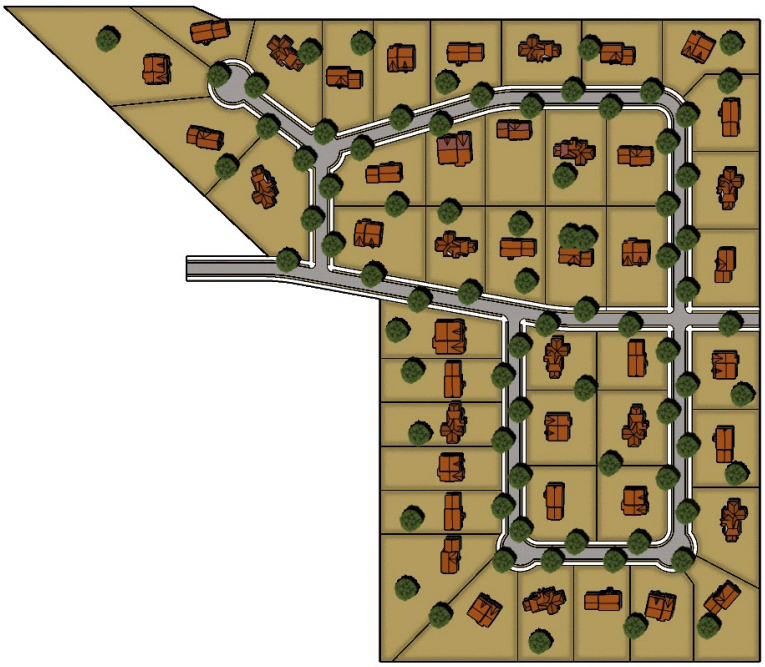


Figure 14.01.213-2, *Illustrative Rural Development*



Figure 14.01.213-3, *Illustrative Park-Proximity Development*

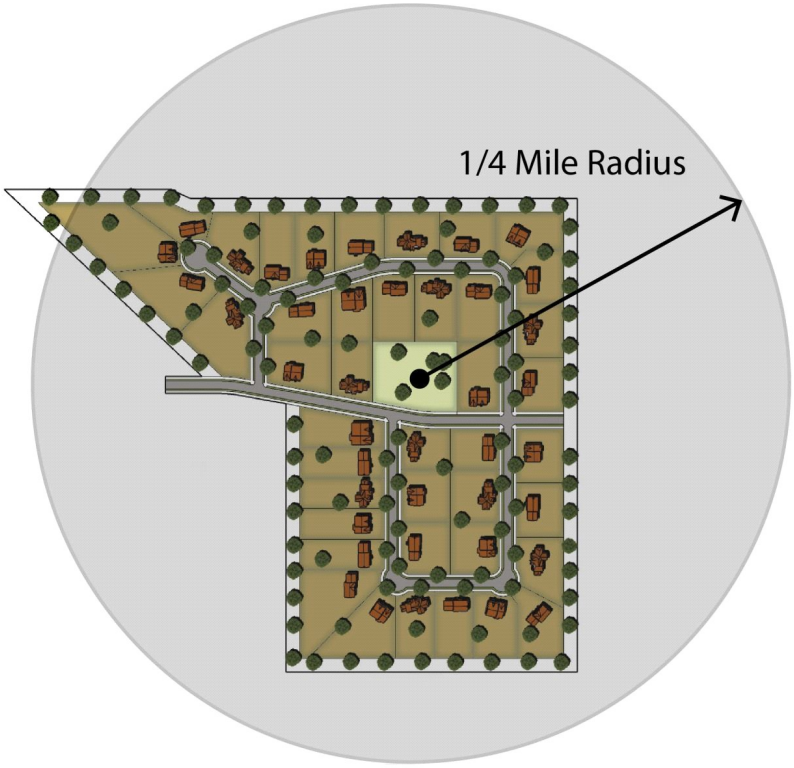
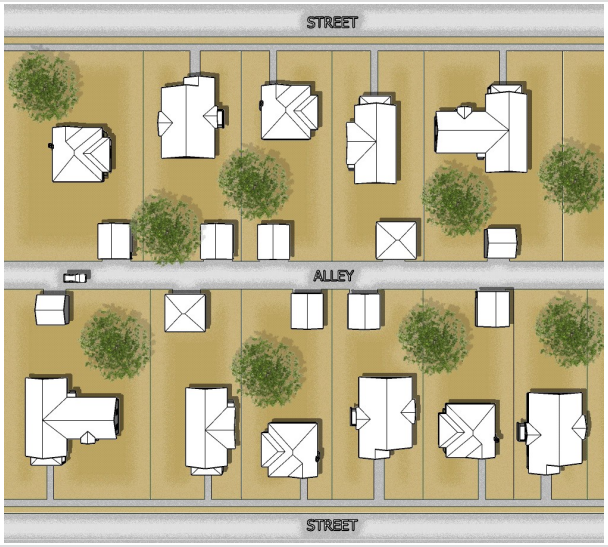


Figure 14.01.213-4, Illustrative *Alley Loaded Development*



(d) **Development Standards**. Table 14.01.213-2, *Rural, Park Proximity, and Alley Loaded Development Standards*, below, establishes the standards for developing new non-conventional neighborhoods in the permitted zoning districts as shown in Table 14.01.213-1, *Permitted Residential Development Types*. See Section 14.01.400, *Measurements and Allowances*, for the methodology of measuring the standards in each column heading under Development Standards and Lot and Building Standards in the Table.

Table 14.01.213-2, *Rural, Park-Oriented, and Alley Loaded Development Standards*										
District	Development Type	Lot and Building Standards								
		Min. Site Area (acres)	Max. DUs / Acre	Min. Lot Area per DU (Square Feet)	Min. Lot Width	Min. Setbacks (feet)				Max. Height (feet)
						Street	Interior Side	Exterior Side	Rear	
RE	Rural	10	1.9	21,780	85	25	10	25	30	35
GR	Park Proximity	10	6.8	5,750	50	20	5	20	20	35
	Alley Loaded	10	7.2	5,000	45	15	5	15	10	35
SU	Park Proximity	10	7.9	4,500	45	20	5	15	20	35
	Alley Loaded	10	8.3	3,500	35	15	5	10	10	35
TABLE NOTES: For Conventional Development Type regulations, refer to Subsections 14.01.202 through 14.01.212.										

(e) **Sample Calculations**.

(1) *Rural*. In the RE Zoning District, rural development type:

(A) 40-acre parcel proposed for development

(B) Multiply 40 acres by 1.9 units per acre = 76 units

(2) *Park Proximity*. In the GR and SU zoning districts, park proximity development type:

(A) 40-acre parcel proposed for development

(B) In the GR District, multiply 40 acres by 6.8 units per acre = 272 units, compared to 240 units for the same property under the conventional development type

(C) In the SU District, multiply 40 acres by 7.9 units per acre = 316 units, compared to 280 units for the same property under the conventional development type

(3) *Alley Loaded*. In the GR and SU zoning districts, alley loaded development type:

(A) 40-acre parcel proposed for development

(B) In the GR District, multiply 40 acres by 7.2 units per acre = 288 units, compared to 240 units for the same property under the conventional development type

(C) In the SU District, multiply 40 acres by 8.3 units per acre = 332 units, compared to 280 units for the same property under the conventional development type

Effective on: 8/9/2022

Section 14.01.300: Use Standards

Subsection 14.01.301 Use Table

(a) **Permitted Use Table**. All development and uses of land and buildings within the City of Borger, and within each zoning district, shall be as set forth in Table 14.01.301, *Permitted Uses by District.*

(b) **Permitted Land Uses**. The land uses in Table 14.01.301, *Permitted Uses by District*, below are classified and symbolized by the following:

(1) Permitted (P);

(2) Permitted subject to approval by the Director of Planning and Development (Director) and limited use standards (L) [See Subsection 14.01.303, *Limited Use Standards*];

(3) Permitted subject to approval of a Special Use Permit by the City Council (S) [See Subsection 14.01.304, *Special Use Permit*]; and,

(4) Prohibited (--).

Table 14.01.301, *Permitted Uses by District*

Use Category	Specific Use[1]	Residential				Mixed-Use		Public and Nonresidential					Use-Specific Standards
		RE	GR	SU	MR	DA	C-MU	SC	C	IL	IH	PI	
Residential and Agriculture													
Agriculture and Animal Services	Community Garden	P	L	L	L	L	L	L	L	--	--	P	Subsection 14.01.303
	Feed Store	--	--	--	--	P	P	P	P	P	P	--	--
	Greenhouse, Nursery	L	--	--	--	--	--	--	--	L	--	--	Subsection 14.01.303
	Kennel	--	--	--	--	--	--	L	L	P	--	--	Subsection 14.01.303
	Veterinary Clinic or Veterinary Hospital	--	--	--	--	--	L	L	L	P	--	--	Subsection 14.01.303
	Agriculture and Animal Services (Other than Listed)	P	--	--	--	--	--	--	--	--	--	--	--
Household Living	Accessory Dwelling Unit	L	L	L	L	--	--	--	--	--	--	--	Subsection 14.01.303
	Apartment	--	--	--	P	P	P	P	P	--	--	--	--
	Dwelling, Single-Family Detached	P	P	P	P	L	--	--	--	--	--	--	Subsection 14.01.303
	Dwelling, Single-Family Attached	--	--	P	P	L	P	--	--	--	--	--	Subsection 14.01.303
	Duplex	--	--	P	P	L	--	--	--	--	--	--	Subsection 14.01.303
	Live-Work Unit	--	--	--	--	L	L	--	--	--	--	--	Subsection 14.01.303
	Multiplex	--	--	P	P	P	P	--	--	--	--	--	--
	Manufactured Home Park	S	S	S	--	--	--	--	S	--	--	--	Subsection 14.01.304 14.01.307
	Manufactured Home Subdivision	S	S	S	--	--	--	--	--	--	--	--	Subsection 14.01.304 14.01.307

Table 14.01.301, *Permitted Uses by District*

Use Category	Specific Use[1]	Residential				Mixed-Use		Public and Nonresidential					Use-Specific Standards
		RE	GR	SU	MR	DA	C-MU	SC	C	IL	IH	PI	
	Manufactured Home (Stand Alone)	S	--	S	--	--	--	--	--	--	--	--	Subsection 14.01.304 14.01.307
	Upper-Story Dwelling Unit	--	--	--	--	P	--	--	--	--	--	--	--
Group Living	Assisted Living Facility or Nursing Home	--	--	--	P	--	P	P	P	--	--	--	--
	Boarding House	--	--	--	P	--	--	P	P	P	--	--	--
	Community Home Persons with Disabilities	L	L	L	L	L	L	--	--	--	--	--	Subsection 14.01.303
	Group Home	--	--	--	S	S	S	--	--	S	--	--	Subsection 14.01.304
Civic and Institutional													
Civic	Community, Senior, or Youth Center	--	P	P	P	P	P	P	P	P	--	P	--
	Funeral Services	--	--	--	--	P	P	--	P	P	P	P	--
	Library, Museum, and Gallery	--	--	--	--	P	P	P	P	P	P	P	--
	Public Assembly Facility	L	L	L	L	--	P	P	P	P	--	P	Subsection 14.01.303
Day Care	Adult Day Care Center	--	--	--	--	P	P	P	P	P	--	P	--
	Child Day Care Center or Pre-School	--	--	--	L	P	P	L	L	L	--	P	Subsection 14.01.303
Educational Facilities	College and University	S	S	S	S	P	P	P	P	P	--	P	Subsection 14.01.304
	School, Vocational, and Trade	--	--	--	--	P	P	P	P	P	--	P	--
	Educational Facilities (Other than Listed)	P	P	P	P	P	P	P	P	P	--	P	--
Governmental Facilities	All Governmental Facilities	P	P	P	P	P	P	P	P	P	P	P	--
Medical Facilities	Medical or Dental Clinic	--	--	--	L	P	P	P	P	P	--	P	Subsection 14.01.303
	Medical Facility (Other than Listed)	S	S	S	S	P	P	P	P	P	--	P	Subsection 14.01.304
Passenger Terminal	Airport	--	--	--	--	--	--	--	--	--	--	P	--
	Passenger Terminal (Other than Listed)	--	--	--	--	--	--	--	--	P	P	--	--
Parks and Open Areas	Cemetery, Columbarium, Mausoleum, and Memorial Park	L	L	L	L	P	P	P	P	P	P	P	Subsection 14.01.303
	Parks and Open Areas (Other than Listed)	P	P	P	P	P	P	P	P	P	--	P	--
Social Service	All Social Service Uses	--	--	--	--	S	S	S	S	--	--	--	Subsection 14.01.304

Table 14.01.301, *Permitted Uses by District*

Use Category	Specific Use[1]	Residential				Mixed-Use		Public and Nonresidential					Use-Specific Standards
		RE	GR	SU	MR	DA	C-MU	SC	C	IL	IH	PI	
Utilities	Utilities, Minor	P	P	P	P	P	P	P	P	P	P	P	--
	Utilities, Major	S	S	S	S	S	S	S	L	S	P	P	Subsection 14.01.304 14.01.306
Commercial													
Entertainment, Indoor	Adult Business	--	--	--	--	--	--	--	--	--	S	--	Subsection 14.01.304
	Bar, Tavern, and Lounge	--	--	--	--	L	L	L	L	L	--	--	Subsection 14.01.303
	Game Room and Amusement Redemption Machines	--	--	--	--	S	S	S	S	S	--	--	Subsection 14.01.304 14.01.309
	Indoor Commercial Amusement (Other than Listed)	--	--	--	--	P	P	P	P	P	--	--	--
Entertainment, Outdoor	Country Club (Private) with Golf Course	P	S	--	S	--	--	P	P	P	P	--	Subsection 14.01.304
	Farmers Market	--	--	--	--	P	P	P	P	--	--	P	--
	Outdoor Commercial Amusement (Other than Listed)	--	--	--	--	P	P	P	P	P	P	P	--
Office	Bank and Credit Union	--	--	--	--	P	P	P	P	P	--	--	Subsection 14.01.303
	Check Cashing or Payday Loan Business	--	--	--	--	--	--	--	P	--	--	--	--
	Office (Other than Listed)	--	--	--	S	P	P	P	P	P	--	--	Subsection 14.01.304
Overnight Accommodations	Bed and Breakfast Inn	L	L	L	L	L	L	L	L	L	--	--	Subsection 14.01.303
	Campground with Overnight Accommodations	--	--	--	--	--	--	P	P	P	--	--	--
	Recreational Vehicle (RV) Park	--	--	--	--	--	--	S	L	L	--	--	Subsection 14.01.304 14.01.308
	Hotel or Motel	--	--	--	--	P	P	P	P	P	--	--	--
Repair-Oriented	All Repair-Oriented Uses	--	--	--	--	P	P	P	P	P	--	--	--
Restaurant	All Restaurants	--	--	--	--	P	P	P	P	P	--	--	--
Sales-Oriented	All Sales-Oriented Uses	--	--	--	--	P	P	P	P	P	--	--	--
	Tobacco and Smoke Shops	--	--	--	--	--	L	L	L	L	L	L	Subsection 14.01.303
Service-Oriented	All Service-Oriented Uses	--	--	--	--	P	P	P	P	P	--	--	--
Vehicle Sales and Service	Car Wash	--	--	--	--	--	--	P	P	P	P	--	--
	Fuel Sales (Retail)	--	--	--	--	L	L	P	P	P	P	--	Subsection 14.01.303

Table 14.01.301, *Permitted Uses by District*

Use Category	Specific Use[1]	Residential				Mixed-Use		Public and Nonresidential					Use-Specific Standards
		RE	GR	SU	MR	DA	C-MU	SC	C	IL	IH	PI	
	Manufactured, Mobile Homes, Portable Buildings, and Trailer Sales or Rental	--	--	--	--	--	--	P	P	P	P	--	--
	Vehicle Sales, Rental, and Leasing	--	--	--	--	--	--	P	P	P	--	--	--
	Vehicle Service and Repair	--	--	--	--	--	L	P	P	P	P	--	Subsection 14.01.303
Industrial													
Heavy Industrial	Animal Slaughterhouse or Packaging Plant	--	--	--	--	--	--	--	--	--	S	--	Subsection 14.01.304
	Batch Plant	--	--	--	--	--	--	--	--	S	P	--	Subsection 14.01.304
	Carbon Black Manufacturing	--	--	--	--	--	--	--	--	--	S	--	Subsection 14.01.304
	Heavy Industrial (Other than Listed)	--	--	--	--	--	--	--	--	--	P	--	--
Light Industrial	Micro-Manufacturing	--	--	--	--	L	L	L	L	P	P	--	Subsection 14.01.303
	Light Industrial (Other than Listed)	--	--	--	--	--	--	--	--	P	P	--	--
Resource Extraction	Gas Well	S	--	--	S	S	S	S	P	P	P	S	Subsection 14.01.304
	Resource Extraction (Other than Listed)	S	--	--	--	--	--	--	--	P	P	--	Subsection 14.01.304
Self-Service Storage	Boat and Recreational Vehicle Outdoor Storage	--	--	--	--	--	--	--	--	P	P	--	--
	Self-Service Storage Facility	--	--	--	--	--	--	--	L	P	P	--	Subsection 14.01.303
Warehousing and Storage	Outdoor Storage Yard	--	--	--	--	--	--	--	L	P	P	--	Subsection 14.01.303
	Warehousing and Storage Uses (Other than Listed)	--	--	--	--	--	--	--	--	P	P	--	--
Waste-Related	Recycling Collection Facility	--	--	--	--	--	--	--	--	--	L	L	Subsection 14.01.303
	Waste Transfer Facility	--	--	--	--	--	--	--	--	--	L	--	Subsection 14.01.303
Wholesale Trade	Fuel Sales and Storage (Bulk)	--	--	--	--	--	--	--	--	--	P	--	--
	Wholesale Trade (Other than Listed)	--	--	--	--	--	--	--	--	P	P	--	--

TABLE NOTES:

1. Specific uses and use categories are defined in Section 14.09.200, *Definitions*.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Subsection 14.01.302 New and Unlisted Uses

(a) **Authorization of Unlisted Uses**. Each of the use categories in Subsection 14.01.301, *Use Table*, are defined in Section 14.09.200, *Definitions*. If a proposed use is not listed as part of a use category definition, the Director of Planning and Development (Director) may interpret the proposed use as functionally similar to a use that is listed. The proposed use is then permitted, permitted with limitations, allowed with a special use permit, or prohibited in the same districts as its functionally similar use.

(b) **If not Authorized then Prohibited**. If the Director determines that a proposed use does not fit within a given use category and is not functionally the same as a permitted, limited, or special use, then the use is a prohibited use.

(c) **Decision Criteria**. In making such determinations, the Director may consider but is not limited to the following criteria:

(1) The actual or projected characteristics of the activity in relation to those of the use type;

(2) The amount of site area or floor space and equipment devoted to the activity;

(3) Vehicle parking demand;

(4) Average daily and peak hour trip generation (people, personal vehicles, and delivery vehicles);

(5) Types of vehicles used and their parking requirements;

(6) Building impervious surface coverage;

(7) Regulated air or water emissions;

(8) Noise, lighting, dust, and odors;

(9) Solid waste generation;

(10) The number of employees on a typical shift;

(11) Use and storage of hazardous materials;

(12) The character of associated buildings and structures;

(13) How the use is advertised;

(14) Nature and impacts of operation; and,

(15) Hours of operation.

(d) **Appeal**. An aggrieved party may appeal the determination of the Director in accordance with Subsection 14.06.503, *Appeal of Administrative Decision*.

Effective on: 8/9/2022

Subsection 14.01.303 Limited Use Standards

(a) **Purpose.** The purpose of this Section is to promote compatibility among land uses by establishing standards for the limited uses indicated in Subsection 14.01.301, *Use Table*.

(b) **Application.**

(1) *Generally*. Uses shown as limited may be approved only if they meet the standards of this Article and other applicable standards and requirements of this ULDO.

(2) *Timing of Compliance*. These standards apply at the time a limited use is requested for an existing or new structure, or when an existing limited use is proposed to be expanded by more than 10 percent of the gross square footage currently devoted to the use.

(3) *Expansions*. This Section applies to an expansion of use whether it is to or within an existing building, in an outdoor area devoted to the use, or any combination of thereof.

(4) *Uses Not Listed*. If there are limited uses specified in Subsection 14.01.301, *Use Table*, that are not included in this Section, all applicable standards of this ULDO shall apply.

(5) *Procedures*. For limited uses, the Director of Planning and Development (Director) shall use the criteria set out in this Section to determine whether to authorize a land use requested by an applicant or whether to recommend it for a decision of the Planning and Zoning Commission.

(6) *Other Applicable Standards*. The standards of this Section are applied in addition to the other applicable standards of this ULDO, specifically including:

(A) ARTICLE 14.02, *Building and Site Design*;

(B) ARTICLE 14.03, *Subdivision Standards*; and,

(C) ARTICLE 14.06, *Development Review Procedures*.

(c) **Standards for Residential Uses.**

(1) *Accessory Dwelling Unit.*

(A) *Generally*.

(i) Either the principal or accessory unit shall be occupied by the property owner.

(ii) One additional parking place shall be available on the lot.

(iii) All utility connections and services shall be for the address of the principal dwelling only.

(B) *Attached Units*. The accessory dwelling shall not be larger than 25 percent of the gross floor area of the principal dwelling.

(C) *Detached Units*. The accessory dwelling shall not be larger than 40 percent of the gross floor area of the principal dwelling.

(2) *Community Home for Persons with Disabilities*. Community homes for persons with disabilities shall be permitted in all residential and mixed-use districts subject to the proposed home complying with all regulations of Texas Human Resources Code, Chapter 123, *Community Homes for Persons with Disabilities.*

(3) *Live-Work Unit.*

(A) *Residential Character*. The use shall maintain a residential character.

(B) *Uses*. The use shall consist of a single residential dwelling unit combined in the same structure with one of the following nonresidential uses:

(i) Office;

(ii) Micro-manufacturing;

(iii) Service-oriented uses;

(iv) Repair-oriented uses; or,

(v) Studio (arts, crafts, or recording).

(C) *Nonresidential Floor Area*. The area of the nonresidential floor shall not exceed 3,000 square feet.

(D) *Drive-Ins or Drive-Throughs*. Drive-ins or drive-throughs are prohibited.

(E) *Tenant*. The use shall have the same tenant for both the residential and nonresidential portion of the use.

(4) *Single-Family Detached, Single-Family Attached, and Duplexes in the Downtown Area (DA) Zoning District*. Such uses shall not be permitted on any lot that has street frontage on Main Street between Ninth Street and Third Street.

(d) **Standards for Nonresidential and Mixed-Uses.**

(1) *Bar, Tavern, and Lounge.*

(A) *Texas Alcoholic Beverage Code.* All bars, taverns, and lounges shall be in compliance with the Texas Alcoholic Beverage Code.

(B) *Minimum Distance.*

(i) Bars, taverns, and lounges shall not be located within 300 feet of a place of public assembly, public hospital, public or private school, or a child day care center or preschool.

(ii) If at any time an establishment receives an alcoholic beverage permit or license from the Texas Alcoholic Beverage Commission and the establishment satisfies the separation requirement above, then the establishment is deemed to satisfy the distance requirements for all subject renewals of the license or permit.

(2) *Bed and Breakfast Inn.*

(A) *Lot.* The lot is conforming relative to the standards of this ULDO.

(B) *Use and Occupancy.* The use shall comply with the following:

(i) The principal use of the bed and breakfast is a single-family dwelling;

(ii) Meals are for overnight guests only (use of the home for external catering service is prohibited);

(iii) The home is inspected and has a written record indicating that it meets all applicable building and fire codes prior to occupancy; and,

(iv) The business is conducted so that it does not create parking or traffic congestion or otherwise unreasonably interfere with the peace and enjoyment of surrounding homes as places of residence.

(C) *Floor Area.* The minimum gross habitable floor area shall not be less than 400 square feet per rooming unit.

(D) *Employees.* There shall be a maximum of one non-resident employee.

(E) *Signage*. Signage shall be limited to a single, non-illuminated placard or nameplate that is affixed flat against the exterior wall of the home with a maximum area of two square feet.

(F) *Proof of State and Local Taxes.* The owner shall provide proof of collection and payment of state and local hotel/motel occupancy tax to the City upon request

(3) *Cemetery, Columbarium, Mausoleum, or Memorial Park.* A Type B bufferyard shall be required when adjacent to a residentially zoned or used property.

(4) *Child Day Care Center or Pre-School.* The gross floor area shall not exceed 15,000 square feet.

(5) *Community Gardens.*

(A) *Retail Sales*. Sale of items grown or any other items shall not take place on-site.

(B) *Lighting*. Any lighting shall be shielded so that all directly emitted light stays on the property.

(C) *Nuisances*. All gardens shall be maintained to be substantially free of odors, pests, rodents, trash, and/or anything else that might cause a nuisance.

(D) *Buildings*. A shed structure may be utilized on-site for storage of materials and tools used for garden cultivation, provided it shall not exceed 600 square feet.

(6) *Fuel Sales (Retail).*

(A) *Bufferyard*. A Type B bufferyard shall be provided adjacent to any abutting residential district or use.

(B) *Canopies*. Fuel pump canopies shall be connected to or integrated into the architectural design of the building in terms of color, cladding, roofing, and roof pitch.

(C) *Ingress and Egress*. The use shall take access only from a major or secondary street as authorized by the Director of Public Works.

(D) *Car Wash*. If the use includes a car wash as an accessory use, then the standards of Subsection 14.01.305, *Accessory Uses* shall apply.

(7) *Funeral Services.* Cremation of human remains is allowed as an accessory use to a funeral home provided that the cremation facility is a minimum of 300 feet from any residential use, as measured from the property line of the funeral home to the residential use.

(8) *Greenhouse, Nursery.*

(A) *Accessory Structures.* If housed in an accessory structure, the square footage of the accessory structure shall not be greater than one-half of the square footage of the primary structure.

(B) *Personal Use*. The greenhouse or nursery shall be used for personal use only with no commercial activity occurring on-site.

(9) *Kennel.* Any outdoor runs shall not be used past 9 pm.

(10) *Medical or Dental Clinic.* The gross floor area shall not exceed 3,000 square feet.

(11) *Micro-Manufacturing*.

(A) *Enclosed Structure*. All activities shall occur entirely within an enclosed structure.

(B) *Outdoor Storage*. No outdoor storage is permitted.

(C) *Retail Sales*. Retail sales associated with micro-manufacturing is allowed; however, distribution, warehousing, and/or wholesaling activities are prohibited.

(D) *Floor Area*. The gross floor area shall not exceed 5,000 square feet.

(12) *Outdoor Storage Yard*.

(A) *Buffering*. The storage yard shall be enclosed by a Type A bufferyard that includes a fence to provide security. If the bufferyard requirements set out in Subsection 14.02.403, *Bufferyard Landscaping,* require a more restrictive bufferyard, the more restrictive requirement shall apply.

(B) *Storage Limitations*. Storage yards shall not be used to dispose of inoperable machines or wastes. Temporary storage of construction wastes generated by the contractor who operates the storage yard is permitted.

(C) *Liquid, Gels, and Pastes*. Liquids, gels, and pastes (for example, paints, sealers, etc.) shall be stored only in enclosed buildings.

(13) *Public Assembly Facility.*

(A) *New Uses.*

(i) The use shall have a minimum site area that is three times the minimum lot size of the respective district.

(ii) The parcel proposed for development shall be located along an arterial or collector street.

(iii) Parking shall be provided on-site without requiring parking on contiguous or noncontiguous parcels.

(B) *Expansion of Existing Uses.*

(i) The use shall take access from an arterial or collector street.

(ii) The abutting lot onto which the expansion is proposed shall be under the same ownership as the existing public assembly facility.

(C) *DA District Uses*.

(i) The facility shall provide adequate on-lot, on-street, or private off-street parking (via ownership or private agreements) within 300 feet of the place of public assembly.

(ii) The facility shall not place material demands upon the on-street or public parking during peak demand hours for retail, restaurant, and other commercial uses.

(14) *Recreational Vehicle (RV) Park.* Recreational vehicle (RV) parks shall meet all standards of Subsection 14.01.308, *Recreational Vehicle (RV) Parks*.

(15) *Recycling Collection Facility.*

(A) *Outdoor Storage*. There shall be no outdoor storage or collection bins except when located in the IH Zoning District.

(B) *Bufferyard*. Per Subsection 14.02.403, *Bufferyard Landscaping*, a Type B bufferyard shall be provided adjacent to any abutting residential district or residential use.

(16) *Self-Service Storage Facility*. All storage units shall be accessible from and contained wholly within the building.

(17) *Tobacco or Smoke Shop.*

(A) *Distance Requirement from Same Use.* Similar uses shall have a distance required of a minimum of 2,000 feet from property line to property line.

(B) *Minimum Distance from Other Uses.* The use shall be located a minimum of 1,000 feet from the following uses, measured from property line to property line.

(i) Schools, public or private;

(ii) City parks;

(iii) Child day care centers;

(iv) Hospitals; and

(v) Places of worship.

(18) *Vehicle Service and Repair*.

(A) *Servicing*. All servicing shall be conducted wholly within a completely enclosed structure.

(B) *Outdoor Storage*. No outdoor storage of any material (usable or waste) is permitted except within enclosed containers.

(C) *Arterial Street*. The use shall be located on a lot adjacent to an arterial street, as identified in the Comprehensive Plan.

(D) *Vehicle Storage*. No vehicle may be stored for more than 10 days while awaiting repairs and shall only be stored on-site. Storage of such vehicles on public or private streets is prohibited.

(19) *Veterinary Clinic or Veterinary Hospital.*

(A) *Enclosed Facilities*. All veterinary clinics' or hospitals' treatment rooms, cages, pens, and kennels shall be well maintained and within a fully enclosed building and operated in such a way as to produce no objectionable noise or odors outside its walls.

(B) *Boarding*. If the veterinary clinic or hospital has kennels, they shall be accessory to the clinic or hospital and limited to short-term boarding.

(C) *Noise and Odor*. The building shall be soundproof with sound transmission loss that is equivalent to an eight-inch block wall filled with insulating material and operated in such a way as to produce no objectionable noise or odors outside its walls.

(D) *Cremation.* Cremation of animal remains is allowed as an accessory use to a veterinary clinic or hospital provided that the cremation facility is a minimum of 300 feet from any residential use, as measured from the property line of the veterinary clinic or hospital to the residential use.

(E) *City Code*. Meet all of the requirements of ARTICLE 2.09, *Commercial Animal Enterprises*, of the City's Code of Ordinances.

(20) *Utilities, Major.*

(A) *Generally.* The use is setback a minimum of 25 feet from the right-of-way of all streets bounding the property on which the use is located.

(B) *Telecommunications Facilities*. Stand-alone telecommunication facilities shall comply with the standards in Subsection 14.01.306, *Telecommunication Facilities*.

(e) **Standards for Uses in the PI, Public/Institutional District**. Limited uses, established in Table 14.01.301, *Use Table*, in the PI, Public/Institutional District shall only be permitted on City-owned park sites or within City-owned park facility buildings and structures when:

(1) *Permission*. The applicant, business owner, resident, or resident group has approval from the City to utilize a City-owned park site for the specified use(s);

(2) *Standards*. The proposed use conforms to the requirements established in Subsection 14.01.303(C), *Standards for Residential Uses*, or Subsection 14.01.303(D), *Standards for Nonresidential and Mixed-Use*; and,

(3) *Lease Agreement*. The applicant has obtained the necessary lease agreement required to operate a private establishment.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Subsection 14.01.304 Special Use Standards

(a) **Purpose.** This Section sets out the criteria to be used in deciding the appropriateness of a special use and the application of standards or conditions for such uses. The standards of this Subsection apply to all special uses set out in Subsection 14.01.301, Use Table.

(b) **Special Use Permit Required**. A special use permit, approved in accordance with Subsection 14.06.403, is required for:

(1) *Use Table*. All residential and nonresidential land uses identified as a special use in Subsection 14.01.301, *Use Table*; and,

(2) *Conversion of Nonconformities*. A land use that is being proposed to be transferred from a legally nonconforming use to be legally conforming per Section 14.07.200, *Conversion of Nonconformities*.

(c) **Criteria**. In a review of special use permit applications pursuant to the uses established by zoning district, the Director of Planning and Development (Director), the Planning and Zoning Commission, and the City Council shall utilize the following criteria:

(1) *Surrounding Properties*. The proposed use will operate or be designed in a manner that does not diminish the use or functionality of surrounding properties;

(2) *Required Improvements*. Provisions for hours of operation, parking and loading areas, driveways, lighting, signs, landscaping, buffering, and other site improvements have been provided;

(3) *Public Services*. Adequate public services (such as: streets, off-street parking, pedestrian facilities, water, sewer, gas, electricity, police and fire protection) shall be available without the reduction of services to any existing uses;

(4) *Design Features*. The proposed use will incorporate design features to sufficiently protect adjacent uses including but not limited to service areas, pedestrian and vehicular circulation, safety provisions, access ways to and from the site, buffering, fencing, and building placement; and,

(5) *Compatibility*. The proposed use is compatible with adjacent existing uses. Compatibility shall be expressed in terms of appearance, architectural scale and features, site design and scope, landscaping, as well as the control of adverse environmental impacts, including noise and lighting, or other undesirable conditions.

(d) **Conditional Approval**. The City Council may require additional conditions beyond the standards listed in Paragraph (c), above, to reasonably mitigate any adverse impacts upon surrounding properties in the zoning district of the property for which the special use is requested.

(e) **Additional Standards for Specific Residential Uses**.

(1) *Manufactured Home*. All manufactured homes shall comply with all provisions of Subsection 14.01.307, *Mobile Homes and Manufactured Homes*.

(f) **Additional Standards for Specific Nonresidential Uses.**

(1) *Adult Business*.

(A) *Location.*

(i) *New Uses.* A structure housing an adult business shall be located at least fifteen hundred (1,500) feet from any residential zoning district (RE, GR, SU, or MR) boundary line or from any structure used as a residence; from a church; public or private schools; hospitals; licensed child care facilities; hotel or motel; parks or playgrounds (public); playfields or stadiums (public); institutions of religious, charitable, or philanthropic nature; and, from any other structure housing an adult business.

(ii) *Existing Uses.* Any premises that is already used as a topless establishment on January 6, 2004, and which does not comply with these location requirements, may continue in operation as a nonconforming use until any of the following events occurs:

a. Cessation of doing business as a topless establishment for a continuous period of 180 days or more; or,

b. A change in:

A. The ownership of the real estate upon which the topless establishment is located; or,

B. The tenant that operates a topless establishment on the premises, either or both of which occurs after February 28, 2007; or,

c. Destruction of the topless establishment by fire, the elements, or other causes that exceeds 50 percent of the structure's value as shown on the current tax rolls.

(i) *Measuring Required Distances.*

a. Distance requirements are to be measured in a straight line in all directions from the structure housing the adult business to any residentially zoned district boundary line; to any structure used for a residence, church, school, or hospital; any lot used for a park; and, from structure to structure of those facilities housing adult business.

b. The measurements to a structure shall be taken from the farthest point that a structure extends in the direction of the measurement, including overhanging roofs and all other projections or portions of the structure.

c. Should an adult business be located in conjunction with other buildings in a manner where the adult business is clearly separated from other portions of the structure (for example, an adult business in a shopping center), measurements shall be taken from the boundaries of the space occupied by the adult business.

d. Should an adult business be located in a manner where the adult business is situated above the ground level of a multistory structure and is clearly separated from other activities within the structure, the adult business measurements shall be taken from the boundaries of the space occupied by the adult business, thence to the nearest point of egress (elevator or stairs), thence to the nearest ground floor exit, thence in a straight line in all directions to any residential zoned district boundary line; to any structure used for a residence, church, school, or hospital; any lot used for a park; and, from structure to structure of those facilities housing an adult business.

(B) *Viewing Booths.*

(i) Viewing booths in an adult business shall be configured in such a manner that there is an unobstructed view of the interior area of the viewing booth from outside the entrance to the viewing booth at all times.

(ii) Wall or partitions of viewing booths between two feet and six feet above floor level shall have no holes or voids in such walls or partitions.

(iii) A viewing booth shall at all times be illuminated with not less than that amount of light provided by a twenty-watt bulb.

(iv) It shall be the duty of the person accepting payment from customers of an adult business to ensure that the viewing booth requirements in this section are in compliance at all times.

(2) *Batch Plant.*

(A) *Location.* The use shall be located a minimum of 600 feet from any civic and institutional use or a residentially used or zoned property.

(B) *Hours of Operation.* Hours of operation shall be not earlier than 8:00 a.m. to no later than 8:00 p.m. if the use is within 1,000 feet of residentially used or zoned property; or not earlier than 6:00 a.m. to no later than 10:00 p.m. in all other locations.

(C) *Use*. The facility shall only be used for a development project within the City and shall be located no more than one mile from the project site.

(D) *Duration.* The duration of the use shall coincide with the use of the facility for a specified construction project, not to exceed 180 days. The use shall be removed immediately upon project completion.

(3) *Game Room and Amusement Redemption Machines.* Game rooms and amusement redemption machines shall meet the standards of this Subsection and Subsection 14.01.309, *Game Room and Amusement Redemption Machines.*

(4) *Recreational Vehicle (RV) Park*. Recreational vehicle (RV) parks shall meet all standards of Subsection 14.01.308, *Recreational Vehicle (RV) Parks*.

(5) *Resource Extraction.* To establish and operate a mine or any other facility that extracts natural resources from the ground:

(A) *Site Plan*. A survey and legal description of the property is required to be submitted showing the following:

(B) A north arrow;

(C) Scale;

(D) Date;

(E) Name of property owner(s) for subject property and all adjacent property;

(F) Existing and proposed features of the subject property and property within 200 feet of the subject property such as: property lines, streets, alleys, easements, buildings or other structures, driveways, screening, and landscaping.

(G) *Statement of Depth*. The application shall designate the depth to which excavation or fill will be made and the angle of all side slopes.

(H) *Dust*. The application shall include a statement describing provisions for controlling dust.

(I) *Traffic*. The application shall include a statement of precautions to be taken to guide traffic movements safely in, around, and by the resource or extraction operation.

(J) *Oil and Gas Drilling*. If the resource extraction is for oil and/or gas the requirements of ARTICLE 4.05, *Oil, Gas, Disposal, or Injection Wells* of the City's Code of Ordinances shall be met.

(6) *Utilities, Major.*

(A) *Generally.* The use is setback a minimum of 25 feet from the right-of-way of all streets bounding the property on which the use is located.

(B) *Telecommunications Facilities*. Stand-alone telecommunication facilities shall comply with the standards in Subsection 14.01.306, *Telecommunication Facilities*.

Effective on: 8/9/2022

Subsection 14.01.305 Accessory Use and Structure Standards

(a) **Purpose**. The purpose of this Section is to establish minimum standards for accessory uses and structures that:

(1) Advance the general welfare of the community;

(2) Enhance and protect the aesthetic interests of the community;

(3) Protect property values and lessen the impact that some accessory structures may have on residential properties; and,

(4) Promote economic development by making the community a more desirable place to live, conduct business, and recreate.

(b) **Generally**. An accessory use or structure may be established provided that it is associated with a primary use in the use category definitions in Section 14.09.200, *Definitions*, and that it complies with the standards of this Subsection.

(c) **Standards that Apply to all Accessory Uses and Structures**. The following standards shall apply to accessory uses and structures except as this Subsection or ULDO indicate otherwise.

(1) *Use*. An accessory use or structure may be established provided that it is associated with a primary use in the use category definitions in Section 14.09.200, *Definitions*, and that it complies with the standards of this Subsection. No accessory structure may be used unless the primary structure also is being used.

(2) *Subordination*. The accessory use or structure shall be subordinate to and serve a primary use or primary structure. Except as provided in this Section, a non-agricultural accessory structure shall be subordinate in height to the primary structure.

(3) *Commercial Use*. Accessory structures located on residentially zoned or used property shall not be used for commercial purposes other than home occupations that comply with this Subsection.

(4) *Timing of Construction*. No detached accessory structure shall be constructed until the construction of the rafters, or general equivalent, of the primary structure has commenced.

(5) *Same Property*. An accessory use or structure shall be located on the same parcel or lot as the primary use or structure.

(6) *Separation*. No detached accessory structure shall be located closer than 10 feet to any other structure.

(7) *Setbacks*. All accessory structures shall comply with the street, interior side, and exterior side setback standards for the primary structure established in Section 14.01.200, *Base Districts and Standards*. Attached accessory structures must also comply with rear setback standards. For detached accessory structures no rear setback shall be required, except that if no alley exists the rear setback shall not be less than 10 feet as measured from the rear lot line. Roof extensions, steps, ramps or any part of a detached accessory structure shall not extend over the rear lot line, alley line or easement line a distance greater than one foot. In areas where alleys or easements are less than 20 feet in width, detached accessory structures shall have a rear setback of not less than three feet from any rear lot line, alley line or easement line.

(8) *Easements*. Accessory structures permanently affixed to the ground shall not encroach into an easement.

(9) *Height*. The maximum wall height for a residential accessory structure is 12 feet.

(10) *Compatibility*. Accessory buildings (in excess of 120 square feet) shall be designed to be compatible with the primary building in terms of color and building materials.

(d) **Prohibited Accessory Structures and Uses**.

(1) *Shipping Containers*. Shipping containers and non-steel storage containers are prohibited from use as a permanent dwelling unit or occupied overnight.

(2) *Living Quarters*. Portable storage buildings may not be used as a dwelling unit or occupied overnight.

(e) **Residential Fences and Walls**.

(1) *Applicability*. The provisions of this Subsection apply to residentially zoned or used properties, excluding apartments.

(2) *Setbacks*. Fences and walls are permitted in any required setbacks.

(3) *Height and Openness*. The maximum height of a fence or wall within a required street setback or exterior side setback shall be 42 inches. The maximum height for any other residential fence or wall shall be eight feet. On corner lots, fences and walls with greater than 50 percent opacity shall not encroach the street

setback or exterior side setback. Fences or walls built parallel to and outside of the exterior side setback may have a maximum height of eight feet and have no opacity requirement.

(4) *Transitioning*. For fences that cross a street or exterior side setback line, a five-foot transition area shall be provided between the eight-foot and three-and-a-half-foot sections of the fence. The five-foot transition area shall be centered on the minimum required setback line. For existing subdivisions that do not have platted building setback lines, a 20-foot setback shall apply for the purposes of this Subsection.

(5) *Prohibited Fence Types*. The following fencing materials shall be prohibited:

(A) Barbed, razor, or electric wire, unless exempted as regulated in Paragraph 7, below;

(B) Corrugated metal (in residential zoning districts only);

(C) Used lumber;

(D) Fiberglass, unless one good coat of primer and two coats of neutral paint are applied; and,

(E) Used or salvage materials unless specifically noted on plans and approved by the Building Official.

(6) *Subdivision Perimeter Fences or Walls*. Fences or walls along the perimeter of a new subdivision adjacent to a public right-of-way shall:

(A) Be installed by the subdivider;

(B) Be eight feet in height;

(C) Not encroach into the public right-of-way;

(D) Include stone or brick columns spaced a minimum of 30 feet apart;

(E) Be maintained by the homeowners' association; and,

(F) Be of a consistent design for the entirety of subdivision with a type A bufferyard provided along the fence where adjacent to an arterial street.

(7) *Fencing Exceptions*.

(A) Barbed wire shall not be used on fencing except under the following circumstances:

(i) Fencing for property used for agriculture or grazing purposes;

(ii) Security fencing for nonresidential uses in C, IL, and IH districts where the barbed wire is six feet or more above the ground level; and,

(iii) Security fencing for a site operated by a local, state, or federal government agency or a franchised utility company where the barbed wire is six feet or more above the ground level.

(B) Electrical fences shall be installed in accordance with the National Electrical Code as adopted by the City and may be used only for the purposes designed for and shall be Underwriters' Laboratory approved. Electrical fencing may be used on a property used for agriculture or grazing purposes only and shall not be used for fencing adjacent to or in any residential district.

(f) **Home Occupations**. Permitted home occupations, unless permitted as a Live-Work Unit in Subsection 14.01.301, *Use Table*, shall:

(1) Be within the principal residence or a permitted accessory building;

(2) Not occupy more than 25 percent of the gross floor area of the principal residence;

(3) Not have any exterior indication that the home occupation is taking place;

(4) Have no outside employees who do not live on-site;

(5) Not generate traffic other than that normally associated with a residential use; and,

(6) Not require equipment or processes that would create a nuisance to neighboring properties.

(g) **Trucks and Business Vehicles in Residential Zoning Districts**.

(1) *Generally*. Except as provided below, no vehicles, trucks, semi-trailer tractors, boats, or vans that are heavier than 15,000 pounds gross vehicle weight or longer than 24 feet, shall be parked outside on lots in a residential zoning district.

(2) *Exceptions*. Such vehicles may be parked on residentially zoned lots if:

(A) The vehicle is parked completely to the rear of the principal structure and not visible from the street;

(B) The vehicle is parked within a fully enclosed accessory structure; or,

(C) The vehicle is a recreational vehicle R.V. in compliance with Subsection 14.01.305(h), below.

(h) **Recreational Vehicles in Residential Zoning Districts**.

(1) *Parking.* A maximum of two recreational vehicles (R.V.) may be parked on residentially zoned lots if:

(A) The RV is not encroaching into any required setback; or,

(B) The RV is parked within a fully enclosed accessory structure.

(2) *Occupancy*. Occupancy of a parked R.V. shall be in compliance with Subsection 14.01.308(d), Occupancy.

(i) **Outdoor Display for Nonresidential Uses and Districts.**

(1) *Generally*. Permanent or seasonal outdoor display of merchandise is permitted in the DA, C-MU, C, and SC zoning districts subject to the requirements of this Section.

(2) *Accessory Use*. The outdoor display area involves items for sale by a business that is located within a permanent structure or a designated area on the same site.

(3) *Attached to Principal Building*. An outdoor display area that is attached to a principal building (see Figure 14.01.305-1, *Attached Outdoor Display Area*) is permitted if the outdoor display area is:

(A) Adjacent to a wall of a principal structure;

(B) Configured as a walled and/or decoratively fenced area that is architecturally integrated into the principal building;

(C) If covered, the display area shall be covered with a roof structure that is architecturally integrated into the primary building, except that nursery areas may be covered by greenhouse roofing, screening, or another cover material that is appropriate for protecting plant stock;

(D) Within the buildable area of the site formed by the required setbacks;

(E) Not larger than 15 percent of the gross floor area of the principal building; and,

(F) Not located in areas that are required or used for parking, loading, or vehicular circulation.

Figure 14.01.305, *Attached Outdoor Display Area*

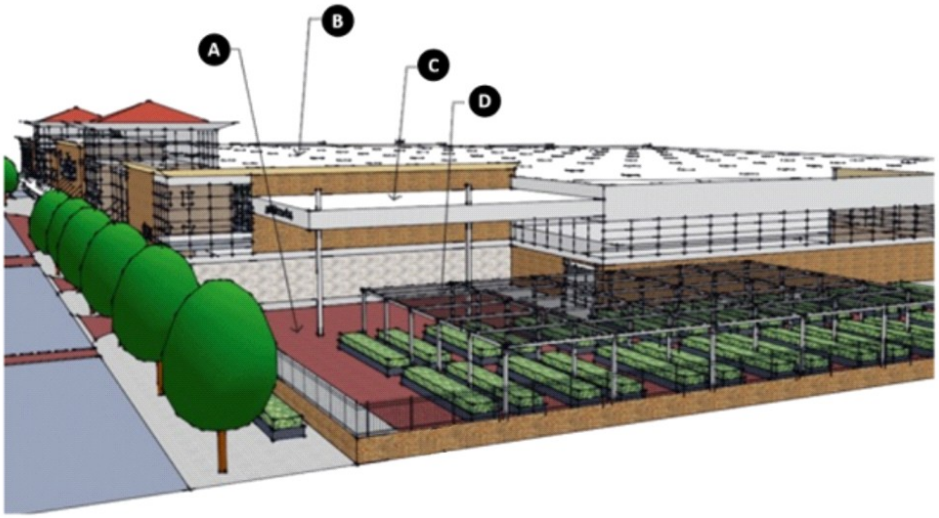


FIGURE NOTES:
A = Area not larger than 15% of the gross floor area of principal building | B = Principal Building | C = Architecturally Integrated Roof Structure | D = Roof Structure Appropriate for Plant Stock

(j) **Outdoor Storage for Nonresidential Uses and Districts**.

(2) *Generally*. Outdoor storage is permitted in the C, IL, and IH zoning districts subject to the standards of this Subsection. At the time any building, use, or structure is instituted, erected, enlarged, or converted from one land use to another land use which utilizes outdoor space for the storage or display of motor vehicles, equipment, or materials, on-site outdoor storage facilities shall be provided in accordance with these regulations. Such areas shall be provided in order that such vehicles, equipment, or materials may be displayed or stored without encroaching on or interfering with the public use of streets, alleys, and sidewalks.

(3) *Surfacing and Drainage*.

(C) All outdoor storage facilities, except for those in the ILIH zoning districts, including access aisles, driveways, and maneuvering areas, shall be composed of an all-weather surface and shall meet the drainage requirements of this ULDO and of the Public Works Director.

(D) In the IL and IH zoning districts, access aisles and maneuvering areas of enclosed outdoor storage areas may be composed of gravel.

(4) *Placement*. An outdoor storage facility shall be located to the rear or side of the primary structure and away from the public right-of-way and any adjacent residentially zoned or used property.

(5) *Public Views*. Outside storage shall be maintained to prevent public view of interior storage.

(6) *Maneuvering of Inventory*. The site shall be of adequate size, shape, and design to ensure:

(A) All maneuvering of inventory will be contained on-site;

(B) No inventory will be backed onto the site from the public right-of-way;

(C) All on-site maneuvering shall occur without encroaching onto adjacent properties or rights-of-way; and,

(D) Inventory will be maneuvered without conflicting with vehicular use areas.

(7) *Buffering and Screening*. Outdoor storage areas shall be screened from the public right-of-way and from adjacent properties with a Type B bufferyard as established in Section 14.02.400, *Trees, Landscaping, and Buffering*, together with a fence or wall that is a minimum of six feet and a maximum of eight feet in height.

(8) *Exemptions.* The following types of outdoor storage are exempt from the screening requirements of this Subsection:

(A) Retail planting stock and landscape stone or similar landscape materials, associated with a nursery or greenhouse;

(B) Commercial vehicles related to a permitted business on-site; and,

(C) Finished recreational vehicles, automobiles, portable buildings, boats, trailers, manufactured homes, and other similar vehicles or equipment sold by a permitted use on-site.

(k) **Multifamily and Nonresidential Dumpsters and Loading Docks**. The following dumpster requirements shall apply to multifamily, nonresidential, and mixed-use zoned or used properties:

(1) *Dumpsters*.

(A) *Location*. Commercial refuse storage containers shall be located in the side or rear yard out of view from public right-of-way. Where site constraints and access make rear yard locations infeasible, containers may be placed in unobtrusive locations in side yards with screening as required in Subsection 2. below.

(B) *Public View*. Openings into enclosures shall be positioned so that view of the containers from residentially zoned or used properties and from the street right-of-way is eliminated.

(C) *Access and Maneuvering*. Containers shall be located in such a manner that they can be serviced by a refuse hauling vehicle without such vehicle encroaching on or interfering with the public use of streets or sidewalks, and without such vehicle backing out of the property onto the public right-of-way.

(D) *Foundation Surface*. Containers shall be placed on a paved surface of either concrete or asphalt.

(E) *Screening*. Containers visible from the street right-of-way view shall be screened with a structural screen enclosure that shall extend at least one foot above the container top.

(2) *Loading Docks*. Loading docks shall not be permitted to be visible from the street or from a residentially zoned property unless otherwise determined by the Director.

(l) **Outdoor Activities Requiring a Limited Use Permit**. A Limited Use Permit shall be required if an otherwise permitted use contains any of the following activities and the space for such activities is within 50 feet of the adjoining property line of a single- or two-family use:

(1) Fuel sales; and,

(2) Outdoor kennel or dog run.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Subsection 14.01.306 Telecommunication Facilities

(a) **Generally.** Stand-alone telecommunication facilities are part of the Major Utilities Use Type. Collocated antennas are part of the Minor Utilities Use Type.

(b) **Application.** This Subsection shall apply to the renovation, modification, or installation of any telecommunication tower, except for the following facilities, which shall be exempt from the requirements of this Subsection:

(1) Structures intended only for and capable only of use as amateur radio facilities;

(2) Ground-based telecommunications towers that do not exceed a height of 40 feet from the base of the tower that are not lattice-style towers or towers secured by guy wires;

(3) Telecommunications facilities and tower structures that are attached to, placed upon, or constructed on top of a building, provided the height of the tower structure does not exceed 20 feet above the height of the

building upon which the tower is constructed and the tower structure is not a lattice style tower or tower secured by guy wires;

(4) Towers or other facilities placed on land or right-of-way owned by the Federal government, the State of Texas or the City of Borger; and,

(5) Telecommunications equipment that is mounted on a pre-existing operational telecommunications facility, light mast, or operational engineered structure other than a telecommunications facility, such as a sign.

(c) **Setback from Residential Structures**. All telecommunications towers shall be set back from any residential zoning district or structure a minimum distance of 10 feet plus one foot for each foot of height of the tower.

(d) **Co-Location Encouraged**. The Director of Planning and Development shall maintain a list of available telecommunications sites that are owned by the City and other owners of existing structures, such as towers, buildings, windmills, poles, etc. who wish to make their structures available for placement of other telecommunications facilities. Lease or use rates may be provided on this list.

(e) **Site Plan Requirements**. In addition to the requirements of Subsection 14.06.302, *Site Development Plan*, a site plan for a telecommunications tower shall be accompanied by a drawing and any supporting documents that identify the type and height of the proposed facility.

Effective on: 8/9/2022

Subsection 14.01.307 Mobile Homes and Manufactured Homes

(a) **Generally**.

(1) *HUD Compliant.* All manufactured homes shall be compliant with the U.S. Housing and Urban Development (HUD) Code and built on a permanent foundation.

(2) *Certification.* A certification of compliance with all ordinances and regulations regarding manufactured home licensing, zoning, health, plumbing, electrical, building, fire protection, and any other applicable requirements shall be required.

(3) *Compliance Required.* Each individual manufactured home shall meet all use standards of this Subsection.

(b) **Mobile Homes.**

(1) *New Mobile Homes Prohibited.* No mobile home, as defined in Section 14.09.200, *Definitions*, shall be permanently or temporarily placed or relocated within the City limits.

(2) *Existing Stand-Alone Mobile Homes.*

(A) *Removal or Demolition*. An existing stand-alone mobile home located outside a manufactured home park, as of June 3, 2003, may remain on-site until the condition of the mobile home violates this ULDO or other parts of the City Code or is removed from the City. When/or if the condition of the mobile home violates the City Code, the Building Official shall require the owner to demolish it, relocate it out of the City, or replace the mobile home in accordance with Subsection 14.01.307(B), below.

(B) *Replacement of Mobile Home*.

(i) A mobile home located within the City limits and outside a manufactured home park on June 3, 2003, may be replaced one time and one time only with a manufactured home. The replacement manufactured home shall be installed within 90 days of the removal of the mobile home, upon the same site location as the replaced mobile home, and comply with all provisions of the City Code effective on the date of installation.

(ii) In the case of fire or natural disaster resulting in irreparable damage to a mobile home, a replacement manufactured home may be installed within 180 days following the fire or natural disaster, upon the same site location as the damaged mobile home and shall comply with all provisions of the City Code effective on the date of installation.

(iii) Upon the removal or destruction of the replacement manufactured home described in paragraphs (i) or (ii), above, the subject property shall no longer be considered eligible as a location for a manufactured home.

(c) **Manufactured Homes.** All manufactured homes shall meet the following standards:

(1) *Location.*

(A) A manufactured home compliant with the applicable standards of this ULDO may be located in a manufactured home park or subdivision.

(B) A stand-alone manufactured home compliant with the applicable standards of this ULDO may be located in zoning districts as allowed by Table 14.01.301, *Permitted Uses by District*, upon approval of a Special Use Permit.

(C) No manufactured home may be moved into or be relocated to or within the City that does not comply with the applicable standards of this ULDO.

(2) *Floor Area and Width*. The home shall have at least 900 square feet of floor area and a minimum exterior width of 18 feet.

(3) *Roof Pitch*. The roof shall be pitched with a minimum vertical rise of two and one-half inches for every 12 inches of horizontal run.

(4) *Immobile.* The wheels, axles, transporting lights, and towing apparatus shall be removed.

(5) *Installation.*

(A) The manufactured home stand shall be improved to provide adequate drainage for the entire area under the manufactured home, securing the superstructure for the placement and tie-down of the manufactured home.

(B) The manufactured home stand shall not lean, shift or settle unevenly under the weight of the manufactured home due to inadequate drainage, vibration, or other forces acting on the superstructure.

(C) Manufactured homes shall be secured according to the building code, to prevent uplift, sliding, rotation, and overturning.

(d) **Manufactured Home Parks or Manufactured Home Subdivisions.**

(1) *Maximum Density.* Manufactured home parks and subdivisions shall have a maximum density of 10 manufactured home stands per gross acre.

(2) *Location.* A manufactured home park or subdivision shall be located 750 feet or more from an existing single- or two-family residence, place of worship, or public or private elementary, middle, or high school.

(3) *Street Construction and Design Standards.*

(A) *General*.

(i) The street layout of a manufactured home park or subdivision should provide adequate circulation within the park and shall be considered in relation to existing and planned streets, topographical conditions, and public safety and convenience.

(ii) The street layout shall be devised for the most advantageous development of the entire neighborhood and shall conform to connecting and adjacent streets.

(iii) The street system layout shall be so designed as practicable as possible to preserve natural features such as trees, brooks, hilltops, scenic views, and other such features.

(iv) The street system layout shall provide for the acceptable disposal of storm water and adequate provisions shall be made by the subdivider to handle storm water to comply with Subsection 14.03.211, *Storm Drainage*.

(B) *Street Network and Cross Section*. All streets shall be designed and constructed to the local street standards in Table 14.03.203-1, *New Street Standards*. Alleys and cul-de-sacs, where provided, shall be designed and constructed as required in Subsection 14.03.202, *Street Network and Design*.

(C) *Intersections*.

(i) All streets and alleys shall be designed and constructed to the standards in Subsection 14.03.203, *Street Cross-Sections, Bridges, and Railroads*.

(ii) Streets shall be extended to tie into the existing external street network.

(4) *Area Lighting*. Manufactured home parks shall provide adequate lighting for safety and shall be in compliance with Section 14.02.600, *Outdoor Lighting*.

(5) *Utilities.*

(A) *Required.* At a minimum all manufactured homes shall be served with wastewater, water, and electrical power. Natural gas is optional.

(B) *Distribution and Connection*. The means of distribution of those utilities within the park, the utility connections at each space, and the provision of utilities to and within buildings and other structures shall comply with all applicable standards, regulations, and construction codes.

(C) *Individual Units and Common Facilities.* All individual manufactured home units and common facilities shall be supplied with an adequate supply of hot and cold water for both drinking and domestic purposes and standard electrical service, providing at least one 120-volt and one 240- volt electrical service outlet to each manufactured home space.

(6) *Solid Waste.*

(A) *Refuse Containers for Individual Pick-Up.* For individual pickup, each resident shall put all refuse in a trash container, which shall at all times be lidded.

(B) *Storage, Collection, and Disposal.* The storage, collection, and disposal of solid waste in a manufactured home park shall be conducted in a manner that will not create health hazards, rodent harborage, insect breeding areas, accidental fire hazards, and/or air pollution. There shall be a minimum of at least one three-yard container for each five manufactured homes. All containers shall be placed for ease of pickup by the solid waste disposal service, on a concrete pad with curbs, with a three-sided high fence that is six feet in height.

(7) *Recreation Areas in Manufactured Home Parks.*

(A) *When Required*. All parks accommodating or designed to accommodate 25 or more manufactured homes shall have a minimum of one recreation area that shall be easily accessible to all park residents.

(B) *Size*. The size of such recreation areas shall be a minimum of 100 square feet per manufactured home stand. No outdoor recreation area shall contain less than 2,500 square feet.

(C) *Location.* Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.

(8) *Building Separation.*

(A) *Manufactured Homes*. Manufactured homes shall be separated from each other and from buildings and structures by a minimum of 15 feet on the sides and shall have an end-to-end clearance of no less than 10 feet.

(B) *Accessory Structures.* An accessory structure is considered part of the manufactured home for purposes of separation requirements if it:

(i) Has a horizontal area exceeding 25 square feet;

(ii) Is attached to or located within 10 feet of the manufactured home; and,

(iii) Has an opaque top or roof that is higher than the nearest window of the manufactured home.

(9) *Responsibilities of Manufactured Home Park Owner and Occupant.*

(A) *Park Owner Responsibilities*. The owner of a manufactured home park shall be responsible for the following:

(i) Maintaining the park, its facilities and equipment in good repair and in a clean and sanitary condition;

(ii) Notify each and every park occupant of all applicable provisions of this subsection and inform them of their duties and responsibilities in paragraph (B), below; and,

(iii) Maintaining a register of the park occupancy which shall contain the following information:

a. Name and space number of occupant;

b. Make, model, and license number of all recreational vehicles; and

c. Location of each recreational vehicle within the park by space number.

(B) *Occupant Responsibilities.* Occupants of a manufactured home park shall be responsible for the following:

(i) Maintaining the manufactured home, its facilities, and equipment in good repair and in a clean and sanitary condition;

(ii) Ensuring proper placement of the manufactured home on its space and proper installation of all utility connections in accordance with all applicable building, plumbing, mechanical and electrical codes; and

(iii) Maintaining in good repair any skirting, porches, awnings, and other additions, when installed. The use of space immediately under the recreational vehicle for storage shall be permitted only under the following conditions:

a. The storage area shall have a base of impervious material; and

b. Stored items shall not interfere with the inspections of the recreational vehicle nor be a fire hazard.

(e) **Temporary Use**. The Director of Planning and Development may approve the temporary placement of a manufactured home in accordance with the procedures in Subsection 14.06.309, *Temporary Use Permit*. Proof of the permit approval shall be conspicuously posted on a readily accessible window (facing out) of the permitted manufactured home. The City shall charge each person whose application is approved all the prevailing, applicable fees that are required to be paid to the City for residential inspections, electrical, water, and wastewater connections.

Effective on: 8/9/2022

Subsection 14.01.308 Recreational Vehicle (RV) Parks

(a) **Generally.** All recreational vehicle (RV) parks shall be operated in compliance with the standards of this Subsection and any other applicable standard of this ULDO.

(b) **Location.** An RV park shall be located only as a special use in districts as denoted in Table 14.01.301, *Permitted Uses by District*.

(c) **Manufactured and Mobile Homes Prohibited**. RV parks are for the purpose of housing individuals in recreational vehicles. As such, manufactured and mobile homes are prohibited within the boundaries of an RV park.

(d) **Occupancy.**

(1) *Permanent Occupancy Prohibited.* Recreational vehicles, regardless of whether the vehicle is within an RV park or outside of an RV park shall not be used as a permanent residence with the exception of one permanent site as described in paragraph 4 below.

(2) *Occupancy Outside of Park*. The placement of an RV for occupancy longer than 3 days shall not be permitted except at an approved RV park. An RV may be placed at an owner's residence for parking purposes only in compliance with Subsection 14.01.305(h), *Recreational Vehicles in Residential Zoning Districts*, but shall not be used for occupancy longer than 3 days in a 12-month period.

(3) *Occupancy Within RV Park.* Occupancy or parking of a recreational vehicle within an RV park extending beyond 28 days in any 12-month period shall be presumed permanent occupancy. The City reserves the right to modify or change the length requirement for the purpose of industrial events, natural disasters, or other related incidents, including the requirement of removal of all recreational vehicles that may be subject to dangerous or inclement weather.

(4) *RV Park Employee Residence.* No more than one space shall be allowed for use as a permanent residence for a full-time employee of the RV park.

(e) **Bufferyards.** A Type B bufferyard with a fence or wall complying with Subsection 14.02.403, *Bufferyard Landscaping*, shall be required when abutting a residential district or use.

(f) **Street Construction and Design Standards within RV Parks**

(1) *General.* The street layout of a RV park should provide adequate circulation within the park and shall be considered in relation to existing and planned streets, topographical conditions, public safety and convenience. The street layout shall be devised for the most advantageous development of the entire neighborhood and shall conform to connecting streets in land adjacent to the new park. The street system layout shall be so designed insofar as practicable to preserve natural features such as trees, brooks, hilltops, scenic views and other such features.

(2) *Storm Drainage.* The street system layout shall provide for the acceptable disposal of storm water and adequate provisions shall be made to handle storm water in compliance with Subsection 14.03.211, *Storm Drainage*.

(3) *Street Network and Cross Section.* All streets shall be designed and constructed to the local street standards in Table 14.03.203-1, *New Street Standards*. Alleys and cul-de-sacs, where provided, shall be designed and constructed as required in Subsection 14.03.202, *Street Network and Design*.

(4) *Intersections.*

(A) All streets and alleys shall be designed and constructed to the standards in Subsection 14.03.203, *Street Cross-Sections, Bridges, and Railroads*.

(B) Streets shall be extended to tie into the existing external street network.

(g) **Utilities.**

(1) *Minimum Requirements.* All RV sites shall be served with wastewater, water, and electrical power.

(2) *Distribution and Connection.* The means of distribution of those utilities within the RV park, the utility connections at each space, and the provision of utilities to and within buildings and other structures shall comply with all applicable standards, regulations, and construction codes.

(h) **Solid Waste.**

(1) *Generally.* The storage, collection, and disposal of solid waste in an RV park shall be conducted in a manner that will not create health hazards, rodent harborage, insect breeding areas, accidental fire hazards, and/or air pollution.

(2) *Container Required*. There shall be a one three-yard container for each eight RV spaces.

(3) *Container Placement and Screening*. All containers shall be placed for ease of pickup by the solid waste disposal service, on a concrete pad with curbs, with a three-sided high fence that is six feet in height.

(i) **Area Lighting.** RV Parks shall provide adequate lighting for safety and shall be in compliance with Section 14.02.600, *Outdoor Lighting*.

(j) **Common Facilities.** Common Facilities shall be provided in accordance with Table 14.01.308, *Required Common Facilities.*

Table 14.01.308, *Required Common Facilities*

Common Facility	Standard
Restroom and Shower Facilities	Male: 2 toilets, 1 lavatory, 1 shower per 50 RV spaces Female: 2 toilets, 1 lavatory, 1 shower per 50 RV spaces
Laundry Facilities	1 clothes washer, 1 clothes dryer per 30 RV spaces
Potable Water Source for Holding Tanks	1 per RV park

(k) **Pad Requirements.**

(1) *Generally.* The sites shall be designed for ease of entering and leaving the site. A roadway is therefore required that ensures the safe maneuvering and parking of recreational vehicles. The road layout shall be approved by the Director of Planning and Development.

(2) *Dimensions.* The left 1/3 (10 x 65) of the site or driver's side must be planted with grass, crushed rock, or similar landscaping material, the middle (10 x 45) must be paved with cement, and the remaining 1/3 or passenger side can be paved with either cement, asphalt, crushed rock or similar material. The middle portion is to be used for the parking of the recreational vehicle, with the paved area on the right used as a parking or patio area.

(l) **Space Marker.** Each RV space shall be marked for identification. Such markers shall be all-weather and shall be easily readable from the street.

(m) **Building Separation.** RV spaces shall be dimensioned and designed so when occupied, all RVs are separated from buildings and structures by a minimum of 15 feet on the sides.

(n) **Responsibilities of Owner and Occupant.**

(1) *Owner Responsibilities.* The owner of an RV park shall be responsible for the following:

(A) Maintaining the park, its facilities and equipment in good repair and in a clean and sanitary condition;

(B) Notify each and every park occupant of all applicable provisions of this subsection and inform them of their duties and responsibilities in paragraph 2, below; and,

(C) Maintaining a register of the park occupancy which shall contain the following information:

(i) Name and space number of occupant;

(ii) Make, model and license number of all recreational vehicles; and,

(iii) Location of each recreational vehicle within the park by space number.

(2) *Occupant Responsibilities*. Occupants of an RV park shall be responsible for the following:

(A) Ensuring proper placement of the RV on its space and proper installation of all utility connections in accordance with all applicable building, plumbing, mechanical and electrical codes.

(B) Maintaining in good repair any skirting, porches, awnings, and other additions, when installed. The use of space immediately under the recreational vehicle for storage shall be permitted only under the following conditions:

(i) The storage area shall have a base of impervious material; and,

(ii) Stored items shall not interfere with the inspections of the recreational vehicle nor be a fire hazard.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Subsection 14.01.309 Game Rooms and Amusement Redemption Machines

(a) **Generally.**

(1) *Permit Required.* It is a misdemeanor offense to operate a game room or an amusement redemption machine within the City without a currently valid special use permit (See Subsection 14.01.304, *Special Use Permit*). Every person desiring to operate any game room shall submit an application to the Director of Planning and Development (Director) on a form provided for that purpose.

(2) *Registration with State Required.* Game room and amusement redemption machine permits shall be issued only to business entities that have been registered and are currently active with the Texas Secretary of State and to whom the Texas Comptroller of Public Accounts has issued a currently valid State tax identification number.

(3) *Illegal Machines.* This Subsection shall not be construed to authorize or permit the keeping, exhibition, operation, display, or maintenance of any machine that is prohibited by the Constitution of this State or Chapter 47 of the Texas Penal Code.

(b) **Background Check.**

(1) *Investigation.* The Chief of Police or a duly authorized representative shall investigate the publicly filed business records of the permittee and the background of all applicants and each officer, managing member, or owner of 20 percent or greater interest in the permittee. The investigation may be completed by the City's Police Department or by a third-party vendor approved in advance by the Chief of Police. Any fees associated with the investigation shall be paid by the applicant. The investigation shall include fingerprinting the individual and a check of the individual's local, state, and national criminal records in accordance with Texas Government Code § 411.087 and 411.122. The investigation shall include making a permanent record of the identity of all individuals described above.

(2) *Denial.* The City shall deny the issuance of a permit if the application or investigation shows any of the following:

(A) The applicant or an officer, managing member, or owner of 20 percent or greater interest in the property or business has been convicted, within the five years preceding the date of the application, of any crime required to be listed on the permit application and not disclosed thereupon, or of a felony, or for gambling, gambling promotion, keeping a gambling house, fraud, theft, an offense against public administration, or another crime that directly relates to the duties and responsibilities of a permittee pursuant to this Subsection;

(B) The permit application includes a false statement by the applicant;

(C) The City has previously revoked the applicant's permit of the type requested or a coin-operated business license issued under Article 4.09, *Operation of Coin-Operated Machines*, within the past year; and,

(D) The permit application does not meet all the requirements of this Subsection.

(c) **Location.** All game rooms or amusement redemption machines shall be located on a site that meets the following:

(1) At least 1,000 feet from another permitted game room whether operating or not; and

(2) At least 300 feet from:

(A) Residential uses or districts (DA, RE, GR, SU, MR);

(B) Public assembly facilities;

(C) Educational facilities (excluding transportation-related instruction);

(D) Child day care centers or pre-schools; and

(E) Medical facilities.

(d) **Design.**

(1) *Transparent, Unobstructed Windows Required.* Game rooms shall have transparent unobstructed windows or open space on at least one side so that the open area is open to view by the general public passing by on a public street or using a corridor, lobby, or other room to which the public has access and is admitted without charge. The owner, manager, or employee of a game room shall not permit any obstruction of any window by the use of drawn shades, blinds, partitions, tinting, or other structures or obstructions.

(2) *Historic or Architectural Significant Structures.* It is an affirmative defense to prosecution under Subsection (c)(1) above that:

(i) The game room is located in a structure registered as a historic landmark, or the structure is within a historic district and deemed to have architectural or historic significance which would qualify the structure for registration as a historic landmark; and

(ii) Compliance with the unobstructed view requirement would require alterations to the structure that would have a substantially detrimental effect on its historic or architectural features.

(e) **Operational Standards.**

(1) *Age Requirement.* Game rooms shall not allow any person under the age of 18 years to play on an amusement redemption machine.

(2) *Memberships Prohibited.*

(A) A game room shall not require memberships for any purpose.

(B) A game room shall not restrict entry to a game room and/or prohibit participation in any activity inside a game room by a patron through the requirement of a game room membership.

(C) Game rooms shall not issue membership cards to any individual for any purpose.

(D) Game rooms shall not have, make use of, employ, and/or require check-in procedures of any kind prior to entering or before exiting a game room.

(3) *Required Signage.* At all times during which a permittee holds a valid special use permit for a game room, the permittee shall display a sign on the premises of the permitted game room which reads as follows:

(A) The words: "Game Room" in contrasting colors and block letters at least four inches in height;

(B) The words: “Gambling is a crime. If you win more than $5.00 per play, you may be arrested and fined $500.00” in contrasting colors and block letters at least one inch in height; and

(C) A sign as described in (A) and (B) above is to be displayed in a conspicuous manner clearly visible to the public at each entrance to the game room and at each location within the game room where patrons may collect winnings.

(4) *Report Violation.* Game rooms shall promptly report to the City's Police Department any violations of State law or City ordinances committed by employees or patrons in or on game room premises.

Effective on: 8/9/2022

Subsection 14.01.310 Temporary Use and Structure Standards

(a) **Generally**. Permitted temporary uses and structures are set forth in Table 14.01.310-1, *Temporary Uses and Structures*. Standards for temporary uses and structures are set forth below.

(b) **Purpose**. The purpose of this Subsection is to establish specific conditions for certain uses and structures permitted for a limited duration. The following standards ensure that such temporary uses or structures do not negatively impact surrounding properties and are discontinued upon the expiration of a set time period.

(c) **Applicability**.

(1) *Maximum Duration*. Other than retail promotional activities, the temporary uses set out in this Subsection are limited for a specified period of time as set in Table 14.01.310-1, *Temporary Uses and Structures*.

(2) *Required Principal Use*. The establishment of a temporary use requires a permanent principal use, except for a batch plant.

(3) *Authorized Applicants*. The owner or another person having a contractual interest in the subject property shall sign the Temporary Use Permit Application.

(4) *Unlisted Temporary Uses*. Refer to Subsection 14.01.302, *New and Unlisted Uses*, as the same means of interpretation apply to temporary uses as apply to permanent uses.

Table 14.01.310-1, *Temporary Uses and Structures*

Land Use	Duration	Zoning Districts									
		Residential			Nonresidential and Mixed-Use						
		RE	GR	MR	DA	C-MU	SC	C	IL	IH	PI
P= Permitted Use | L= Limited Use | -- = Prohibited Use | Maximum Events per Year/Days per Event (Duration Column)											
Public and Commercial Events											
Commercial Outdoor Sales Event	6/4	--	--	--	P	P	P	P	P	--	--
Farmer's Market or Open-Air Market	52/2	--	--	--	P	P	P	P	P	--	P
Mobile Food Vendor	365/1	--	--	--	P	P	P	P	P	--	--
Public Exhibit or Transient Events/Shows	1/14	--	--	--	P	P	P	P	--	--	--
Roadside Stand	2/60	--	--	--	--	--	P	P	--	--	--
Seasonal Sales	6/60	--	--	--	P	P	P	P	--	--	--
Sidewalk Sales	6/60	--	--	--	P	P	P	P	--	--	--
Public Exhibit or Transient Events/Shows	1/14	--	--	--	P	P	P	P	--	--	--
Temporary Mobile Retail Vendor	365/1	--	--	--	P	P	--	--	--	--	--
Construction, Storage, and Refuse Collection Facilities											
Asphalt or Concrete Batch Plant, Temporary	N/A	L	L	L	L	L	L	L	L	L	L
Temporary Construction Offices	N/A	L	L	L	--	L	L	L	L	L	L
Temporary Construction Yard	N/A	--	--	--	--	--	--	--	L	L	L
Temporary Construction Dumpsters	N/A	L	L	L	L	L	L	L	L	L	L
Portable Storage Unit	N/A	L	L	L	L	L	L	L	L	L	L

(b) **General Criteria.** All temporary uses listed in this Subsection require a temporary use permit. The Director of Planning and Development (Director) shall not approve or modify and approve an application for a temporary use permit unless the following general criteria, specific regulations, and time limitations are met in addition to standards for any particular temporary use as specified below.

(1) *Accessibility*. The temporary use does not create any violations of the Americans with Disabilities Act, the Texas Accessibility Standards, or the accessibility standards adopted by the City.

(2) *Location (Permission Required)*. The use shall not be on publicly or privately owned property unless the applicant first obtains written approval from the owner.

(3) *Traffic*. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon traffic circulation in the area.

(4) *Parking and Access*. Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.

(5) *Property Line Setbacks*. Structures and/or display of merchandise shall comply with the yard and property line setback requirements of the base zoning district within which it is located. The items shall be displayed so as not to interfere with the visibility triangle of the intersection of the curb line of any two streets or a driveway and a street. In no case shall items be displayed, or business conducted within the public right-of-way with the exception of the DA or C-MU districts.

(6) *Signs*. Signage for temporary uses shall be permitted only within the time frame for which the temporary use is permitted. See Subsection 14.02.505, *Temporary Signs* for specific standards for signs.

(7) *Number per Parcel*. Only one temporary use permit shall be permitted for a single parcel of land at any given time.

(8) *Utilities*. Temporary uses shall provide sufficient potable water and adequate sewage disposal.

(9) *Outdoor Lighting*. All light sources shall be directed inward to the site and downward and away from adjacent properties. Refer to Section 14.02.600, *Outdoor Lighting*.

(10) *Public Convenience and Litter Control*.

(A) Adequate public restroom facilities and waste containers shall be required on-site.

(B) After the temporary use is finished, the site shall be returned to its condition prior to the temporary use being established, including, but not limited to, removal of all litter and any other facilities related to the use, at no expense to the City.

(c) **Temporary Mobile Retail Vendor.** In addition to the general criteria above, temporary mobile retail vendors shall comply with ARTICLE 4.06, *Peddlers and Solicitors*, of the City Code.

(d) **Construction, Storage, and Refuse Collection Uses**. The standards of this Section apply to temporary construction, storage, and refuse collection uses that are specified in Table 14.01.310-1, *Temporary Uses*, as a limited ("L") use.

(1) *Location and Operations.* The location, hours of use, operational limitations, and duration of use are set out in Table 14.01.310-2, *Temporary Construction, Storage, and Refuse Collection Uses*.

Table 14.01.310-2, *Temporary Construction, Storage, and Refuse Collection Uses*				
Temporary Use	**Location of Use**	**Hours of Use**	**Operational Limitations**	**Duration of Use**
Asphalt or Concrete Batch Plant	Not less than 600 feet from any residential property, park, or school.	8:00 a.m. to 8:00 p.m. if within 600 feet of residential property; or 6:00 a.m. to 10:00 p.m. in all other locations.	The facility shall be used only for a project within the City or its ETJ, no more than one mile from the project site.	Established by approval to coincide with the use of the facility for a specified construction project, not to exceed 180 days. Shall be removed upon project completion.
Temporary Construction Office	On a lot or parcel proposed for development, set back at least 10 feet from all property lines.	Not limited.	May be used by construction superintendent, construction workers, contractors, and other personnel on a construction team or as a security office. The building may not be used as a residence.	Shall be removed prior to issuance of a certificate of occupancy for the last building of the project.
Temporary Construction Yard	Within one-half mile of the construction site to which the construction yard relates.	8:00 a.m. to 8:00 p.m. if within 600 feet of residential property; or 6:00 a.m. to 10:00 p.m. in all other locations.	The facility shall be used only for a construction site within the City or ETJ or an infrastructure project that is wholly or partially located in the City.	Established by approval; to coincide with the use of the facility for a specified construction project.
Temporary Construction Dumpster	On a parcel or lot using dumpster, set back at least 10 ft. from the property line. In nonresidential and mixed-use districts, dumpsters shall be located behind buildings (where possible) and shall not obstruct required parking areas.	Not limited.	Refuse shall be contained within the dumpster, and shall be secured to prevent it from being removed from the dumpster by wind or animals.	Shall be removed prior to issuance of a certificate of occupancy for the last building of a project.
Portable Storage Unit	On a parcel or lot served by a portable storage unit. No encroachment into setbacks or over sidewalks is permitted. On nonresidential parcels, shall be located behind principal building.	Not limited.	Not limited.	Three days if located in a residential driveway; three months if located behind principal nonresidential building and screened from view from public rights-of-way and residential districts or uses.

(2) *Sanitary Facilities.* Restroom facilities shall be provided for operators of concrete and asphalt batching operations and for users of temporary construction buildings (except when used exclusively for storage), model homes, and on-site real estate offices.

(3) *Additional Standards Applicable to Concrete and Asphalt Batching Operations.* The Director shall review all applications for concrete and asphalt batching operations to assure compliance with the standards below. Where this use is indicated as a limited use in Table 14.01.309-1, *Temporary Uses and Structures*, the Director shall refer the recommendation to the Planning and Zoning Commission with a staff report and recommendations on the application. The standards include:

(A) The applicant shall provide a written agreement and advanced surety in the amount of 125 percent of the estimated site restoration cost to ensure complete site restoration upon the facility's dismantling or

revocation of the permit, plus the estimated road restoration/replacement costs along anticipated principal truck routes. This amount shall be approved by the Director.

(B) If deemed necessary by the Director in consultation with the Director of Public Works, the property access shall be controlled by special traffic markings and/or signalization at the applicant's expense. Instances warranting such traffic improvements may include locations at busy intersections or other areas where interference with primary traffic from trucks would be extensive.

(C) All electric and lighting facilities shall be submitted to the Director prior to installation. These facilities shall be installed in accordance with approved plans.

(D) Noise shall be controlled so that:

(i) The noise level at the nearest property line does not exceed 50 dBA after 10:00 p.m.

(ii) The noise level at the property line of the concrete and asphalt batching operation does not exceed 75 dBA for more than two hours per day.

(iii) The noise level at the property line of the concrete and asphalt batching operation does not exceed 85 dBA at any time.

(4) *Extension of Approvals.* Approvals may be extended upon demonstration of good cause, appropriate maintenance, extension of any surety, and diligent pursuit of the purposes for which the temporary construction or storage uses were established. All applications for renewal of a temporary use permit issued pursuant to this Subsection shall be submitted to the Director at least 10 working days before the expiration of the current permit.

Effective on: 8/9/2022

Section 14.01.400: Measurements and Allowances

Subsection 14.01.401 Measurements

(a) **Purpose**. The purpose of this Section is to provide uniform measures for interpretation and enforcement of this ULDO and to list any exceptions to the dimensional standards thereof.

(b) **Measurements**. Table 14.01.401-1, *Measurements*, below, provides the method of measurement for the developmental standards in this ULDO. Standards related to each type of measurement in this Section are established in the tables in Section 14.01.200, *Base Districts and Standards.*

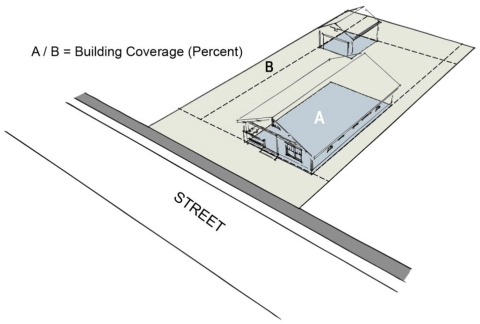
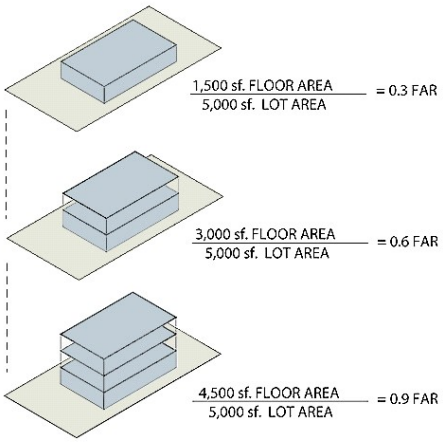
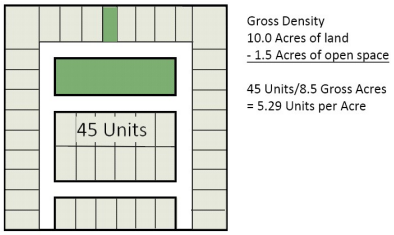
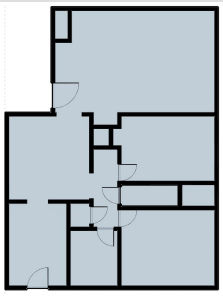
Table 14.01.401-1, *Measurements*		
Measurement	**Methodology**	**Illustration**
Lot Coverage	The area of a parcel occupied by permanently anchored primary and/or accessory buildings.	
Floor Area Ratio (FAR)	The gross floor area of all buildings on a lot, divided by the lot area.	
Gross Density	The number of dwelling units divided by gross acres. With gross acres being the site area minus the area of open space.	
Gross Floor Area	The total area of all the floors of a building, including intermediately floored tiers, mezzanines, etc., as measured from the exterior surfaces of the outside walls of the building.	
Height	**Buildings:** The vertical distance from the grade level of that portion of a parcel covered by the building to the highest point of the coping of a flat roof, or the deck line of a mansard roof, or to the average height between eaves and the ridge of a gable, hip or gambrel roof.	

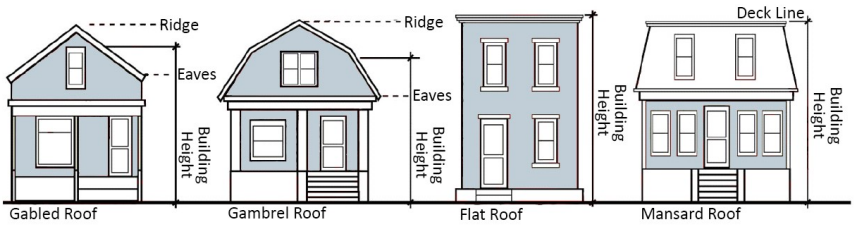
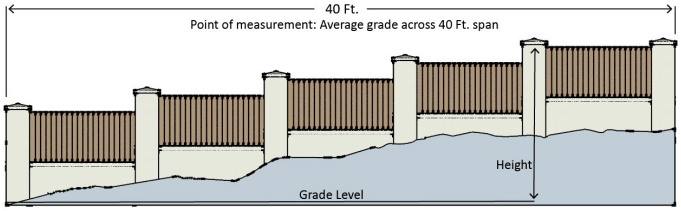
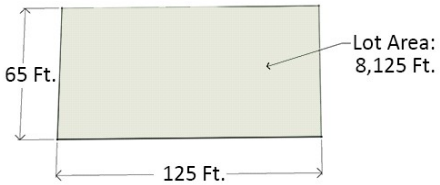
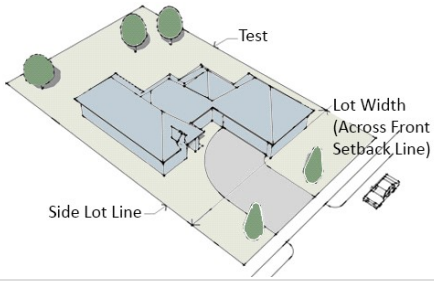
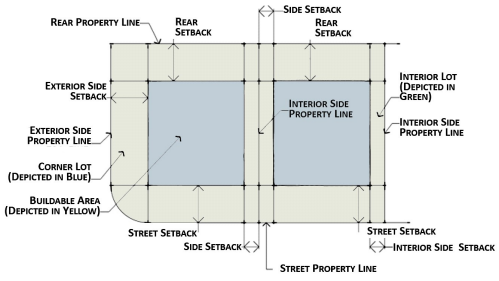
Table 14.01.401-1, *Measurements*		
Measurement	**Methodology**	**Illustration**
		
	Walls or Fences: The vertical distance from the grade level of that portion of a parcel immediately abutting a wall or fence to the highest point of the wall or fence.	
Lot Area	The total horizontal area included within property lines.	
Lot Width	For an interior parcel, the horizontal distance between the side property lines, measured at the required front setback line. For a cul-de-sac parcel, the horizontal distance between the side property lines measured at the front setback line.	
Setback	The horizontal distance of a required open space at grade between the outer wall of a building or structure and the adjoining property lines, unoccupied and unobstructed by any portion of a structure from the ground upward. The front and side setback lines span the entire width of the property. The interior side and exterior side setback lines extend from the required front setback line to the required rear setback line.	

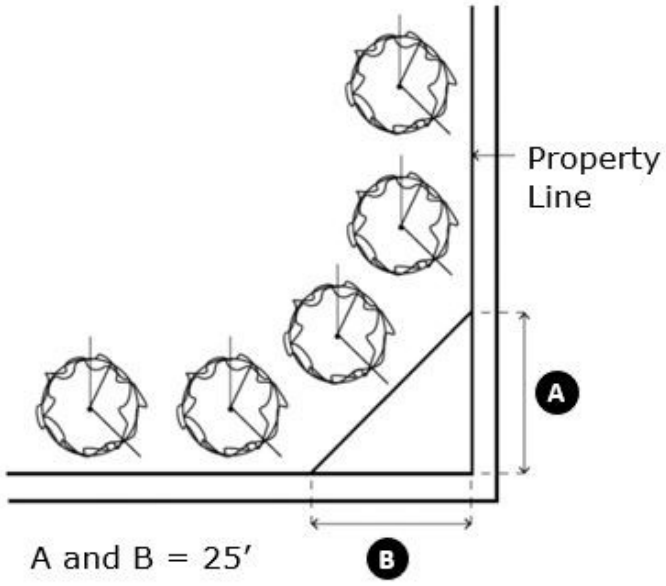
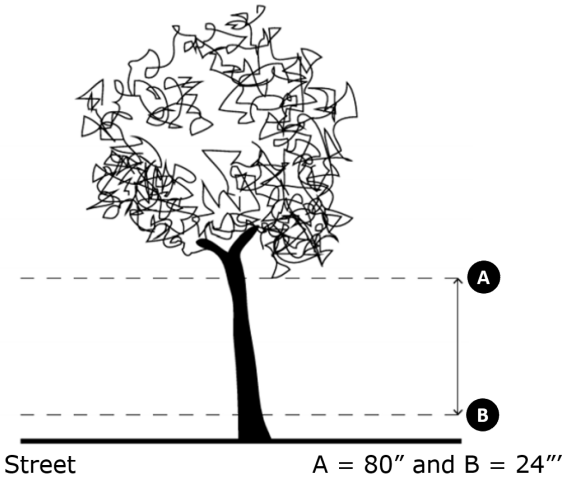
Table 14.01.401-1, *Measurements*		
Measurement	**Methodology**	**Illustration**
Visibility Triangle	A triangular area that includes that portion of public right-of-way and any private property within a triangle formed by a diagonal line extending through points on the two property lines 25 feet from the street corner intersection of the property lines. The vertical dimensions of this triangle are two feet to six and one-half feet above finished grade.	 

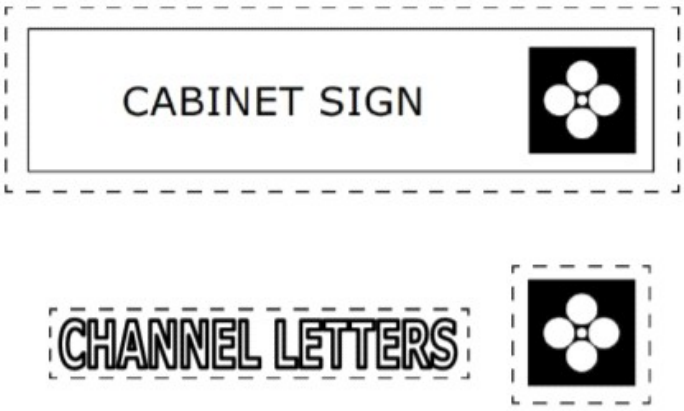
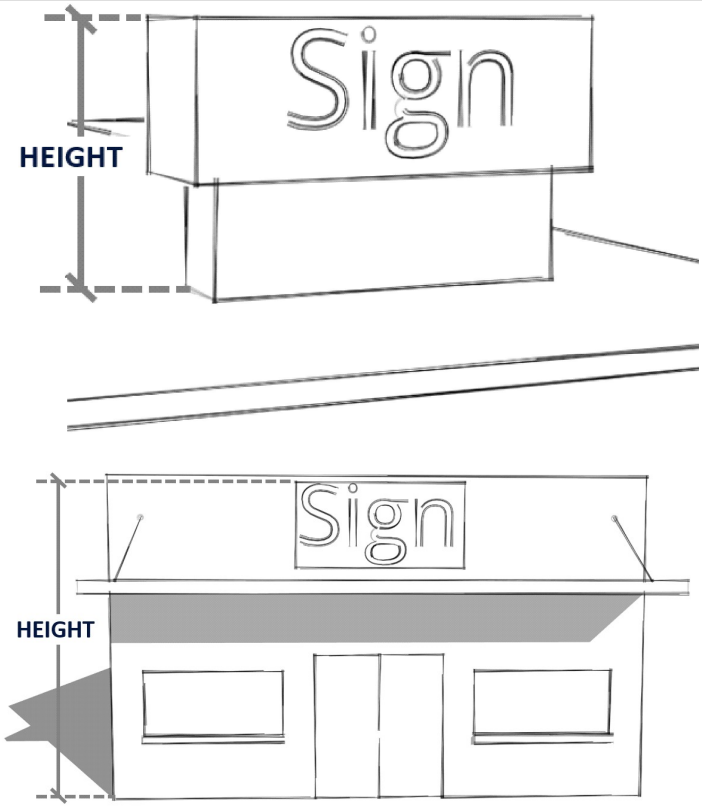
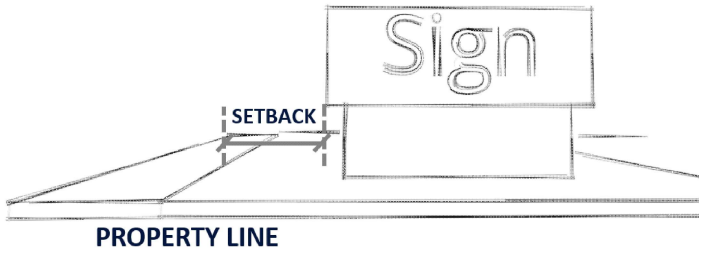
Table 14.01.401-1, *Measurements*		
Measurement	**Methodology**	**Illustration**
Sign Area	**Cabinet Signs:** Where a sign is enclosed in a frame or cabinet, the area of the entire surface of the sign face within a single continuous perimeter enclosing the extreme limits of the sign and not passing through or between any adjacent elements of the sign. That perimeter does not include any structural or framing elements lying outside the limits of the sign face unless such elements consist of a corporate logo that is part of the face, frame, or cabinet of the sign. **Channel Letters:** Where a sign consists of individual letters, words or symbols attached to a surface, the area of the smallest rectangle that completely encompasses all such letters, words or symbols and any accompanying background of a color different than the color of the wall or sign face.	
Sign Clearance	Clearance is the distance between the bottom of a sign and the nearest point on the surface under it.	

Table 14.01.401-1, *Measurements*		
Measurement	**Methodology**	**Illustration**
Sign Height	**Freestanding Signs:** The vertical distance from the base of the sign's supportive structure at its point of attachment to the ground, to the highest point of the sign structure. **Attached Signs:** The vertical distance from the point where the supporting wall meets the ground to the top of the highest point of the wall sign.	
Sign Setback	The shortest distance from each property line to the leading edge of the sign.	

Effective on: 8/9/2022

Subsection 14.01.402 Specific Allowances

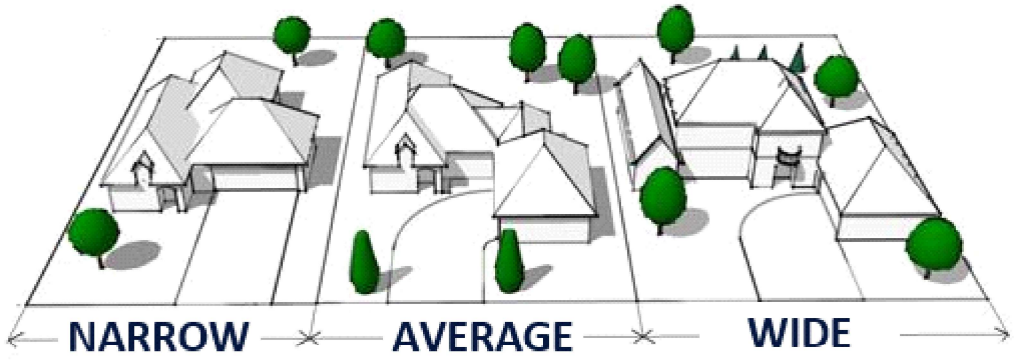
(a) **Generally**. The provisions of this Subsection set forth special cases that warrant flexibility in the developmental standards in this ULDO.

(b) **Lot Averaging**. Lot averaging is a design technique that replaces minimum lot dimensions with an average lot width and size for a subdivision. The lot area and width dimensions in Section 14.01.200, *Base Districts and Standards*, may be averaged for each zoning district. In order to utilize lot averaging, all lots in the proposed subdivision shall meet the following criteria:

(1) *Equal to or Greater*. The average lot area and average lot width of the proposed subdivision shall be equal to or greater than the individual lot area and lot width of the subdivision's proposed underlying zoning district as specified in Section 14.01.200, *Base Districts and Standards*.

(2) *Greater than 90 Percent*. No lot shall have a lot area or lot width that is less than 90 percent of the lot area or lot width specified in Section 14.01.200 (see Figure 14.01.402-1, *Lot Averaging*).

Figure 14.01.402-1, *Lot Averaging*

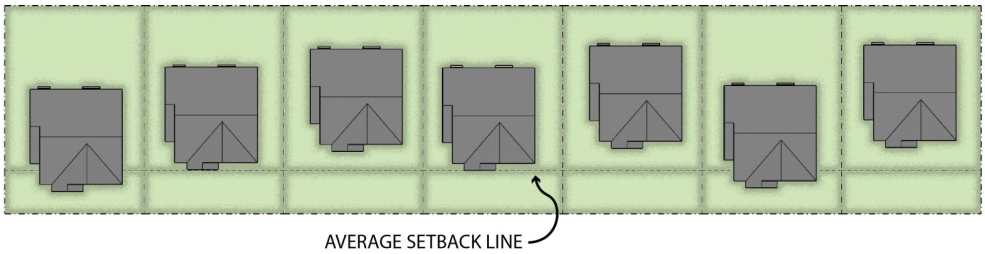


(c) **Alternative Setback Compliance.** The provisions of this Subsection provide for flexibility from specifically referenced portions of the ULDO that might in limited circumstances provide for requirements that are too rigid. The front setback required for all districts in Section 14.01.200, *Base Districts and Standards,* may be reduced subject to the following standards.

(1) If 50 percent or more of the lots on the same side of the block (not counting the applicant's lot) are developed with buildings that are set back at distances that are less than the required front yard setback, the front setback of the applicant's lot may be reduced to the average front setback of all of the developed lots on the same side of the block (See Figure 14.01.402-*2, Contextual Front Setback Reduction).*

(2) If the applicant's lot takes vehicular access from the front, the driveway shall be a minimum of 20 feet long, measured from the property line to a building wall or garage door.

Figure 14.01.402-2, *Contextual Front Setback Reduction*



(d) **Setback Encroachments**.

(1) *Architectural Features*. Except where a minimum side setback is less than five feet, cornices, canopies, gutters, eaves or other architectural features may project into required setbacks a maximum of two and one-half feet.

(2) *Balconies, Decks, and Porches*. Unenclosed balconies, decks, and porches may project into a front or rear setback a maximum of 10 feet, but shall not be closer than 10 feet from the front property line.

(3) *Bay Windows and Chimneys*. Bay windows and chimneys may project into required setbacks a maximum of two feet, provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located and provided they are set back a minimum of three feet from all property lines.

(4) *Outdoor Seating*. Outdoor seating associated with a Restaurant Use Category may project a maximum of five feet into a required front setback, provided the space is at grade and is separated from the right-of-way by landscaping or a vertical barrier.

(5) *Building Setback Lines and Easements*. Where building lines established by restrictive covenant in a recorded subdivision or where public easements are in excess of the setback requirements of the zoning district, the easement or the platted building line controls.

(6) *Petroleum Pipeline Easements*. Where a lot contains a petroleum pipeline easement, a building setback line shall be established 25 feet from the centerline of the easement. If such pipeline easement exceeds 50 feet in width, the building setback line shall be established at the edge of the easement.

(e) **Building Coverage and Impervious Area**.

(1) *Building Coverage*. The square footage of structures that house permitted agricultural uses, as established in the Agriculture Use Category definition in Section 14.09.200, *Definitions,* does not count toward the maximum building coverage limitation.

(2) *Impervious Area Bonus*. Properties that utilize a green roof or on-site water collection and micro-storage via barrels, rain gardens, vegetated gardens, or reuse for irrigation purposes may increase the allowable impervious area by up to 10 percent of the lot area.

(f) **Height**. The following building elements and appurtenances may exceed the allowable height of the applicable district by no more than 20 feet:

(1) Belfries;

(2) Chimneys;

(3) Cooling towers;

(4) Fire towers;

(5) Flag poles;

(6) Public monuments;

(7) Ornamental towers and spires;

(8) Roof gables;

(9) Spires;

(10) Stage towers or scenery lofts;

(11) Tanks;

(12) Water towers; and

(13) Vent Stacks.

Effective on: 8/9/2022

ARTICLE 14.02: BUILDING AND SITE DESIGN

Contents:

Section 14.02.100: Applicability and Purposes

Section 14.02.200: Building Design

Section 14.02.300: Parking, Loading, Stacking, and Access

Section 14.02.400: Trees, Landscaping, and Buffering

Section 14.02.500: Signs

Section 14.02.600: Outdoor Lighting

Section 14.02.100: Applicability and Purposes

Subsection 14.02.101 Applicability and Purposes

(a) **Applicability**. Except as specifically exempted or modified in the sections of this Article, the provisions of this Article apply as shown in Table 14.02.101-1, *Building and Site Design and Standards Applicability*, below.

Table 14.02.101-1, *Building* and *Site Design Standards Applicability*

Type of Development	Sections of this Article				
	14.02.200, Building Design	14.02.300, Parking, Loading, Stacking, and Access	14.02.400, Trees, Landscaping, and Buffering	14.02.500, Signs	14.02.600, Outdoor Lighting
	♦ = Section Applies				
New residential, nonresidential or mixed-use development or a change in use from residential to nonresidential or mixed-use	♦	♦	♦	♦	♦
Increase in apartment units, manufactured home stands, GFA[1], or impervious surface by 50 percent or more[2]	♦	♦	♦	♦	♦
Increase in apartment units, manufactured home stands, GFA, or impervious surface by 25 to 49 percent[2]	♦	♦	♦		♦
Change in use requiring additional parking, loading, or stacking spaces		♦	♦		♦
Increase in apartment units, manufactured home stands, GFA, or impervious surface by less than 25 percent[2]		♦	♦		
Change from a nonresidential or mixed-use to another nonresidential or mixed-use that increases peak hour trips by 25 percent or more or by 100 vehicles per hour in the peak hour, whichever is less[3]		♦			
Construction of a new sign or structural modification of an existing sign				♦	♦

TABLE NOTES:

1. Gross Floor Area
2. Cumulative over a 5-year time period
3. As determined by one of the following methods:

A. An estimation based on the Institute of Traffic Engineers (ITE) Trip Generation Manual (latest edition) methodology for typical land uses;
B. Traffic counts made at similar traffic generators located in the City; or
C. Actual traffic monitoring conducted during the peak hour of the adjacent roadway traffic for the property.

(b) **Purposes**. In addition to the applicable statements in Subsection 14.01.102, *Purposes*, the purposes of this Article are to:

(1) *General*.

(A) Enhance and protect the aesthetic interests of the community;

(B) Protect property values and lessen the impact nonresidential and mixed-use properties may have on surrounding residential development; and

(C) Promote economic development by making the community a more desirable place to live and shop.

(2) *Design Standards*.

(A) Provide for the structural integrity, safety, durability, and improved maintenance of the facades of buildings;

(B) Prevent monotony in residential and nonresidential areas, while promoting coordinated design, visual interest, articulation, and human scale for the façade of a building; and

(C) Ensure that nonresidential and mixed-use development includes high-quality, well-designed buildings and sites that contribute to the character of the community.

(3) *Trees, Landscaping, and Buffering*.

(A) Establish requirements for the installation and maintenance of landscaping on developed properties in order to improve, protect, and preserve the appearance, character, and value of such properties and their surrounding neighborhoods;

(B) Aid in stabilizing the environment's ecological balance by contributing to the process of air purification, oxygen regeneration, stormwater runoff retardation, and groundwater recharge;

(C) Aid in the abatement of noise, glare, and heat;

(D) Aid in energy conservation;

(E) Provide visual buffering, contrast, and relief from the built-up environment; and

(F) Protect and enhance property values of public and private investment, and enhance the beautification of the City.

(4) *Parking, Loading, Stacking, and Access*.

(A) Require adequate and sufficient off-street parking;

(B) Protect the character and quality of life in the residential neighborhoods from overflow parking;

(C) Ensure that loading areas do not interfere with the function of other vehicular use areas or surrounding properties;

(D) Require stacking areas to ensure safe and efficient vehicular circulation within sites that contain drive-in or drive-through uses;

(E) Manage access in order to maintain the desired function and safety of the adjacent streets;

(F) Abate dust, standing water, and the associated health and safety risks resulting from unpaved vehicle use areas; and

(G) Prevent the tracking of gravel and mud onto public streets from unpaved vehicle use areas, which may result in unsafe driving conditions and unnecessary deterioration of public improvements.

(5) *Signs*.

(A) Balance the right of individuals to identify their businesses and convey their messages with the right of the public to be protected against the unrestricted proliferation of signs;

(B) Reduce sign clutter, design elements that contribute to distracted driving, and traffic hazards;

(C) Preserve the right of free speech exercised through the use of signs containing noncommercial messages; and

(D) Regulate the number, size, scale, proportions, design, and balance of signs according to content-neutral standards.

(6) *Outdoor Lighting*. Prevent lighted sites from creating light pollution and off-site glare in ways that constitute a hazard to public safety or interference with the use, value, and enjoyment of nearby properties.

(C) **Timing of Compliance**. No certificate of occupancy shall be issued until all site improvements required in this Article are constructed in conformance with the approved permit or plan required in ARTICLE 14.06, *Development Review Procedures*.

Effective on: 8/9/2022

Section 14.02.200: Building Design

Subsection 14.02.201 General Provisions

(a) **Generally**. The standards of this Section set out design standards for elements that are used on multiple building types. All single-family detached and attached, duplex, multiplex, apartment, nonresidential, and mixed-use buildings shall conform to the standards contained in this Section.

(b) **Purpose**. Through the consistent application of standards, the aesthetic quality and visual identity of the City will be strengthened and enhanced. Also, the use of common standards provides for a clear and straightforward understanding of the City's requirements.

(c) **Unified Design**. Principal and accessory structures shall be developed pursuant to a unified site and building design scheme, including use of common design elements, building and roof design, signs, landscaping and hardscaping, and site access and circulation. The intent of this provision is to ensure the general consistency and compatibility of the site and architectural design.

(d) **Location in Right-of-Way**. The permitted location of a building on a property shall be determined by the minimum setbacks specified in Section 14.01.200, *Base Districts and Standards*, and in no case shall a principal or accessory building encroach into or under the public right-of-way.

Effective on: 8/9/2022

Subsection 14.02.202 Single-Family and Duplex Development

(a) **Generally**. All single-family detached, single-family attached, and duplexes shall be developed in accordance with the standards of this Section.

(b) **Applicability**. These standards apply in the following districts:

(1) Subsection 14.01.202, *RE, Rural and Estate* (single-family detached only);

(2) Subsection 14.01.203, *GR, General Residential;* and

(3) Subsection 14.01.204, *SU, Semi-Urban Residential.*

(c) **Building Placement in Developed Areas**. For lots in developed areas, new buildings shall be located within the established range of front setbacks on the block as measured on the same side of the street. Figure 14.02.202-1, *Front Setback Averaging,* illustrates how an average front setback for a block can be calculated. Variations of no more than 10 percent are permitted. For instance, if the average front setback along the block is 35 feet, a new building shall be set back between 32.5 feet and 38.5 feet.

Figure 14.02.202-1, *Front Setback Averaging*

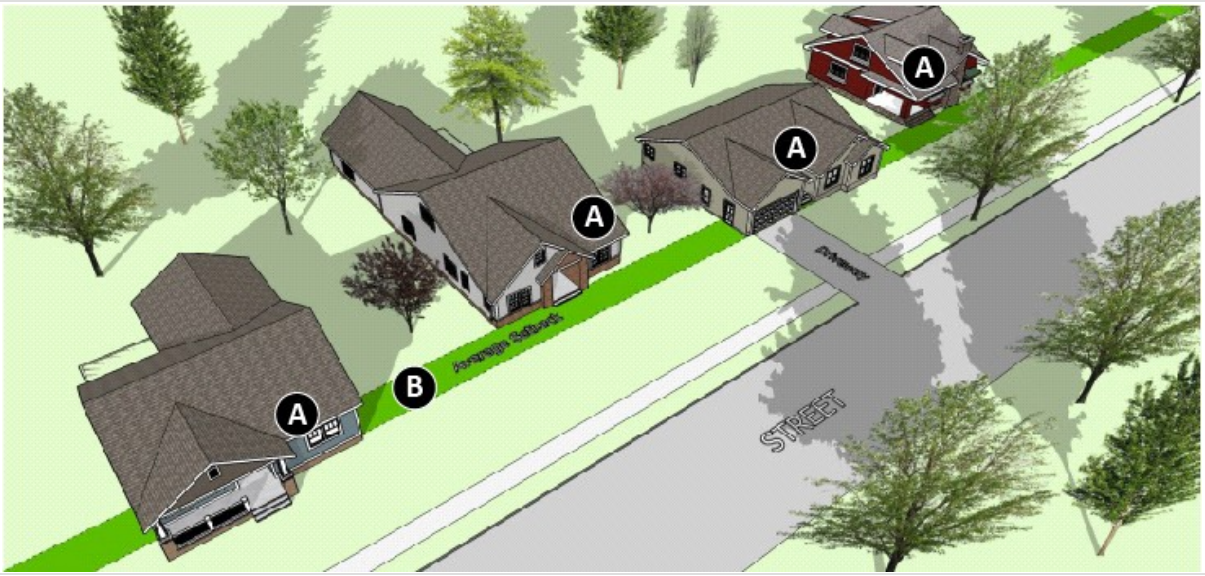


FIGURE NOTES:
A = Range of setbacks of existing homes | B = Average setback range within which the front wall of a new building shall be constructed

(d) **Building Orientation**.

(1) *Primary Entrances*. Primary entrances shall face a public right-of-way, as shown in Figure 14.02.202-2, *Building Placement*, with label "A", to the maximum extent practicable.

(2) *Alternative Orientation.* The Director of Planning and Development (Director) may approve alternative entry orientations, such as a side-entry as shown by label "B" in Figure 14.02.202-2, *Building Placement*. In order to approve an entry orientation that does not directly face the street, the following features shall be incorporated:

(A) Landscaping that will grow a minimum of three feet tall, planted no more than four feet from the wall facing the street, and for a minimum of 20 percent of the width of the wall (such as bushes); and,

(B) At least one of the following building features on the wall facing the street:

(i) Window;

(ii) Bay window;

(iii) Chimney; or

(iv) A design feature approved by the Director.

Figure 14.02.202-2, *Building Placement*

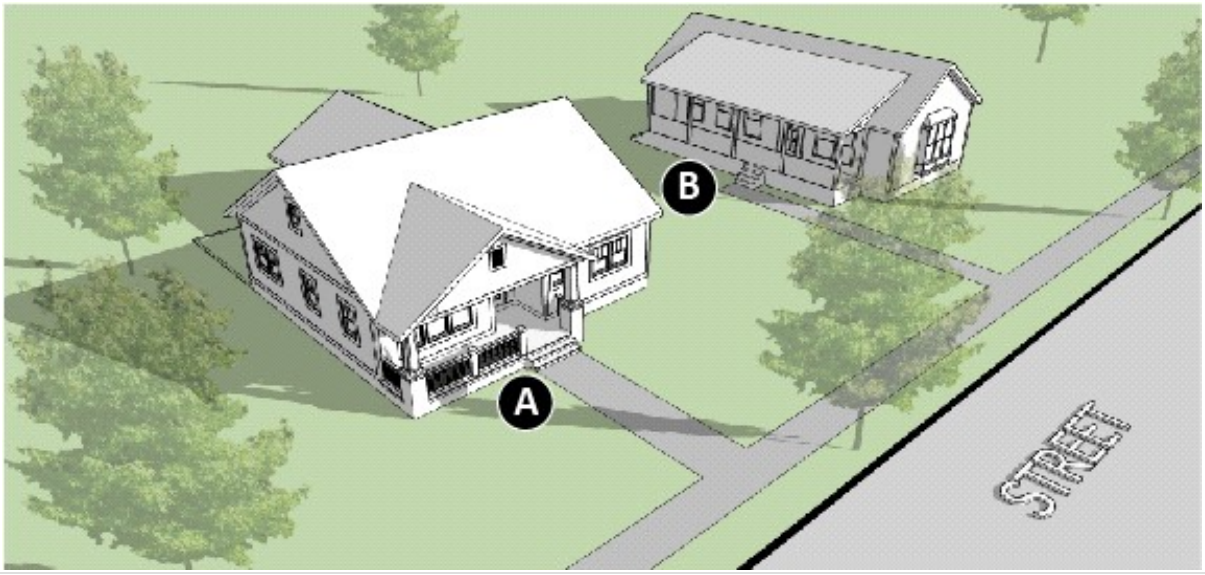


FIGURE NOTES:
A = Single-family building entry oriented toward the street | B = Single-family building with side entry orientation (not oriented toward the street)

(e) **Garage Door Orientation**. Garage doors on a single-family detached or attached dwelling on a lot in the GR, General Residential or SU, Semi-Urban Residential districts shall be oriented in one of the manners depicted in Table 14.02.202, *Garage Orientation*.

Table 14.02.202-1, *Garage Orientation*

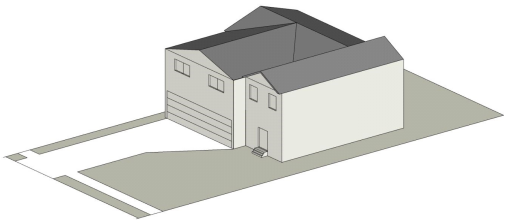
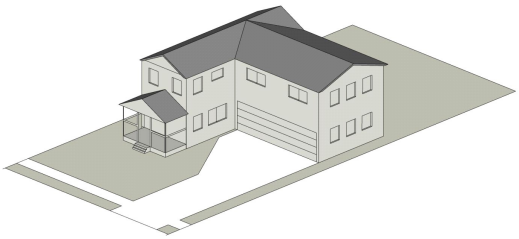
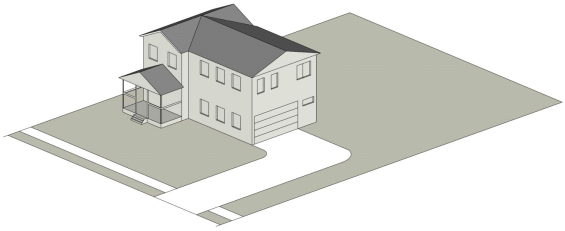
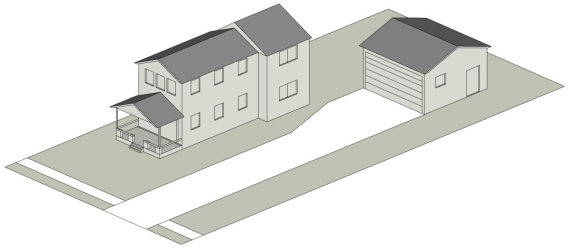
Requirements	Illustration
Garage in Front. Garage doors shall be oriented to the street and shall not be more than five feet in front of the front wall plane of the residence.	 *Garage with minimal differentiation from front wall plane*
	 *Garage with greater differentiation from front wall plane*

Table 14.02.202-1, *Garage Orientation*	
Requirements	**Illustration**
Side-Loaded. Garage doors oriented perpendicular to the front wall plane have no restrictions on door width or recessed position.	
Detached. A detached garage, which may be loaded from the front, side, or rear, shall be placed a minimum of twenty feet behind the front wall of the residence. Many detached garage structures are located completely to the rear of the residence.	

(f) **Duplex Building Facades.** The building wall of a duplex facing the primary street shall be designed to create visual interest and minimize monotony in one of the following manners:

(1) *Vertical Details*. The front elevation of a duplex facade shall incorporate vertical details to create visual interest, including but not limited to, changes in roof height (as shown Figure 14.02.202-3, below), the use of dormers, or differentiation in roof type (gable, gambrel, or hip, for example); or

(2) *Horizontal Details*. The front elevation of a duplex shall incorporate horizontal details to create visual interest including but not limited to, offsets in the building wall locations (as shown in Figure 14.02.202-3, below), separating building entrances on different facades, or changes in building materials.

Figure 14.02.202-3, *Duplex Building Facade*



FIGURE NOTES:
A = Vertical articulation of the building elevation, shown varying roof heights | B = Horizontal articulation of the building elevation, shown as offsets in building wall locations

(g) **Transitions**. Incorporating sensitive neighborhood transitions reduces conflict between adjacent sites with different uses or scales to ensure that new development is compatible with the context. Transitions can take many forms and often incorporate a combination of site and building elements.

(1) *Scale*. Different residential building types located adjacent to one another shall incorporate a transition in scale to respect the height of the building with less density.

(A) Where a single-family attached dwelling or duplex directly abuts a single-family detached dwelling, the building height of the duplex or attached dwelling shall not be more than eight feet taller than the abutting detached dwelling.

(B) Where a single-family attached dwelling or duplex is located between a single-family detached dwelling and an apartment or a nonresidential development, the attached dwelling or duplex shall not exceed the height of the adjacent single-family detached dwelling by more than one story. See Figure 14.02.202-4, *Scale Transitions*.

(2) *Bufferyards*. Bufferyards create a section of green space between two uses and vary in width and plantings based on the context. Bufferyards are required per Subsection 14.02.403, *Bufferyard Landscaping*.

Figure 14.02.202-4, *Scale Transitions*

One-Story Single Family to Two-Story Attached Dwelling



Two-Story Attached Dwelling to Three-Story Apartment



Effective on: 8/9/2022

Subsection 14.02.203 Multiplexes and Apartments

(a) **Generally**. All multiplexes and apartments shall meet the standards of this Section. Figure 14.02.203-1, *Illustrative Application of Building Design Standards for Multiplexes and Apartments* illustrates examples of the standards of this Section.

(b) **Applicability**. These standards apply in the following districts:

(1) Subsection 14.01.204, *SU, Semi-Urban Residential*;

(2) Subsection 14.01.205, *MR, Multi-Family Residential;*

(3) Subsection 14.01.207, *DA, Downtown Area*;

(4) Subsection 14.01.208, *C-MU, Corridor Mixed-Use*;

(5) Subsection 14.01.209, *SC, Suburban Commercial*; and

(6) Subsection 14.01.210, *C, Commercial*.

(c) **Street Access**. An apartment complex shall only take access from a major or minor arterial street.

(d) **Transitions.**

(1) *Scale.* Any portion of a multiplex or apartment that is closer than 50 feet from a common property line with a lot that contains a single-family use or is zoned RE shall not be taller than 12 feet above the highest point of the closest residential structure. This does not apply if the residential structure is located across the street from the development or if it is within the same development proposal.

(2) *Bufferyards*. A multiplex or apartment adjacent to a single-family use or RE zoning district shall provide a Type A Bufferyard as established in Subsection 14.02.403, *Bufferyard Landscaping*.

(e) **Building Form**.

(1) *Building Form.* An apartment building containing more than eight dwelling units shall be designed to break up a rectangular floor plan and avoid a box-like or monolithic appearance.

(2) *Roof Form.* Monolithic roof structures with a footprint of more than 4,000 square feet shall include changes in direction or treatments that break up the appearance of mass. Such treatments may include elements such as dormers, towers, or chimneys.

(f) **Site and Building Design.**

(1) *Site Elements*. A minimum of two of the following site elements shall be provided for a complex consisting of more than two apartment buildings:

(A) Outdoor gathering areas;

(B) Sculptures, monuments, and other public art installations; or

(C) Alternative out features approved by the Director of Planning and Development.

(2) *Architectural Features*. A minimum of two of the following elements shall be provided for each multiplex or apartment building:

(A) Columns;

(B) Eaves;

(C) Cornices;

(D) Porches;

(E) Functional shutters;

(F) Bay windows; or

(G) Balconies.

(3) *Articulation.* The building wall facing the primary street shall be designed to create visual interest and minimize monotony. A minimum of one vertical and one horizontal articulation method shall be applied to each building within a multiplex or apartment development.

(A) Incorporate vertical articulation tools to break up a large building. These tools include:

(i) A vertical expression line, which is a minimum of four inches in depth and 12 inches wide; or

(ii) A wall offset, where a portion of the wall plane (no less than 12 feet wide) is pushed back or pulled forward by a minimum of four feet.

(B) Utilize horizontal expression lines to break up wall planes. These tools include:

(i) A horizontal expression line, which shall be a minimum of four inches in depth and 12 inches in height, and shall run a minimum of 60 feet, but shall change height after 120 feet;

(ii) A change in cornice height (where a flat roof is incorporated), where the cornice is no less than 12 inches in height and four inches in depth; or

(iii) An awning, which shall be a minimum of 9 feet above the sidewalk and at least 6 feet deep

(g) **Building Elements.** In addition to the standards for building form and design as described above, many multiplexes and apartment buildings utilize key building elements to access units and create amenity spaces. The standards for these elements are as follows:

(1) *Stairs*. Stairs that provide primary access to units on upper floors shall be covered.

(2) *Awnings*. Awnings, where installed, shall be constructed with fabric or metal coverings. Plastic coverings are prohibited.

(3) *Garages*. Attached street-facing garages shall meet one of the following standards.

(A) The garage doors shall not comprise more than 40 percent of the total length of the building's facade; or

(B) Every set of two single-bay garage doors or every double garage door shall be offset by at least four feet from the front plane of an adjacent garage door.

Figure 14.02.203-1, *Illustrative Application of Building Design Standards for Multiplexes and Apartments*



FIGURE NOTES:
A = Breaking up building form | B = Breaking up roof form to avoid it appearing monolithic | C = Vertical articulation, such as a wall offset | D = Horizontal articulation, such as an expression line | E = Stairs shall be covered

Effective on: 8/9/2022

Subsection 14.02.204 Nonresidential and Mixed-Use

(a) **Generally**. Any exterior wall of a nonresidential or mixed-use building visible from a public or private street, a residential property, or public open space, such as a park, shall meet the requirements of this Section.

(b) **Applicability**. Except as exempted below, these standards apply to nonresidential and mixed-use buildings within the district(s) where they are permitted as set out in:

(1) Subsection 14.01.207, *DA, Downtown Area*;

(2) Subsection 14.01.208, *C-MU, Corridor Mixed-Use*;

(3) Subsection 14.01.209, *SC, Suburban Commercial*; and

(4) Subsection 14.01.210, *C, Commercial*.

(c) **Exemptions**. The standards of this Section shall not apply to Industrial uses, as listed in Table 14.01.301, *Permitted Uses by District*, in the IL and IH zoning districts.

(d) **Building Form of Multi-Story Buildings.** Buildings with more than two stories shall be designed with a clearly differentiated base, middle, and cap.

(1) *Building Cap*. A recognizable cap shall include one or more of the following features:

(A) Three-dimensional cornice treatments, other than just colored stripes or bands;

(B) Sloping roofs with overhanging eaves and brackets; or

(C) Stepped parapets.

(2) *Building Base*. A recognizable base shall include a minimum of one of the following:

(A) Taller ground floor height than the upper stories (by at least 2 feet);

(B) Thicker walls, ledges, or sills;

(C) Raised planters, which are integral to the building façade; or

(D) Change in building materials or facade treatments.

(e) **Building Façade Design.**

(1) *Building Offsets***.** In the C-MU, SC, and C zoning districts, street-facing building façades with a horizontal dimension greater than 100 feet shall be articulated with wall recesses and projections to provide visual interest and relief. These are measured perpendicular to the vertical plane of the wall. These projections or recesses shall be spaced not more than 100 feet apart, and shall be a minimum of six feet in depth. Projections or recesses shall have a horizontal dimension that is the lesser of:

(A) Twenty (20) feet; or

(B) Twenty (20) percent of the building façade (see Figure 14.02.204-1, *Required Building Offsets*).

(2) *Building Articulation*. In the C-MU, SC, and C zoning districts, street-facing building facades shall be articulated to provide visual interest and break up a large building. A building shall:

(A) Incorporate a vertical expression line, which is a minimum of four inches in depth and 12 inches wide, and shall be incorporated a minimum of every 50 feet along the facade; and

(i) A wall offset, where a portion of the wall plane (no less than 12 feet wide) is pushed back or pulled forward by a minimum of four feet.

(B) Utilize horizontal expression lines to break up wall planes. These tools include:

(i) A horizontal expression line that shall be at least four inches in depth, 12 inches in height, and shall run a minimum of 50 feet, but shall change height after 100 feet; or

(ii) A change in cornice height (where a flat roof is incorporated), where the cornice shall not be less than 12 inches in height and four inches in depth.

Figure 14.02.204-1, *Required Building Offsets*

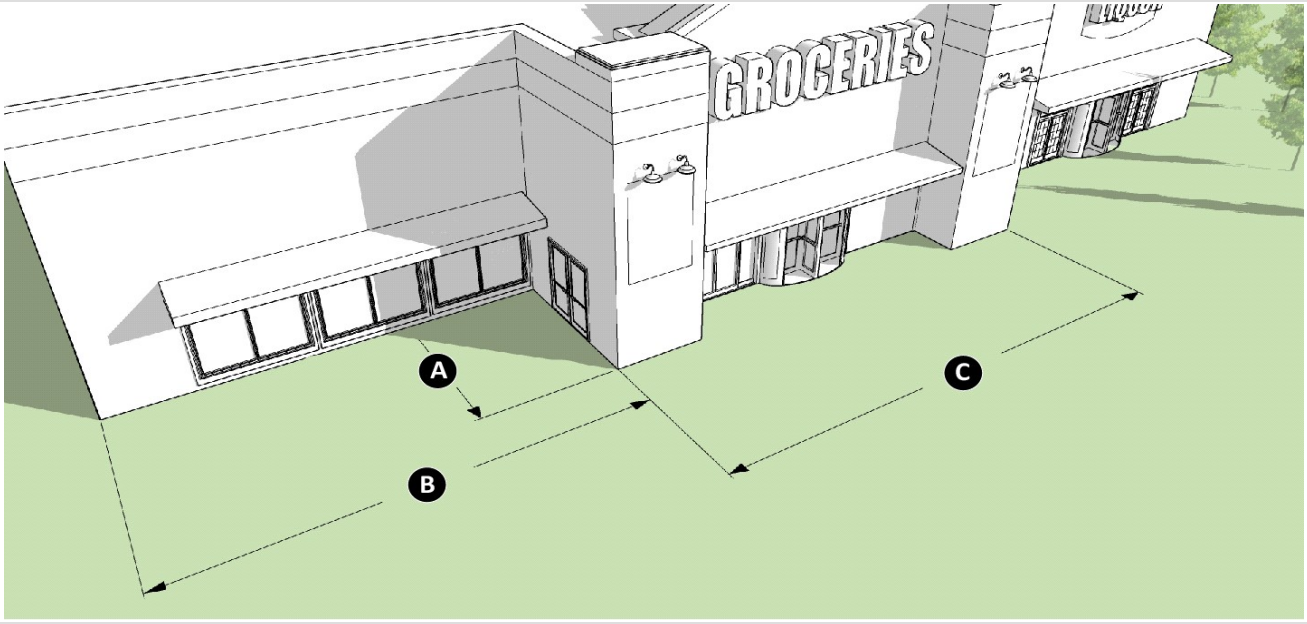


FIGURE NOTES:
A = Not less than Six Ft. | B = Not more than 80 ft. | C = Not less than 20 ft.

(f) **Building Windows/Transparency**. Ground-floor and street-facing façade areas of buildings shall be occupied by windows or doorways that meet the following minimum transparency requirements, dependent upon zoning district:

(1) *DA, Downtown Area*. Windows or doorways shall comprise a minimum of 50 percent of the surface area of the ground-level floor and street-facing building facades.

(2) *C-MU, Corridor-Mixed Use, SC, Suburban Commercial, or C, Commercial*. Windows or doorways shall comprise a minimum of 35 percent but not more than 75 percent of the surface area of the ground-level floor and street-facing building facades.

(g) **Building Entrances**. Each building shall have clearly-defined customer entrances that include a minimum of three of the following features:

(1) Canopies, awnings, porticos, arcades, or overhangs;

(2) Over the door or peaked roof forms;

(3) Arches;

(4) Decorative lighting;

(5) Outdoor patios or plazas;

(6) Display windows;

(7) Obviously differentiating architectural details such as moldings that are integrated into the building structure and design; or

(8) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

(h) **Additional Architectural Detailing**. Buildings with a street-facing elevation longer than 100 feet and/or a gross floor area greater than 12,000 square feet shall include a minimum of three of the features or details listed in (1) through (9) and shown in Figure 14.02.204-2, *Example of Design Features for Nonresidential and Mixed-Use*

Buildings, below. These features shall be used on each street-facing elevation and shall be spaced no more than 50 feet apart:

(1) Changes in material that follows the same dimensional standards as the offset requirements (above);

(2) Columns or pilasters at least 8 inches deep, 8 inches wide, and 80 percent of the façade's height;

(3) Roofline changes that vertically align with a corresponding wall offset or change in façade color or material, including changes in roof planes and changes in the height of a parapet wall;

(4) Decorative ornamentation such as corbels, medallions (non-signage), niches, wrought iron, balconets, or horizontal and rhythm patterned brickwork;

(5) Windows and doors framed with smooth cobble, cast stone, limestone, or other decorative masonry headers and sills or dormer windows;

(6) Vertical elements (tower, cupola, turret, arches, etc.);

(7) Raised pilaster cornices (end columns at corner), or quoined corners;

(8) Canopies, awnings, porticos with colonnade, or arcades; or

(9) Customer entrances that are clearly-defined and that include a minimum of one of the following features:

(A) Canopies, awnings, porticos, arcades, or overhangs;

(B) Over the door or peaked roof forms;

(C) Arches;

(D) Decorative lighting;

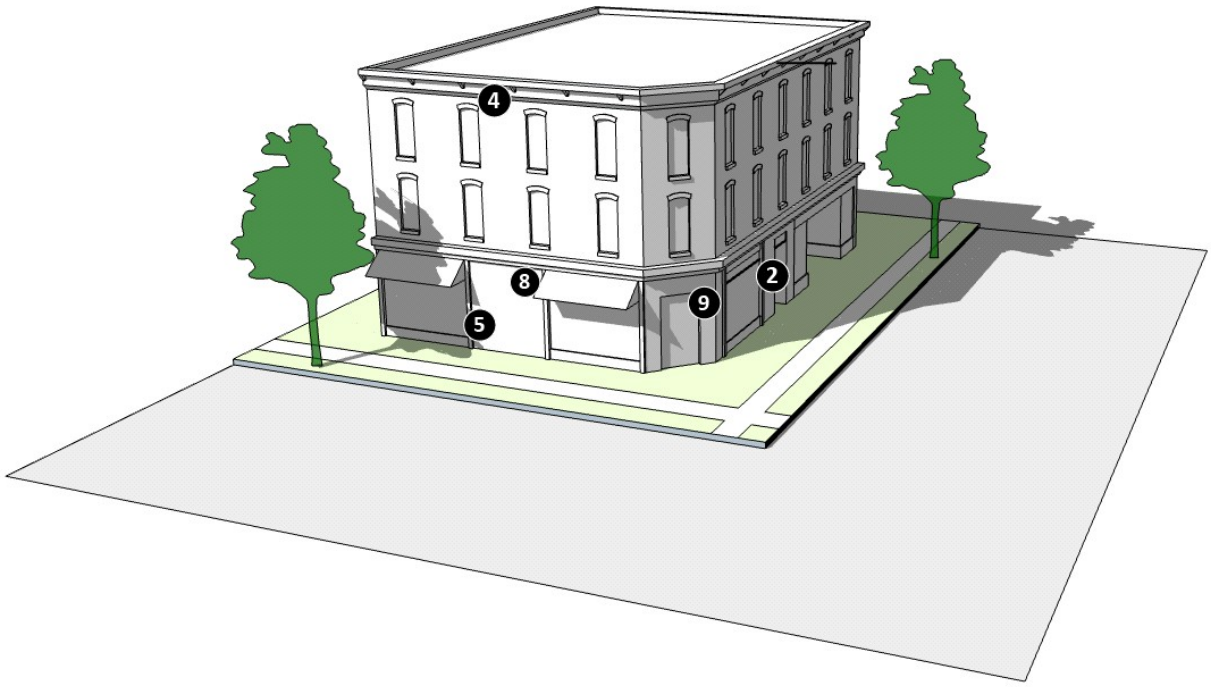
(E) Outdoor patios or plazas;

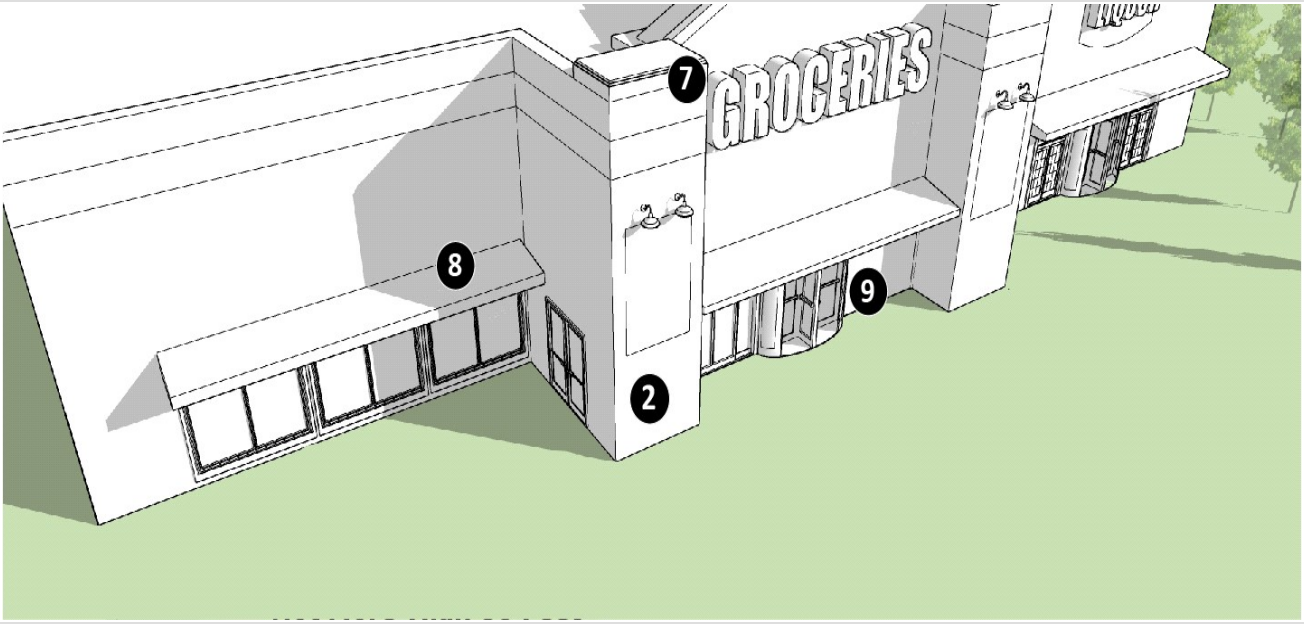
(F) Display windows;

(G) Obviously differentiating architectural details such as moldings that are integrated into the building structure and design; or

(H) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

Figure 14.02.204-2, *Example of Design Features for Nonresidential and Mixed-Use Buildings*





Effective on: 8/9/2022

Section 14.02.300: Parking, Loading, Stacking, and Access

Subsection 14.02.301 General Provisions

(a) **Applicable Regulations and General Maintenance**. A vehicle use area shall:

(1) *Standards*. Comply with the design and construction standards in this Division;

(2) *Refuse and Debris*. Be maintained free of refuse or debris; and

(3) *Availability*. Be available for the off-street parking, loading, or stacking function required for the facility.

(b) **Lighting and Noise**. The following standards shall apply to all vehicle use areas:

(1) *Lighting.* Lighting shall comply with Section 14.02.600, *Outdoor Lighting*; and

(2) *Minimizing Effects.* An area used for primary circulation, frequent idling of vehicle engines, or loading activity shall be designed and located to minimize the effects of noise, pollution, and vehicle lights on an adjoining property.

(c) **Associated Building, Use, or Structure**.

(1) *Vehicle Use Area Required*. Vehicle use areas shall be maintained by the property owner whether the associated building, use, or structure is continued or not. No person shall utilize such building, use, or structure without providing the vehicle use areas required in this Section. In addition, it shall be unlawful to discontinue, reduce, or remove the required vehicle use areas apart from the discontinuance of the building, use, or structure.

(2) *On-Site and Off-Site Parking*. Except for allowances for off-site and shared parking as established in Section 14.02.303, *Required Off-Street Parking*, a required vehicle use area shall be located on the same site as the use for which the vehicle use area is required.

(d) **Screening**.

(1) *Bufferyard*. A vehicle use area in a mixed-use or nonresidential district, or a vehicle use area in a residential district that contains more than 10 spaces, that adjoins a single-family detached or attached, two-family, or multiplex property shall be separated and screened from the residential use by, at minimum, a Type A bufferyard, as described in Subsection 14.02.403, *Bufferyard Landscaping*, unless such Section requires a greater bufferyard between the two properties.

(2) *Exceptions to Screening Requirement*. A bufferyard described in Paragraph (1), *Bufferyard*, above, shall be required unless:

(A) Existing vegetation will be harmed if the bufferyard is installed;

(B) Placement of the bufferyard would interfere with the visability triangle established in Table 14.01.401-1, *Measurements*;

(C) Placement of the bufferyard would interfere with an existing drainage feature or utility; or

(D) Placement of the bufferyard would create consistent maintenance issues for both property owners, as determined by the Director of Planning and Development (Director).

(e) **Maneuvering Space**.

(1) *Prohibited*. No vehicle use area shall be designed so that a vehicle is required to maneuver into a public right-of-way or overhang or encroach into an adjacent property under separate ownership in order to park, load, unload, or stack, except:

(A) For single- and two-family dwelling units; or

(B) Where a cross-access easement as described in Subsection 14.03.207, *Easements*, is in place.

(2) *Barrier*. In order to prevent overhang or encroachment described in Paragraph 1, *Prohibited*, above, a vehicle use area shall include a permanent curb, wall, or other physical barriers. Such physical barrier shall be

located a minimum of two feet from the right-of-way or property line and be of adequate height to prevent vehicular overhang or encroachment.

(f) **Dedication of Spaces**. Vehicle use area spaces, including spaces for parking, loading, or stacking, shall not interfere with one another on separate properties nor shall they be used interchangeably to meet one another's requirements, except in instances of shared parking as allowed in Subsection 14.02.303, *Required Off-Street Parking (Calculation of Required Spaces by Land Use)*, or cross-access easements as allowed in Subsection 14.03.207, *Easements*. For example, spaces required in Subsection 14.02.307, *Stacking*, are not eligible to be counted as parking spaces.

(g) **Insufficient Vehicle Use Area**. The Director may require a landowner to provide additional vehicle use area spaces if, due to land use, the provided number of spaces is not sufficient and customers, employees, or delivery vehicles are consistently required to park or unload on the street where on-street loading is prohibited or on other properties due to a lack of available vehicle use area.

Effective on: 8/9/2022

Subsection 14.02.302 Parking Lot and Parking Space Design

(a) **Generally.** All off-street parking spaces that are not within the City's right-of-way shall be designed in accordance with this Section.

(b) **Design and Construction Requirements**.

(1) *Parking Space / Area Slope*. No parking space or parking area shall be constructed with a slope of more than six percent. A variance may be granted to construct a parking area with a slope of more than six percent provided that the slope does not exceed 12 percent. In the instance that a variance is granted for a slope of between six and 12 percent grade, each parking space shall be constructed at right angles to the slope. For specific procedures to obtain said variances see Subsection 14.06.501, *Variance*.

(2) *Tandem Parking*. Each parking space shall be accessible from a street or alley through aisles and/or driveways, except that tandem parking arrangements are permitted for single-family, two-family, and manufactured home uses or as allowed based on an approved parking study as described in Subsection 14.02.305, *Parking Credits and Reductions*.

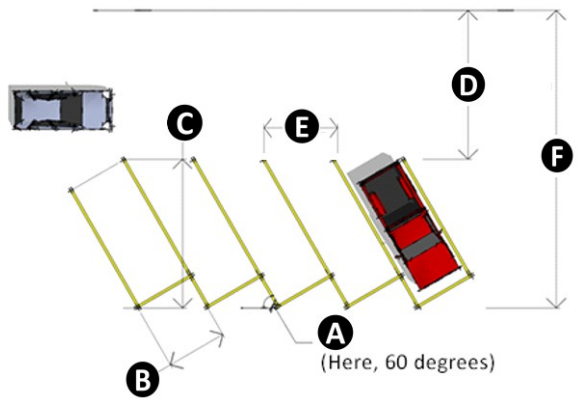
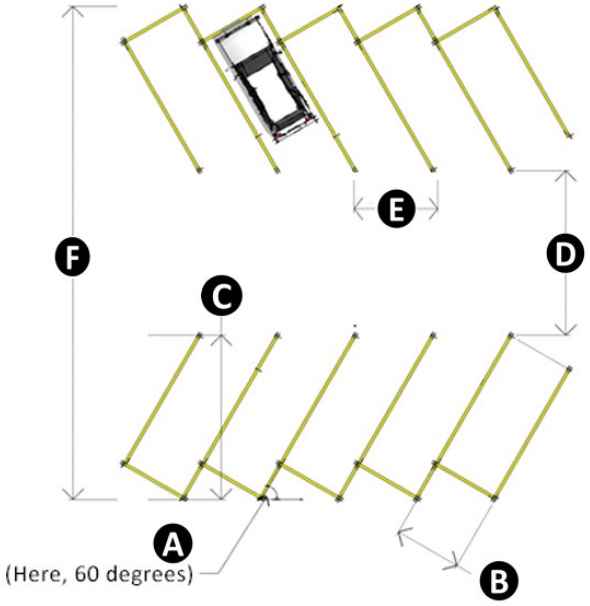
(3) *Dead-End Aisles*. Dead-end aisles are not permitted unless adequate turnarounds are provided in compliance with Subsection 14.02.308, *Site Access*.

(4) *Marking*. All parking spaces for nonresidential and mixed uses shall be clearly marked on the pavement with yellow or white traffic paint or raised pavement markers approved by the Director of Planning and Development.

(5) *Site Access*. All driveways and other site access shall meet the applicable driveway requirements of Subsection 14.02.308, *Site Access*.

(6) *Parking Module Dimensions*. Parking modules shall be dimensioned as shown in Table 14.02.302-1, *Parking Module Dimensions*. The dimensions that are set out in the table are illustrated in Figure 14.02.302-1, *Illustrative Parking Module Configurations*.

Table 14.02.302-1, *Parking Module Dimensions*							
A	B	C	D		E	F	
Angle of Parking (Degrees)	Width of Stall	Depth of Stall 90 Degrees to Aisle	Width of Aisle		Width of Stall Parallel to Aisle	Module Width	
			One Way	Two Way		One Way	Two Way
45	9'	21.1'	12'	20'	12.5'	54.2'	62.2'
45	10'	21.1'	12'	20'	14.1'	54.2'	62.2'
60	9'	22.3'	15'	–	10.4'	59.6'	–
60	10'	22.3'	14'	–	11.6'	58.6'	–
90	9'	20'	–	25'	9'	–	65'
90	10'	20'	–	24'	10'	–	64'
Parallel	9'	9 (width)	12'	24'	22'	30'	42'

Figure 14.02.302-1, *Illustrative Parking Module Configurations*	
Illustrative dimensions for one stall row parking module	Illustrative dimensions for two stall row parking module
	

Effective on: 8/9/2022

Subsection 14.02.303 Required Off-Street Parking (Calculation of Required Spaces by Land Use)

(a) **Generally**. The minimum off-street parking regulations shall be provided for the land uses specified in Table 14.02.303-1, *Required Off-Street Parking by Land Use*.

(b) **Calculation of Spaces.** The number of required parking spaces is calculated according to the formulas set out in this Section. The variables used for parking calculations are as follows:

(1) *Sum of Specific Uses*. In computing the parking requirements for any development, the total parking requirements shall be the sum of the specific parking space requirements, per Table 14.02.303-1, *Required Off-Street Parking by Land Use*, for each use included in the development except as provided in Subsection 14.02.305, *Parking Credits and Reductions*.

(2) *Rounding*. If the final calculation of the number of required parking spaces includes a fractional space, the number of required parking spaces is rounded up to the nearest whole number, regardless of the fraction.

(3) *Per Square Foot (SF) Gross Floor Area (GFA).* The phrase "per # SF GFA" means that the number of parking spaces is calculated based on the gross floor area of the building where the use takes place. Refer to Section 14.01.401, *Measurements*, for GFA establishment.

(4) *Per Dwelling Unit (DU)*. The phrase "per DU" means that the number of parking spaces is calculated based on the number of dwelling units.

(5) *Per Bedroom (BR)*. The phrase “per BR” means the number of parking spaces is calculated based on the number of bedrooms.

(6) *Per Bed*. The phrase "per bed" means that the number of parking spaces is based on the total number of beds in any given facility. Per bed calculations are normally applied to uses that offer residential care or overnight accommodations with shared rooms.

(7) *Per Employee*. The phrase "per employee" means that the number of parking spaces is based on the number of employees during the shift in which the maximum number of employees is present.

(8) *Uses Involving Fleets or Vehicle Inventory*. Uses that involve fleets of vehicles (for example, police stations fire stations, etc.) and uses that involve vehicle inventories (for example, passenger vehicle sales or rental) shall provide parking for the fleet or inventory. Such parking shall not count toward the requirements of Table 14.02.303-1, *Required Off-Street Parking by Land Use*.

(9) *New and Unspecified Uses*. Where a determination of the minimum parking and/or loading requirements cannot be readily ascertained for new or unspecified uses or where uncertainty exists, the minimum off-street parking and/or loading requirements shall be established by the same process as provided for classifying new and unspecified uses. See Subsection 14.01.302, *New and Unlisted Uses*.

(c) **Residential Parking**. Parking spaces for household living use types or specified building types that are located in private garages, carports, or individual driveways do not have to be marked. An area on a private residential lot is considered a parking space if:

(1) *Dimensions*. The area is at least 9 feet wide and 20 feet deep in dimension and is not part of an access drive to a private garage or carport;

(2) *Encroachment*. The area does not encroach upon a public sidewalk;

(3) *Surface*. The area has an improved hard surface; and

(4) *Access*. The area is accessible from the street or alley.

(d) **Maximum Parking Allowed**. In the C-MU and DA zoning districts, no development shall provide more than 125 percent of the minimum number of off-street parking spaces required by Table 14.02.303-1, *Minimum Required Off-Street Parking*, unless otherwise provided in this ULDO.

(e) **Unlisted Uses**. Upon receiving a development application for a use not specifically addressed in this Subsection, the Director of Planning and Development (Director) shall apply the off-street parking standard specified for the use that she or he deems most similar to the proposed use according to Subsection 14.01.302, *New and Unlisted Uses*.

(f) **Reduction of Required Spaces.** See Subsection 14.02.305, *Parking Credits and Reductions*.

Table 14.02.303-1, Minimum Required Off-Street Parking

SF = square feet | GFA = Gross Floor Area | -- = No minimum or no maximum, as applicable

Use Category	Subtype	Minimum Spaces
Residential and Agricultural Uses		
Household Living	Apartment	1 per bedroom
	Single-Family Attached	2 per dwelling unit
	Single-Family Detached	2 per dwelling unit
	Duplex	1.5 per dwelling unit
	Multiplex	1 per bedroom
	Live-Work Unit	1.5 per dwelling unit
	Manufactured Home Park	2 per dwelling unit
Group Living	Assisted Living Facility	0.3 per unit + 0.75 per employee
	Boarding or Rooming House	1 per bedroom
	Group Home	2 per dwelling unit
	Nursing Home	1 per 2 beds
	Group Living (other than listed)	2 per dwelling unit
Residential Accessory Uses[1]	Accessory Dwelling Unit	1 per dwelling unit
	Registered Family Home (child care)	--
	Residential Accessory Use (other than listed)	--
Agricultural and Animal Services	Community Garden, Greenhouse, Nursery	--
	Kennel	1 per 500 SF GFA
	Veterinary Clinic or Veterinary Hospital	1 per 300 SF GFA
	Farming, Landscaping, and Horticultural Sales	--
	Nursery (retail)	1 per 500 SF of retail area
	Agricultural and Animal Services (other than listed)	--
Civic and Institutional Uses		
Civic	Community, Senior, or Youth Center	1 per 300 SF GFA
	Club or Lodge	1 per 100 SF GFA
	Funeral Services	1 per 4-person capacity or 1 per 250 SF of public assembly area
	Library, Museum, and Gallery	1 per 425 SF GFA
	Public Assembly Facility	1 per 4 seats
Day Care	Adult Day Care	1 per 400 SF GFA plus 1 per employee
	Child Day Care Center or Pre-School	1 per 400 SF GFA + an off-street drive, having separate ingress and egress, capable of the temporary storage of 3 or more vehicles
Educational Facilities	College or University	1 per 400 SF office, research, and library area; plus 1 space per 300 sq ft of public assembly areas and classrooms

Table 14.02.303-1, Minimum Required Off-Street Parking		
SF = square feet | GFA = Gross Floor Area | -- = No minimum or no maximum, as applicable		
Use Category	**Subtype**	**Minimum Spaces**
	School, Vocational and Trade	1 per 300 SF GFA
	School, Primary or Secondary (public or private)-Primary-Secondary	0.33 per student plus 1 space per 8 seats of fixed seating in auditoriums or public assembly areas
	Educational Facilities (other than listed)	1 per 400 SF GFA
Government Facilities	Government / Non-Profit Office	1 per 400 SF GFA
	Government Services (Police, Fire, Emergency Medical Services)	--
Medical Facilities	Hospital	1 per 3 patient beds and 0.73 per employee
	Medical or Dental Clinic	1 per 250 SF GFA
	Medical Facility (other than listed)	1 per 300 SF GFA
Parks and Open Areas	Botanical Garden, Nature Preserve or Trail	--
	Cemetery, Columbarium, Mausoleum, or Memorial Park	--
	Park, Playground, and Common Open Space	--
Passenger Terminal	All Passenger Terminal Uses	1 per 400 GFA
Social Service	Correctional Facility	1 per 1,000 SF GFA
	All Social Services	1 per 300 SF GFA
Utilities	Major Utility	1 per employee
	Minor Utility	--
Commercial Uses		
Entertainment, Indoor	Adult Business	1 per 200 SF GFA
	Archery / Firearms Range	1 per 3 bays or 1 per 300 SF firing area if no bays
	Bar or Tavern	1 per 200 SF GFA
	Bowling Alley	4 per lane
	Dance Club or Dance Hall	1 per 200 SF GFA
	Fitness Gym	1 per 200 SF GFA
	Entertainment (indoor) (other than listed)	1 per 450 SF GFA
	Movie or similar Theater	1 per 4 seats
	Tattoo or Piercing Business	1 per chair plus 1 per employee
Entertainment, Outdoor	Amphitheater	1 per 6 seats or 1 per 30 SF if no permanent seats
	Campground without Overnight Accommodations	1 per campsite
	Golf Driving Range	1 per tee area
	Mini-Golf Course	1 per 300 SF outdoor entertainment area plus 1 per 200 SF GFA
	Entertainment (outdoor) (other than listed)	16 per acre of outdoor entertainment area
	Stadium, Running Track, or Ball Field	1 per 6 seats or 1 per 50 SF if no permanent seats
Offices	Bank and Credit Union	1 per 300 SF GFA
	Offices (other than listed)	1 per 400 SF GFA
Overnight Accommodation	Recreational Vehicle Parks and Campgrounds	1 per campsite or
	Overnight Accommodations (other than listed)	0.75 per guest room + 1 per 800 SF public meeting area and restaurant space

Table 14.02.303-1, Minimum Required Off-Street Parking		
SF = square feet | GFA = Gross Floor Area | -- = No minimum or no maximum, as applicable		
Use Category	**Subtype**	**Minimum Spaces**
Parking, Commercial	All Uses	--
Restaurant	All Restaurants	1 per 100 SF GFA
Retail Repair, Sales, and Service	Repair-Oriented Uses	1 per 400 SF GFA
	Sales-Oriented Uses	1 per 350 SF GFA
	Service-Oriented Uses	1 per 300 SF GFA
Self-Storage	All Uses	1 per 20 storage stalls
Vehicle Sales and Service	Car Wash	1 per 3 employees
	Fuel Sales (retail)	1 per 200 SF GFA
	Vehicle Service and Repair	1 per 200 SF GFA plus 1 per employee
	All Other Vehicle Sales and Service	1 per 400 SF sales and service building(s)
Industrial Uses		
Industrial and Manufacturing Uses	Contractor's Shop and/or Service Yard	0.75 per employee or 1 per 1,000 SF storage area, whichever is less
	Heavy Industrial	0.75 per employee or 1 per 1,000 SF GFA, whichever is less
	Light Industrial	0.5 per employee or 1 per 1,500 SF GFA, whichever is less
	Warehousing and Freight Movement	0.75 per employee or 1 per 2,500 SF GFA, whichever is less
	Industrial Uses (other than listed)	0.5 per employee or 1 per 1500 SF, whichever is less
Waste-Related Service	All Uses	0.75 per employee + 1 per 15,000 SF of outdoor storage or salvage area
Wholesale Trade	All Uses	1 per 1,500 SF GFA

TABLE NOTES:

1. Parking requirement is in addition to the required parking spaces for the primary use.

Effective on: 8/9/2022

Subsection 14.02.304 Accessible Parking (ADA)

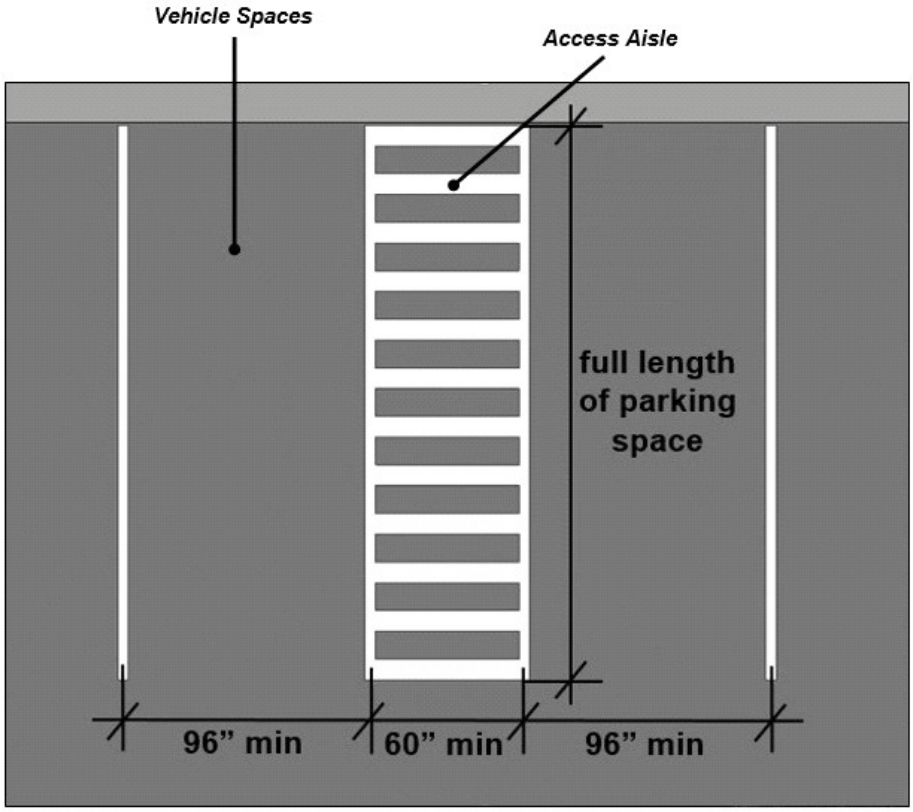
(a) **Number of Required Spaces**. Parking for disabled persons shall be provided as set out in Table 14.02.304-1, *Accessible Parking Requirements*, or as required by the Americans with Disabilities Act (ADA) Standards for Accessible Design and ADA Accessibility Guidelines for Buildings and Facilities published by the United States Access Board. If any of the standards within this Section and the United States Access Board are in conflict, then whichever requires more spaces shall be used. Required accessible parking spaces are included in the total number of required parking spaces per Subsection 14.02.303, *Required Off-Street Parking by Land Use (Calculation of Required Spaces by Land Use)*.

Table14.02.304-1, *Accessible Parking Requirements*

Number of Required Parking Spaces	Minimum Number of Accessible Parking Spaces	Minimum Number of Van-Accessible Parking Spaces
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	2
301 to 400	8	2
401 to 500	9	2
501 to 1000	2% of total parking provided in each lot or structure	1 out of 6 accessible spaces, rounded up
1001 and over	20 plus 1 for each 100 over 1000	1 out of 6 accessible spaces, rounded up

(b) **Parking Space Size Specifications.** Figure 14.02.304-1, *ADA Parking Space Dimensions*, details the specific size requirements for both standard automobile and van-accessible ADA-accessible parking spaces.

Figure 14.02.304-1, *ADA Parking Space Dimensions*



Effective on: 8/9/2022

Subsection 14.02.305 Parking Credits and Reductions

(a) **Generally**. This Section sets out several ways to reduce or receive credit for the number of required off-street parking spaces that shall be provided according to Subsection 14.02.303, *Required Off-Street Parking (Calculation of Required Spaces by Land Use)*.

(b) **Administrative Credits and Reduction**. The Director of Planning and Development (Director) may approve the following parking credit and reduction options for a property. If such administrative reductions are proposed in a legislative review application the presence of such reductions shall have no bearing on the recommendation or final decision of the administrative review bodies involved. The administrative credit and reduction options are cumulative if more than one is used on a property.

(1) *On-Street Parking Credit.*

(A) On-street parking spaces may provide credit to satisfy the minimum parking space requirements in the nonresidential and mixed-use zoning districts established in Subsection 14.02.303, *Required Off-Street Parking (Calculation of Required Spaces by Land Use)*, on streets designed for on-street parking.

The use of on-street parking spaces to satisfy minimum parking requirements in no way guarantees the use of such parking spaces to customers, employees, or visitors of the subject property.

(B) On-street spaces shall be located on a public or private street, available to the general public, and directly abutting the subject property.

(C) Bus stops, clear zones adjacent to curb cuts, and other areas in which parking is prohibited shall not be included in the calculation of available on-street parking spaces.

(D) An on-street parking space shall be a minimum of 20 feet in length. To be counted as a parking space, at least 16 linear feet of the on-street parking space shall be directly adjacent to the subject property.

(2) *Shared Parking Reduction.*

(A) Shared parking allows a reduction of up to 25 percent in the total number of required parking spaces when a property is occupied by two or more uses that typically do not experience peak use of parking areas at the same time. When any land or building is used for two or more uses that are listed in Table 14.02.305-1, *Shared Parking Table*, below, the minimum total number of required parking spaces may be determined by the following procedures.

(i) Determine the minimum parking requirements for each use category in Column (A) as if it were a separate use excluding spaces reserved for use by specified individuals or classes of individuals (for example, accessible spaces or spaces posted as “reserved”);

(ii) Multiply the sum of required parking spaces for each use by the corresponding percentages for each of the five time periods set forth in Columns (B) through (F) of Table 14.02.305-1, below;

(iii) Calculate the total for each time period; and

(iv) Select the Column with the highest total to find the required number of shared spaces.

Table 14.02.305-1, *Shared Parking Table*					
(A) Use Category	Weekday		Weekend		(F) Night (midnight to 6 AM)
	(B) Day (6 AM to 6 PM)	(C) Evening (6 PM to midnight)	(D) Day (6 AM to 6 PM)	(E) Evening (6 PM to midnight)	
Residential	60%	90%	80%	90%	100%
Offices	100%	10%	10%	5%	5%
Retail Sales or Personal Service	60%	90%	100%	70%	5%
Overnight Accommodations	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Indoor Recreation or Outdoor Recreation	40%	100%	80%	100%	10%
All Others	100%	100%	100%	100%	100%

(B) Table 14.02.305-2, *Illustrative Shared Parking Credit Calculation*, shows examples of how to calculate shared parking reductions using the procedures listed in paragraph (A), above.

Table 14.02.305-2, *Example Shared Parking Reduction Calculation*					
EXAMPLE: A mixed-use building in the C-MU zoning district has 35 apartments, 30,000 square feet of general office space, and 40,000 square feet of retail space. Separately, these uses would require 270 parking spaces ((35 sp. x 2 sp. / unit) + (30,000 sq. ft. x (1 sp. / 350 sq. ft.)) + (40,000 sq. ft. x (1 sp. / 350 sq. ft.)) = 270). However, combined, they could share 196 parking spaces, a 27% reduction. The cap on parking reductions in Paragraph (b)(2)(A), above, limits this reduction to 25%.					
(A) Use Category	Weekday		Weekend		(F) Night (midnight to 6 AM)
	(B) Day (6 AM to 6 PM)	(C) Evening (6 PM to midnight)	(D) Day (6 AM to 6 PM)	(E) Evening (6 PM to midnight)	
Residential - 70 spaces	60% x 70 = 42	90% X 70 = 63	80% = 56	90% = 63	100% = 70
Office or Industrial - 86 spaces	100% x 86 =86	10% x 86 = 9	10% x 86 = 9	5% x 86 = 4	5% x 86 = 4
Retail Sales and Service - 114 spaces	60% x 114 = 68	90% x 114 = 103	100% x 114 = 114	70% x 114 = 80	5% x 114 = 6
COLUMN TOTALS	196	175	179	147	80

TABLE NOTES:
The largest number, 196, is the number of parking spaces required. This example is a 27 percent reduction compared to individual calculations.

(C) Where a shared parking reduction is to be applied to uses on two or more lots under different ownership, the following shall be provided to the Director:

(i) A plan that provides for interconnected parking lots and required residential spaces to be clearly designated and separated from spaces provided for employees, customers, and service; and

(ii) Recorded easements, accepted on a form acceptable to the City, that provide, at a minimum:

a. A guarantee of each owner's rights to the use of the parking facility;

b. A requirement that any termination of or amendment to the agreement shall be subject to the approval of the City;

c. Cross-access among the parking areas and connections to allow parking by the different uses anywhere on the connected properties;

d. Allocation of maintenance responsibilities;

e. A pedestrian circulation system that connects uses and parking areas, making it easy and convenient for pedestrians to move between uses; and

f. A right of enforcement by the City.

(3) *Off-Site Parking Credit*. Off-site parking spaces may provide credit to satisfy the minimum parking space requirements in any nonresidential or mixed-use zoning district subject to the following:

(A) The off-site parking lot is within 300 feet of the subject property, measured from the nearest property lines;

(B) The parking lot is wholly within a nonresidential or mixed-use zoning district; and

(C) The parking lot complies with all applicable requirements of this ULDO.

(c) **Legislative Reductions.**

(1) *Planning and Zoning Commission*. The Planning and Zoning Commission may approve a reduction in the number of required parking spaces if the applicant demonstrates that a reduction is appropriate based on the applicant providing a parking study with specific parking demand forecasts for the proposed use and/or on the provision of alternative parking or transportation demand management programs that tend to reduce the demand for parking spaces, provided that:

(A) The study is prepared by a professional transportation planner or traffic engineer;

(B) The forecasts are based upon a peak parking analysis of at least five comparable uses; and

(C) The comparability of the uses is documented in detail, including their location, gross floor area, street access, use types and restrictions, hours of operation, peak parking demand periods, and all other factors that could affect parking demand.

(2) *Transportation Professional*. The Director may retain a qualified transportation planner or traffic engineer, at the applicant's expense, to review the parking demand forecast and provide recommendations to the Planning and Zoning Commission.

(3) *Reserve*. The balance of the land necessary to meet the parking requirements shall be held in reserve as an undeveloped area, to meet any future needs generated by an expansion of the business, a change in land use, or underestimated parking demand.

Effective on: 8/9/2022

Subsection 14.02.306 Off-Street Loading

(a) **Generally**. This Subsection establishes the requirements for off-street loading spaces in connection with any nonresidential or mixed-use building, structure, or use which is to be erected or substantially altered to provide adequate space for off-street loading, unloading, and the maneuvering of shipping and delivery vehicles in the C-MU, SC, C, IL, and IH zoning districts.

(b) **Minimum Number of Off-Street Loading Spaces Required**. Off-street loading facilities shall be provided in accordance with the requirements in Table 14.02.306-1, *Minimum Off-Street Loading Spaces Required*.

Table 14.02.306-1, *Minimum Off-Street Loading Spaces Required*

Use Groupings[1]	Gross Floor Area in Square Feet	Number of Required Loading Spaces
Industrial	Less than 10,000	0
	10,000–50,000	1
	50,001–100,000	2
	Each additional 100,000	1
Commercial and Office, Public and Institutional	Less than 10,000	0
	10,000–100,000	1
	100,001–200,000	2
	Each additional 100,000	1
All Other Use Groupings	N/A	N/A

TABLE NOTES:
N/A = Not Applicable
1. Refer to the overall groupings of the uses in the Use Table in Subsection 14.01.301. (for example, Agricultural, Residential, etc).

(c) **Outdoor Storage**. For the purposes of this Subsection, each two square feet of exterior area used for outdoor storage shall be considered equivalent to one square foot of enclosed gross floor area.

(d) **Mixed-Use Developments**. Where mixed-use developments may be adequately and conveniently served by a common loading area, the Director of Planning and Development may approve a reduction in spaces required in Table 14.02.303-1, *Minimum Off-Street Loading Spaces Required*. For this purpose, the minimum number of required spaces shall be based on the use category having the greatest number of resulting spaces.

(e) **Loading Spaces Dimensions**.

(1) *Industrial Uses*. Each required loading space in the IL, Industrial-Light and IH, Industrial Heavy zoning districts shall be a minimum of 12 feet in width and 45 feet in depth.

(2) *Other Uses*. All other required loading spaces shall be a minimum of 12 feet in width and 18 feet in depth. All required loading spaces shall have a minimum vertical clearance of 15 feet and shall be designated by signs as loading spaces.

(f) **Loading Area Design.** To minimize impacts, off-street loading areas shall comply with the following standards:

(1) *Lighting*. Any lighting used to illuminate off-street loading or unloading areas shall not glare on any right-of-way or adjacent property.

(2) *Location*.

(A) Docks and loading spaces shall not be located within 40 feet of the nearest point of intersection of any two streets and loading docks shall not be visible from a thoroughfare or collector street right of way.

(B) Docks and loading spaces shall be located behind buildings.

(3) *Screening and Buffering.*

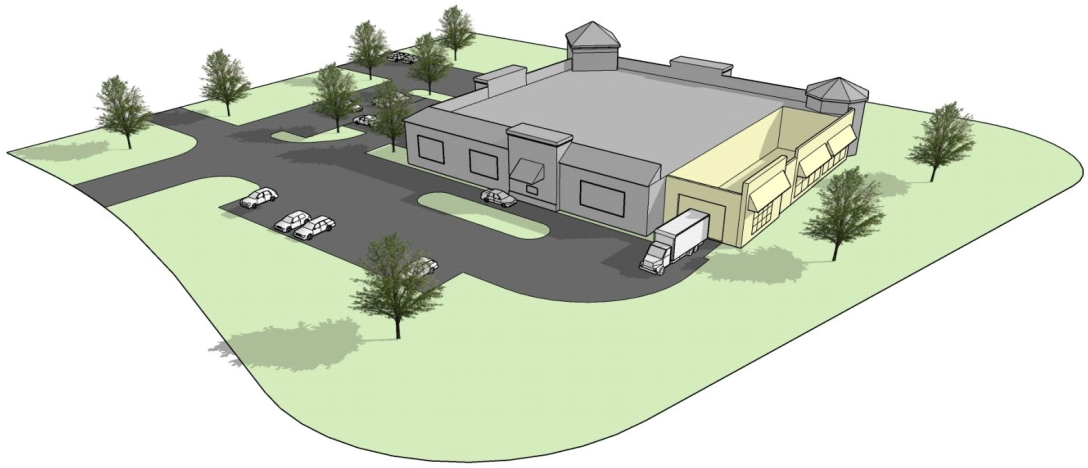
(A) *Generally.* Docks and loading spaces shall be screened from view from abutting properties and public right-of-way.

(B) *Abutting Residential Properties.* Truck access and loading areas that are located between a principal building and a residential property shall comply with the following additional standards:

(i) *Use of Enclosed Loading*. The loading area shall be enclosed by a roof and a wall between the principal building and the property boundary line (as depicted in Figure 14.02.306-1, *Illustrative Example of Enclosed Loading*, below). The walls of the enclosure shall be tall enough to completely screen the delivery vehicle and shall be designed and constructed with architectural elements such as windows, awnings, or other features that complement the exterior of the principal building. The portion of the bufferyard between the enclosed loading and the property line may be reduced by one level of opacity with the remainder of the bufferyard being the opacity level required by Table 14.02.403-1, *Bufferyard Types*, for the applicable zoning district; or

(ii) *Absence of Enclosed Loading*. The loading area shall be screened along its length by a district bufferyard that has one additional level of opacity (for example, from a Type A bufferyard to a Type B bufferyard) than required by Table 14.02.403-1 and, additionally, the loading area shall contain an eight-foot-tall masonry wall that is designed and constructed with the same primary exterior finish materials of the principal building.

Figure 14.02.306-1, Illustrative Example of Enclosed Loading



Effective on: 8/9/2022

Subsection 14.02.307 Stacking

(a) **Generally**. Driveway stacking areas are used to queue vehicles off-street prior to exiting a property, minimize congestion, and increase safety.

(b) **Minimum Number of Stacking Spaces Required**. Stacking spaces shall be provided in accordance with the requirements in Table 14.02.307-1, *Minimum Stacking Spaces Required*.

(c) **Stacking Space Dimensions**. Each stacking space shall be nine feet in width and 20 feet in length.

(d) **Stacking Area Design**.

(1) *Bypass Lane*. A 10-foot-wide bypass lane shall be provided adjacent to stacking lanes to allow vehicles to travel around the drive-through activity and exit the site.

(2) *Turn-Around Area.* Controlled or gated entrances shall be designed so that vehicles may turn around without backing out into the public right-of-way.

(3) *Blocking Prohibited*. Stacking areas shall be designed to avoid, if reasonably possible, and otherwise minimize, the blocking of access to driveways or parking areas.

Table 14.02.307-1, *Minimum Stacking Spaces Required*

Activity	Minimum Spaces	Measured From
Adult / Child-Care, Day Care Center drop-off	3 plus 1 per every 500 square feet of gross floor area	Facility passenger loading area
Automated teller machine (ATM), Non-Freestanding	3	ATM keypad
Automobile Parking Lot / Structure	4	Keycode box or ticket station
Automated Automobile and Vehicle Wash	4	Entrance to wash bay
Automobile / Vehicle Repair, Service, and Auto Body	2	Entrance to stall
Bank Drive Through	8	Teller window or pneumatic tube station
Concrete Batch Plant	Determined by Director of Planning and Development (Director)	
Drive through, non-restaurant (for example, pharmacy, dry cleaner, etc.)	3	Order box or pickup window
Drive through, Restaurant (or functionally similar use)[1, 2, 3]	5	Point of Order
	4	Point of Order to first window
	2	First window to second window
Educational Facility (public or private)	Determined by Director	
Vehicle Service	2	Entrance to Stall/Service Bay
Other	Determined by Director	

TABLE NOTE:

1. If one window is provided (for both payment and pick-up), then six stacking spaces are required measured at the order box and five stacking spaces are required between the order box and the window.
2. If one window is provided (for ordering, payment, and pickup), then four stacking spaces are required measured at the order box/pick-up window.
3. Example of stacking for a drive-through, restaurant is illustrated in 14.02.307-1, *Drive-Through Restaurant Stacking Illustration.*

Figure 14.02.307-1, *Drive-Through Restaurant Stacking Illustration*

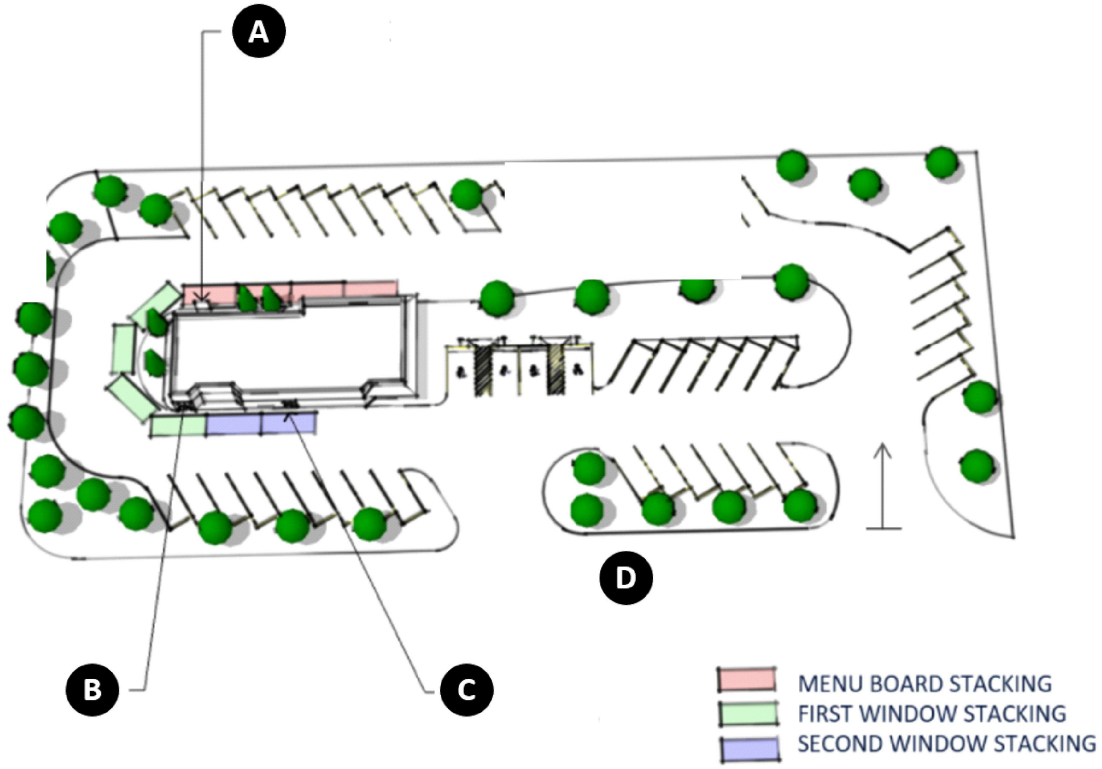


Figure Notes:
A = Order Box | B = First Window | C = Second Window D = Public Right-of-Way

Effective on: 8/9/2022

Subsection 14.02.308 Site Access

(a) **Direct Access**. All off-street parking shall have direct access to a public street through an alley, driveway, or permanent access easement.

(b) **Street Classification**. Entries for parking shall be placed along a collector street, where practicable.

(c) **Moving Other Vehicles**. Except for where valet or tandem parking is utilized, all required parking shall be designed so that vehicles enter or leave a parking space without having to move any other vehicle.

(d) **Turnarounds**. Any parking row that does not provide two means of vehicular egress shall provide, at the closed end, a space designated as a vehicular turnaround area as depicted in Figure 14.02.308-1, *Vehicular Parking Turnaround Configuration*. This space shall be located at the end of a parking row, be designed with the minimum dimensions depicted in Figure 14.02.308-1, or other dimensions and configuration acceptable to the Director of Planning and Development, and include a "No Parking" sign.

Figure 14.02.308-1
Vehicular Parking Turnaround Configuration

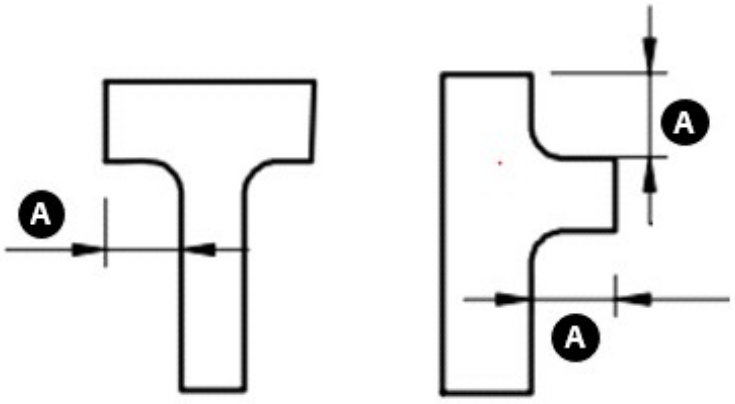


FIGURE NOTE:
A = 24 feet

(e) **Cross-Access**. Cross-access for vehicle circulation shall be provided between abutting non-residential development, in accordance with Subsection 14.03.207, *Easements*.

(f) **Emergency Access**. The applicant shall provide emergency access lanes where necessary to provide adequate protection for a structure.

(1) *Dimensions*. Dimensions for emergency access lanes and turnarounds, including width and clearance, shall comply with the requirements of the Fire Code. Any emergency access lane shall either connect at each end to a dedicated public street or be provided with a turnaround established in the Fire Code, with an additional distance of 10 feet on all sides clear of permanent structures. The driving surface within emergency access lanes shall be designed and constructed according to standards established for local public streets.

(2) *Location*. All structures shall be located within 150 feet of an emergency access easement lane or public street.

Effective on: 8/9/2022

Section 14.02.400: Trees, Landscaping, and Buffering

Subsection 14.02.401 General Provisions

(a) **Generally**. Table 14.02.401-1, *Required Landscaping Percentage and Types Summary*, establishes the cumulative landscape area and landscaping types required in each zoning district. Figure 14.02.401-1, *Illustrative Landscape Types*, depicts the location of these types.

(b) **Exemption**. The Rural and Estate (RE) zoning district is exempt from the requirements of this Section.

(c) **Landscaping Area**. The column labeled Minimum Required Landscaping Area per Lot is the cumulative landscaped area that all lots shall achieve, including areas for street yard trees, foundation plantings, parking lot landscaping, site landscaping, and bufferyards.

Table 14.02.401-1, *Required Landscaping Percentage and Types Summary*

Zoning Districts		Development Landscaping (Section 14.02.402)				Bufferyards (Section 14.02.403)
	Minimum Required Landscaping Area per Lot (percent)	Street Yard Trees	Foundation Plantings	Parking Lot Landscaping	Site Landscaping	
R = Required landscaping type | -- = Landscape type not required						
RE district	Exempt					
All permitted residential uses and development types in the GR and SU districts (including manufactured home parks)	30	R	--	--	--	R (only for manufactured home parks)
All permitted residential uses in the MR, CM-U, SC, and C districts	20	R	R	R	R	R
Single-family detached and duplex uses in the DA District	25	R	--	--	--	--
Single-family attached, multiplex, apartment, mixed-use, and nonresidential uses in the DA District	0	R	--	--	--	--
Mixed-use and nonresidential uses in the GR, SU, MR, PI, CM-U, SC, C, IL, and IH districts	15	R[1]	--	R	R	R
Industrial uses in the IL and IH districts	10	R	--	--	R	R

TABLE NOTES:
1. Street yard trees are not required in the IL district.

Figure 14.02.401-1
Illustrative Landscaping Types

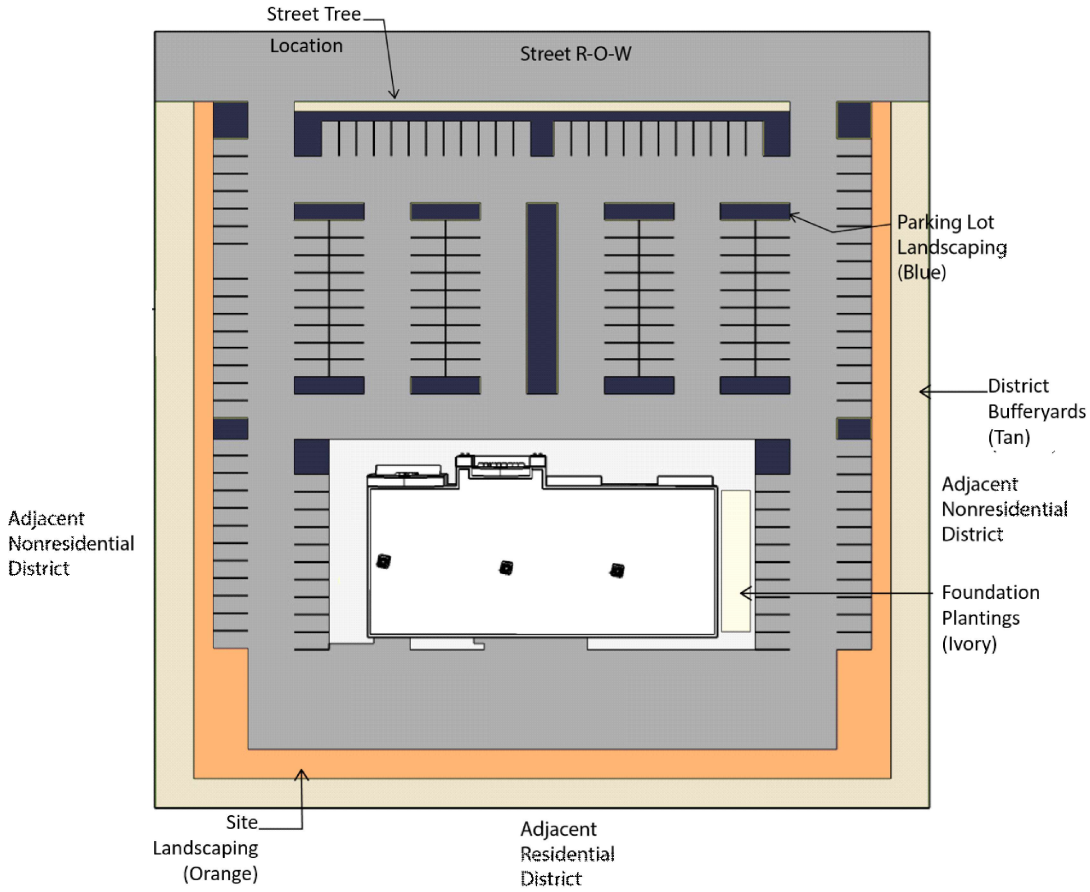


FIGURE NOTES:
Blue = Parking Lot Landscaping | Orange = Site Landscaping | Tan = Bufferyards | Ivory = Foundation Plantings

(d) **Prohibited Plants**. Plants on the list of noxious and invasive plants published by the Texas Department of Agriculture in Rule §19.300 of the Texas Administrative Code are prohibited in the City and shall not count toward achieving compliance with this Section.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Subsection 14.02.402 Development Landscaping

(a) **Required Landscaping.** This Section states the minimum amount of landscaping required for all residential, nonresidential, and mixed-use development.

(b) **Street Yard Trees**. The required number of street yard trees for each zoning district is established in Table 14.02.402-1, *Required Street Yard Trees*.

Table 14.02.402-1, *Required Street Yard Trees*

Land Use and District	Minimum Number of Street Yard Trees Required
Single-Family Detached and Duplex uses in the GR, SU, MR, and DA Districts	One per street frontage
Single-Family Attached, Multiplex, and Apartment uses in the SU, MR, and C-MU Districts	One per every 50 linear feet of street frontage
Single-Family Attached, Multiplex, and Apartment uses in the DA District	One per every 50 linear feet of street frontage
Apartment Uses in the C-MU, SC, and C Districts	One per every 75 linear feet of street frontage
Mixed-Use and nonresidential uses in the PI and DA districts	One per every 50 linear feet of street frontage
Mixed-Use and nonresidential uses in the C-MU, SC, and C Districts	One per every 75 linear feet of street frontage
IL and IH Districts	One per every 100 linear feet of street frontage

(c) **Required Foundation Plantings**. Developments required to include foundation plantings as denoted in Table 14.02.401-1, *Required Landscaping Percentage and Types Summary* shall be installed according to the following:

(1) *Minimum Linear Feet and Radius*. Applicable buildings shall have foundation planting areas adjacent to the base of the building, with a minimum percentage of linear feet along the front, exterior side, and side facades and the average width as set out in Table 14.02.402-2, *Foundation Planting Requirements*. Where planting areas are required, they may be crossed with walkways to provide access to the building.

(2) *Planting and Decorative Materials*. A minimum of one ornamental or evergreen tree and five shrubs shall be planted within the foundation planting areas that face the front and exterior side setbacks per every 50 linear feet, measured parallel to the building. The remaining portions of the planting area shall be planted with groundcover or consist of xeriscape groundcover, rocks, or decorative pavers. An example of Xeriscape foundation plantings and groundcover is shown in Figure 14.02.402-1, *Xeriscape Foundation Planting Example.*

(d) **Optional Foundation Landscaping Installation**. Nonresidential developments located outside of the MR, C-MU, SC, and C districts may install foundation landscaping in accordance with this Subsection. Installation of optional foundation landscaping shall reduce the required site landscaping as follows:

(1) *Shrubs*. One shrub planted in the foundation landscaping area shall reduce the required number of site landscaping shrubs by one.

(2) *Trees*. One ornamental or evergreen tree planted in the foundation landscaping area shall reduce the required number of site landscaping ornamental or evergreen tree by one.

Table 14.02.402-2, *Foundation Planting Requirements*

Zoning District	Minimum Percent of Linear Footage of Facade / Minimum Average Radius Around Building	
	Front and Exterior Side	Interior Side
MR	50% / 8 ft	25% / 8 ft
All other required or optional distircts[1]	33% / 8 ft	15 % / 5 ft

TABLE NOTES:
1. See Subsection Paragraph D, *Optional Foundation Landscaping Installation.*

Figure 14.02.402-1, *Xeriscape Foundation Planting Example*



(e) **Parking Lot Landscaping**. As illustrated in Figure 14.02.402-2, *Example Parking Lot Landscape Areas*, parking lot landscape areas are required as follows:

(1) *Corner Islands*. At the corners of parking lots, planted in corner islands, which is the area defined by the extension of the edges of intersecting parking rows. Corner islands shall be a minimum of 324 square feet in area and have a minimum of two canopy or evergreen trees or a minimum of five ornamental trees.

(2) *Interior Islands*. In the interior of the parking lot so that no parking space is more than 90 feet from a canopy tree. Interior islands planted with required canopy trees shall be a minimum of 216 square feet in area.

(3) *Ground Cover*. Corner and interior islands shall consist of groundcover, that shall:

(A) Consist of xeric shrubs, ornamental grasses, perennials, or sod, which may only be used for a maximum of 25 percent of the groundcover area; and

(B) Not include concrete, asphalt, or other impervious surfaces, with the exception of decorative pavers or stamped, dyed concrete which may be used only within the first foot of the parking island to allow persons to access their vehicle without stepping on landscaping.

Figure 14.02.402-2, *Example Parking Lot Landscape Areas*



FIGURE NOTES:
A = Corner Island | B = Interior Islands

(4) *Substitution of Canopy Trees*. Ornamental trees may only be substituted for canopy trees if the dimensions of the lot are such that the canopy trees would not have room to grow to a full canopy without conflicting with the building or overhead utilities. For the purposes of this substitution, one canopy tree equals two ornamental trees.

(5) *Protection of Landscape Islands*. Landscape islands shall be protected by wheel stops or six-inch curbs. Curbs may be punctuated to allow for stormwater flows, provided that the punctuations do not interfere with their protective function.

(f) **Site Landscaping**.

(1) *Planting Location*. All areas not designated as street yard trees, foundation plantings, bufferyards (as established in Section 14.02.403), parking lot landscaping, or utilized for pedestrian and vehicular access to the building (for example, sidewalks, parking spaces, loading spaces, service areas, and drive-in or drive-through facilities) shall be landscaped with groundcover or consist of xeriscape groundcover, rocks, or decorative pavers and designated as site landscaping area in order to meet the minimum required landscaping area per lot as stated in Table 14.02.402-1, *Required Landscaping Percentage and Types Summary.*

(2) *Trees*. One canopy, ornamental, or evergreen tree shall be planted per 1,000 square feet of the site landscaping area.

(3) *Shrubs*. Five shrubs shall be planted per 1,000 square feet of the site landscape area.

(g) **Xeriscaping**. Developments that install only xeriscape plant materials and ground covers in all required landscaping areas may reduce required landscaping by the following:

(1) The minimum required site landscaping for the entire lot by five percent; and

(2) All required foundation, bufferyard, and parking lot landscaping materials by 25 percent.

Effective on: 8/9/2022

Subsection 14.02.403 Bufferyard Landscaping

(a) **Bufferyard Classifications.**

(1) *Generally.* The district bufferyards that are required by this ULDO are based on the amount of buffering they provide. Bufferyards are classified from less screening (Type A) to more screening (Type B).

(2) *Bufferyard Options*. There are two bufferyards options. Option 1, landscape only bufferyards, has a higher density of plant materials to screen abutting properties. Option 2, landscape with wall or fence bufferyards, allows a wall or fence to be used in conjunction with a smaller width landscape strip and a lower density of plant materials. Each option set out in Table 14.02.403-1, *Bufferyard Classifications,* identifies the width of the buffer and the numbers and types of plants required per 100 linear feet, or portion thereof.

(3) *Fractional Bufferyards*. Where a bufferyard is required along a portion of a property line that is a fraction of 100 linear feet, then the same fraction of plantings for the buffer is required. For example, if a property line is 125 linear feet between two zoning districts and requires an Option 1, Type B, bufferyard, then the bufferyard along that property line shall consist of a full Option 1, Type B, bufferyard for 100 feet and a 25-foot-long bufferyard for the remainder. The required plantings for the 25 foot bufferyard segment are based on Table 14.02.403-1, multiplied by .25, resulting in one canopy tree, one small tree, no evergreen trees, and three shrubs.

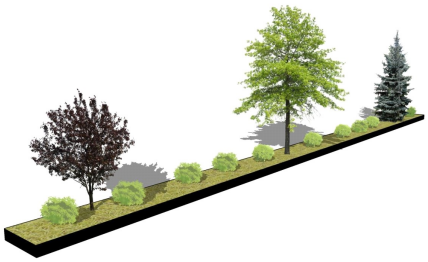
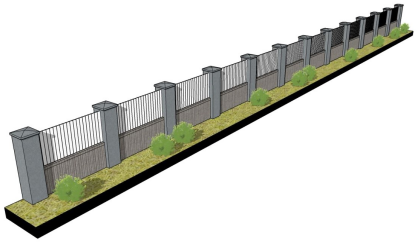
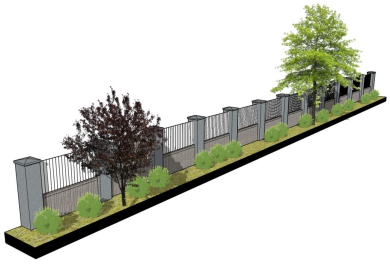
Table 14.02.403-1, *Bufferyard Classifications*

Type	Width	Required Plantings per 100 Linear Feet				Height of Wall or Fence
		Canopy Trees	Ornamental Trees	Evergreen Trees	Shrubs	
Option 1: Landscape Only Bufferyard						
Type A	5 feet	1	1	1	10	N/A
Type B	10 feet	2	2	1	12	N/A
Option 2: Landscape with Wall or Fence Bufferyard[1]						
Type A	3 feet	--	--	--	10	6-foot tall wall or fence (or a combination of the two)
Type B	5 feet	1	1	--	15	6-foot tall fence or wall (or a combination of the two)

TABLE NOTES:
1. Plant material, including canopy trees, may be installed on the inside or outside of the wall or fence facing the abutting properties. Plant material, including canopy trees, shall be installed on the outside of the wall or fence facing the street.

(b) **Illustrative Bufferyards**. Set out in Figure 14.02.403-1, *Illustrative Bufferyards*, are illustrative examples of the different bufferyard types.

Figure 14.02.403-1, *Illustrative Bufferyards*

Bufferyard Type	Landscape Only Bufferyard	Landscape with Wall, or Fence Bufferyard
Type A		
Type B		

(c) **Relationship to other Bufferyard Requirements**. Some limited or conditional uses may have different requirements for bufferyards, as specified in Subsection 14.01.303, *Limited Use Standards*, and Subsection 14.01.304, *Special Use Standards*. If bufferyards are required by another section of this ULDO along property boundaries that are also district boundaries, then the most restrictive bufferyard requirement is required.

(d) **District Boundary Bufferyards.** Set out in Table 14.02.403-2, *District Bufferyard Standards*, are the required bufferyards between zoning districts that are not separated by a public street. The rows show the zoning of the parcel proposed for development and the columns show the zoning of the abutting land. Where "--" is found there is no bufferyard required.

Table 14.02.403-2, *District Bufferyard Standards*

Zoning of Parcel Proposed for Development	Zoning of Abutting District				
	RE, GR, and SU	MR	DA	PI, C-MU, SC, and C	IL and IH
RE, GR, and SU	--	--	--	--	B
MR	A	--	--	--	B
DA	B	A	--	--	B
PI, C-MU, SC, and C	B	A	A	--	B
IL and IH	B	B	B	B	--

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Subsection 14.02.404 Tree Preservation Credit

(a) **Credit for Preservation of Existing Trees**. It is the policy of the City to promote the preservation of healthy, mature trees. Healthy, mature trees that are preserved on-site shall count toward the landscaping requirements of this Section, as follows.

(1) *Credits Awarded.* In place of all or a portion of the required street tree, site landscaping, parking lot, and bufferyard landscaping an applicant shall receive credit towards such requirements for the preservation of existing trees, as outlined in Table 14.02.404-1, *Credit for Preservation of Trees*.

(2) *Quality of Existing Trees.* Existing trees that are protected according to this Subsection count towards the planting requirements of this Section, provided that they are established for at least five years and not on a prohibited plant list.

Table 14.02.404-1, *Credit for Preservation of Trees*

Diameter at 48 Inches Above the Surface	Canopy Tree Credit
At least 3.5 inches, but less than 5 inches	1 tree
At least 5 inches, but less than 7 inches	2 trees
At least 7 inches, but less than 9 inches	3 trees
At least 9 inches, but less than 11 inches	4 trees
11 inches or more	5 trees

(b) **Tree Preservation Standards**. The following conditions shall be met in order for these tree credits to apply:

(1) *Healthy and Growing*. Each existing tree shall be in a healthy and growing condition.

(2) *Protection*. During site preparation and construction, each existing tree shall be protected by the placement of a barrier around the critical root zone.

(3) A minimum of 75 percent of the critical root zone of a tree to be preserved, as depicted in Figure 14.02.404-1, *Critical Root Zone Example*, shall be maintained as a permanent, landscaped area at grades existing prior to site development unless special provisions are made for the protection and survival of the tree. Such special provisions, including, but not limited to, the use of permeable paving materials, shall be subject to the approval of the Director of Planning and Development.

(4) No part of the critical root zone of trees to be preserved may be paved with concrete, asphalt, or other impervious material.

(5) Soil or other materials shall not be temporarily or permanently stored in locations that would cause suffocation of root systems of trees to be preserved.

Figure 14.02.404-1, *Critical Root Zone Example*

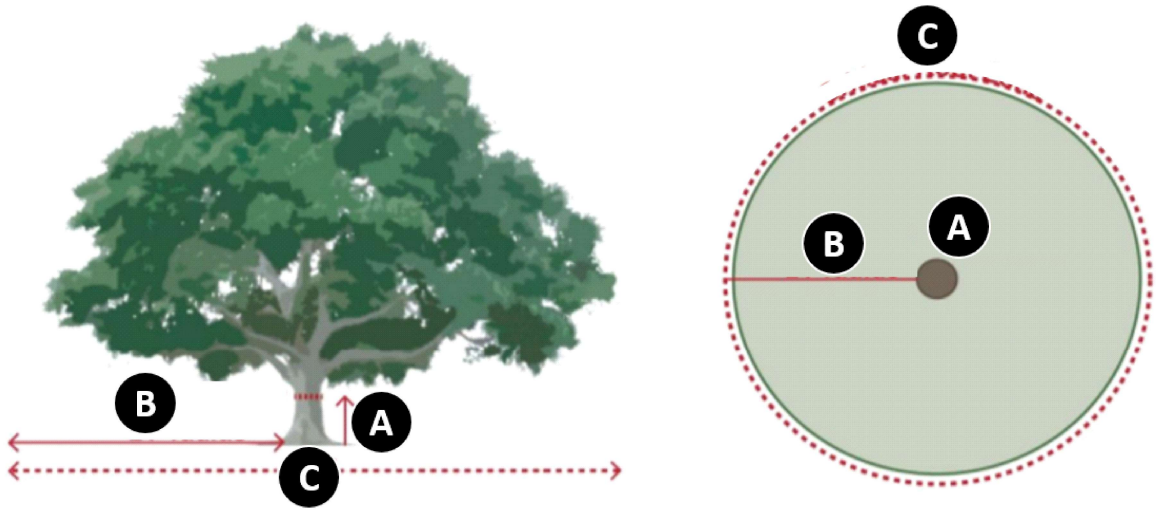


FIGURE NOTES:
A = Trunk diameter at 4 feet above grade (48 inches) | B = Critical root zone radius (24 feet) | C = Critical root zone circumference (75 feet)

(c) **Replacement of Credited Trees.** Should any tree for which credit is received under the provisions of this Section die or be removed at any time, the owner shall, within 90 days, replace the tree. The owner shall replace the tree with the number of credited trees (for example, if a nine-inch caliper existing tree dies, then the owner shall replace the tree with four new trees). The replacement trees shall be of equivalent species or a species that will obtain the same height, spread, and growth characteristics.

Effective on: 8/9/2022

Subsection 14.02.405 Alternative Compliance

(a) **Generally**. It is not the intent of this Section to discourage innovative and aesthetically pleasing landscaping so an alternative compliance landscape plan may be considered for approval if it meets the requirements of this Subsection and the design features uphold the purpose statements for this Section.

(b) **Applicability Conditions**. A site is eligible for an alternative compliance landscape plan if site constraints prohibit strict compliance with the requirements set forth in this Section in a minimum of one of the following manners:

(1) *Shape and Size*. The subject property is peculiarly shaped, through no action of the owner or previous owner, or contains extensive undeveloped area;

(2) *Limitations*. The subject property has space limitations as a result of the locations of existing structures, paved areas, surrounding existing development, and other built features; or

(3) *Features*. The subject property contains unique natural features such as soil characteristics, topography, geological characteristics, water features, and significant existing vegetation.

(c) **Criteria.** When considering approving an alternative compliance landscaping plan, the Director of Planning and Development (Director) shall use the following criteria:

(1) *Applicability Conditions*. The subject property meets at least one of the applicability conditions above;

(2) *Upholds Purposes*. The alternative compliance landscape plan upholds the purpose statements for this Section established in Subsection 14.02.101, *Applicability and Purposes;*

(3) *Equal or Better Than the Standard.* The alternative compliance landscape plan is deemed equal to or better than a plan meeting the standards of this Section; and

(4) *Financial Hardship Not Valid.* Financial hardship is not justification for alternative compliance.

(d) **Final Decision**. The Director may approve the alternative compliance landscape plan if all the criteria in paragraph (c), above, are met. Decisions on alternative compliance landscape plans may be appealed to the Board of Adjustment in accordance with Subsection 14.06.503, *Appeal of Administrative Decision.*

Effective on: 8/9/2022

Subsection 14.02.406 Installation and Maintenance

(a) **Selection of Materials.**

(1) *Generally*. Biodiversity of the genus and species of trees and shrubs is required in order to prevent monocultures which could result in large-scale losses in the event of disease or blight.

(2) *Standards*. Within each category of required landscaping (canopy trees, ornamental trees, evergreen trees, and shrubs) a minimum of two species shall be planted.

(3) *Nursery Stock*. Trees and shrubs planted pursuant to this Section shall be good, healthy nursery stock.

(4) *Xeriscape*. Xeriscape plant materials are encouraged to promote the use of drought-tolerant and water-wise landscaping.

(5) *Firewise*. Firewise plant materials and installation practices are encouraged to promote the City's goals as a participant in the National Fire Protection Association's Firewise USA® recognition program.

(6) *Plant Materials.* Only plant materials that meet the following criteria count towards the landscape requirements of this Section:

(A) Provides habitat for native wildlife or migratory birds;

(B) Is either native to the region or not invasive; and

(C) Is not on the Texas State Noxious Weed List, U.S. Department of Agriculture.

(7) *Minimum Size of Plants at Installation.* Plant material that is installed to comply with the requirements of this Section shall be of the sizes set out as follows:

Table 14.02.406-1, Minimum Size of Plants at Installation

Type of Plant Material	Minimum Size at Installation
Canopy Tree	2.5" caliper
Ornamental Tree	1.5" caliper
Evergreen Tree	6' in height
Shrub	5 gal. container

(b) **Installation**.

(1) *Installation Standards*. All landscaping shall be installed in accordance with accepted standards of the Texas Nurseryman's Manual and all plant materials shall be true to name, variety, and size and shall conform to all applicable provisions of the American Standards for Nursery Stock.

(2) *Tree Topping*. Unless a tree is interfering with overhead power lines, no trees may be topped if the limbs are three inches in diameter or greater.

(3) *Soil*. New landscaped areas shall be prepared to achieve a soil depth of at least six inches with the depth consisting of 75 percent soil blended with 25 percent compost.

(4) *Visual Clearance*. All trees, landscaping, and buffering shall be designed to have no impact on visual clearance at intersections, including the public right-of-way and private drives. Such sight triangles providing for vision clearance shall be shown on site plans in accordance with this ULDO and shall be approved by the Director of Planning and Development (Director).

(c) **Removal of Diseased or Dangerous Trees and Vegetation**.

(1) *Diseases or Pests*. Upon direction from the Director, a property owner may be required to treat or remove trees suffering from transmittable diseases or pests or allow the City to do so, charging the actual cost of the removal to the property owner.

(2) *Dangerous Trees*. The Director may require the removal of a tree or part of a tree or any other vegetation that is within or overhanging a public right-of-way or easement if the tree or vegetation:

(A) Is interfering with safety and property maintenance of the right-of-way or easement;

(B) Is creating a traffic hazard or sight distance hazard for traffic on a public street; or

(C) Is diseased or infested and in danger of falling.

(d) **Irrigation**.

(1) *Generally*. The irrigation of all landscaped areas shall be provided for by one of the following methods:

(A) All mixed-use, nonresidential, and apartment complexes greater than 8,000 square feet in total building footprint require an automatic underground irrigation system sufficient to provide complete coverage of the required landscaped areas. All irrigation systems shall be designed and sealed in accordance with the Texas Licensed Irrigators Act and shall be professionally installed.

(B) All applicable buildings 8,000 square feet or less may use hose bibs provided that a hose attachment shall be within 100 feet of all plant material.

(2) *Type and Design.* Irrigation systems shall meet acceptable industry standards and shall be designed to be contained on the property without spraying onto adjacent property or streets.

(3) *Xeriscape Areas*. Areas consisting entirely of xeriscape plantings shall be irrigated with the appropriate methods to maintain xeriscaped plant materials.

(4) *Alternative Water Sources*. A development may utilize reclaimed, recycled, gray water, non-potable surface water, rainwater, or alternative water harvesting systems for irrigation in accordance with Texas Commission on Environmental Quality (TCEQ) standards as amended.

(e) **Maintenance**.

(8) *Generally*. The property owner, homeowners' association, property owners' association, or management board for a multi-tenant development, shall be responsible for the maintenance of all landscaping and screening devices. This shall include watering, mowing, edging, pruning, weeding, fertilizing, and other such activities common to the maintenance of landscaping. In addition, landscape materials shall be maintained in such a manner that they comply with the visual clearance requirements. Landscaped areas shall be kept free of trash, litter, weeds, and other such materials that are not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year.

(9) *Replacement*. Plant material that dies shall be replaced with plant material of similar variety and size within 90 days.

(f) **Existing Trees, Fences, and Walls**. Existing trees, fences, and walls may be counted towards the development and bufferyard landscaping requirements, as applicable, provided that:

(1) Credit shall be given for existing trees according to the standards of Section 14.02.404, *Tree Preservation Credit*;

(2) The trees, fences, and walls comply with the standards of this Section (including being an eligible species);

(3) The Building Official verifies that the fences or walls are structurally sound, in good repair, and of an upright condition;

(4) The height and level of screening of the fence or wall meets the requirements of this Section with regard to buffering; and

(5) The applicant enters into an agreement with the City that includes appropriate assurances that if the existing fence or wall deteriorates, is damaged, destroyed, or removed, the applicant will repair or replace it with a fence or wall that meets the bufferyard standards of this Section.

(g) **Distance from Utilities**. As measured from the nearest easement line of such utilities:

(1) *All Utility Easements*. No trees shall be planted under or within a utility easement.

(2) *Overhead Utility Lines.* No canopy trees shall be planted under or within ten lateral feet of any overhead utility lines.

(3) *Underground Lines.* No canopy trees shall be planted within five lateral feet of any underground water or wastewater line.

Effective on: 8/9/2022

Section 14.02.500: Signs

Subsection 14.02.501 General Provisions

(a) **Generally**.

(1) *Contents*. This Section regulates the type, dimensions, design, erection, construction, placement, replacement, operation, display, location, maintenance, and other characteristics of signs throughout the City.

(2) *State Law Compliance*. The regulations set forth in this Section are subject to Texas Local Government Code, Chapter 216, *Regulation of Signs by Municipalities*. Any conflict between provisions of this Section and Chapter 216 shall be resolved in favor of Chapter 216 as amended.

(b) **Purpose**. The purpose of this Section is to:

(1) *Authority*. Provide the City the authority and powers to regulate signs under the United States Constitution, the Constitution of the State of Texas, and the City of Borger Home Rule Charter;

(2) *Government Interests*. Advance important and substantial governmental interests;

(3) *Sign Users*. Provide a fair, equitable, and predictable regulatory framework for all sign users and businesses;

(4) *Safety*. Reduce traffic hazards caused by distractions to motorists and impairment of sightlines, while ensuring that signs are sufficiently visible to motorists based on street design and associated travel speeds;

(5) *Free Speech*.

(A) Ensure regulations that constitutionally protect free expression and do not burden the content of protected messages displayed on signs;

(B) Ensure that incidental restriction on the freedom of speech is no greater than is essential to the furtherance of the interests protected by this Section; and

(C) Recognize that certain types of speech are not protected by the First Amendment due to the harm that they cause to individuals or the community, and speech that is harmful and accessible to minors may be prohibited; and

(6) *Nonconformities*.

(A) Avoid the creation of nonconformities or intensification of existing nonconformities, consistent with Texas law; and

(B) Preserve, protect, and promote the public health, safety, and general welfare.

(c) **Application**.

(1) *Generally*. All construction, relocation, enlargement, alteration, and modification of signs within the City and extraterritorial jurisdiction (ETJ) shall conform to the requirements of this Section, all state and federal regulations concerning signs and advertising, and applicable building codes.

(2) *Extraterritorial Jurisdiction.*

(A) In accordance with the provisions of Texas Local Government Code § 216.902, the provisions of this Section shall extend to and be enforced in the ETJ of the City.

(B) With respect to the application of the provisions of this Section in the ETJ, whenever a property in the ETJ is put to use, the sign regulations that would pertain to that use, if such use was located within the City, shall apply as established in Subsection 14.02.504, *Permanent Signs*, and Subsection 14.02.505, *Temporary Signs*.

(d) **Content Neutral**. This Section regulates only the sign structure and physical parameters, and not the sign's content.

(e) **Permit Required**. No sign shall be erected, installed, converted, relocated, enlarged, or structurally modified within the City limits or the ETJ without a sign permit issued in accordance with Subsection 14.06.309, *Sign Permit*.

(f) **Actions not Requiring a Permit**. The following actions do not require a Sign Permit:

(1) Routine maintenance, not involving structural changes to the sign;

(2) Changes of message, either manually or electronically, on an electronic message sign or changeable copy sign, subject to limitations of Subsection 14.02.504.i, *Changeable Copy*, on the frequency of message changes; or

(3) Changes of sign panels or letters that do not involve structural changes to the sign.

(g) **Signs for Special Uses**. The regulations of this Section apply to uses that are permitted by right or that are subject to a special use permit in Subsection 14.01.301, *Use Table*; however, the Planning and Zoning Commission may recommend, and the City Council may approve, more restrictive sign requirements in granting a special use permit when either body deems it necessary for the protection of adjacent properties and the public interest.

(h) **Illumination.** Internal or external illumination of signs, as illustrated in Figure 14.02.501-1, *External and Internal Sign illumination*, is permitted as follows:

(1) *Generally.*

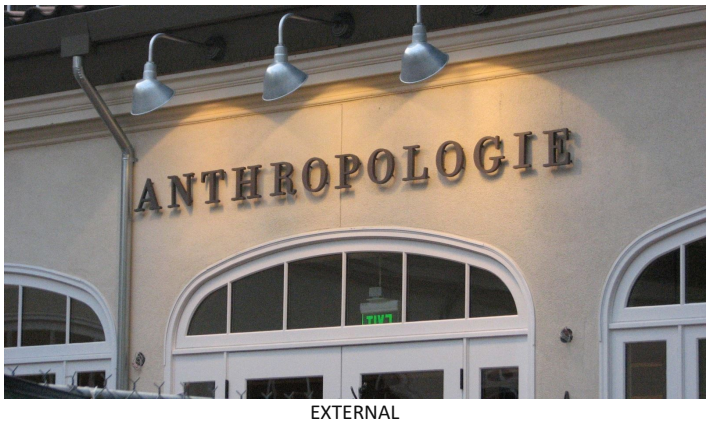
(A) Externally illuminated signs may be illuminated by either ground-mounted lights or wall-mounted light bars.

(B) Internally illuminated signs may include halo lighting, neon, or other sources that do not exceed the brightness or flashing light standards below.

(2) *Flashing Lights*. Signs with flashing, blinking, or traveling lights shall have light bulbs that do not exceed 35 watts each.

(3) *Neon Lighting*. In conjunction with projecting signs and marquee signs, neon or similar tubing may be used in conjunction with other types of materials to illuminate the sign.

Figure 14.02.501-1. *External and Internal Sign illumination*



EXTERNAL



INTERNAL

(i) **Reference to Sign Measurement Provisions**. See Section 14.01.400, *Measurements and Allowances*, for provisions related to sign measurement methodology.

(j) **Visibility Triangle**. No sign may encroach into the visibility triangle established in Section 14.01.400, *Measurements and Allowances*.

(k) **Certification**. A registered professional engineer or architect shall submit a certification to the Director of Planning if:

(1) *Roof Signs.* The height of a proposed roof sign is 20 feet or greater; or

(2) *All Other Sign Types.* The height of a proposed sign is 25 feet or greater.

(l) **Building, Electrical, and Fire Code Compliance and Permits**. All signs shall comply with the appropriate provisions of the State and City building, electrical, and fire codes. Signs with internal illumination or external illumination integral to the sign require an electrical permit in accordance with the National Electric Code, even if a sign permit is not required. Signs may require a building permit in accordance with the Building Code.

Effective on: 8/9/2022

Subsection 14.02.502 Signs Exempt from Regulation

(a) **Generally**. This Section establishes signs which are exempt from regulation or do not require a sign permit.

(b) **Temporary Signage.** Temporary signage, as regulated in Subsection 14.02.505, *Temporary Signs*, requires specific standards, however a sign permit is not required.

(c) **Exempt Signs**. The following signs or activity pertaining to signage shall be exempt from obtaining a sign permit under this Section:

(1) *ATM Sign*. Signs incorporated into and designed as part of an automatic teller machine (ATM);

(2) *Ancillary Signs*. A maximum of six ancillary signs that are:

(A) Placed at entrances and exits to the site or on the interior of the site but visible from a public street; and

(B) Not larger than six square feet of sign area and/or less than four feet in height.

(3) *Art and Murals*. Art and murals within the Downtown Area (DA) Zoning District shall be exempt provided that the mural is not on a primary facade;

(4) *Athletic Field Signs*. Signs located on the field side of scoreboards and fences of athletic fields;

(5) *Flags and Banners*. Flags on all lots in all districts and banners on lots in RE, GR, SU, and MR zoning districts;

(6) *Ghost Signs*. Ghost signs or rehabilitated ghost signs;

(7) *Government Signs.* Signs posted by local, state, and federal agencies such as regulatory signs and traffic control signs;

(8) *Grave Markers, Statues, or Sculptures*. Grave markers, statues, or sculptures that are not commercial in nature;

(9) *Handheld Signs.* Handheld signs or signs, symbols, or displays on persons;

(10) *Holiday Signs*. Holiday signs, provided that such signs shall be removed no later than 15 days after the holiday for which they are customarily dedicated;

(11) *Interior Signs*. Signs located within a structure or on a site that are not visible from a public street;

(12) *Mailboxes and Addresses*:

(A) Signs on a standard size on a mailbox that do not exceed four square feet; or

(B) Street markings painted on curbsides that do not exceed four square feet.

(13) *Menu Board Sign.* Any permanently mounted sign associated with a drive-thru provided that:

(A) There are a maximum of two menu per drive aisle of a drive-through establishment;

(B) The menu board does not exceed 35 square feet; and

(C) The audio component of a menu board is limited to communication between customers and employees, and may not exceed a volume of five decibels over ambient sound as measured from the nearest property line.

(14) *Plaques or Monuments*. Plaques or tablets cut into a building surface when such sign is attached flush to the building or commemorative plaques or monuments placed by historical organizations;

(15) *Railway Signs*. Any sign on property owned by a railroad placed or maintained in reference to the operation of the railway;

(16) *Sidewalk Signs*. Sidewalk signs in the Downtown Area (DA) and Corridor Mixed-Use (C-MU) districts shall not require a permit or advance approval but shall conform to the following requirements:

(A) The sign shall be removed after business hours;

(B) The sign may not contain changeable letters on tracks;

(C) The sign shall be properly anchored or weighted against the wind;

(D) The sign placement shall maintain a minimum sidewalk clearance width of four feet to provide accessibility; and

(E) The sign shall be no larger than 12 square feet per side and no taller than five feet.

(17) *Transit Shelter Sign*. Authorized signs attached to a transit shelter sign shall be exempt from any permit as long as the sign does not exceed 12 square feet. All signs shall be non-electrical. Only one sign/sign face per shelter shall be allowed;

(18) *Utility Pole Banners*. Banners on utility poles in the public right-of-way approved by the Director of Planning and Development;

(19) *Utility and Hazard Signs***.** Safety and signs, such as warnings of high voltage, explosives, hazardous materials and other dangerous situations; and

(20) *Vehicle Signs*. Signs applied directly onto the body of a car, truck, bus, trailer, or other vehicle if such vehicle is operated in the normal course of a business and such vehicle is not used primarily to display such sign.

(21) *Window Signs.* Signs installed inside a window and intended to be viewed from the outside. Such signs shall be made of wood, paper, paint, or vinyl. Illuminated window signs shall not be larger than a cumulated maximum of 400 sq inches per property.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Subsection 14.02.503 Prohibited Sign Types, Materials, Design Elements, and Locations

(a) **Generally**. This Section identifies sign types, materials, design elements, and locations that are prohibited in the City and ETJ.

(b) **Prohibited Sign Types.**

(1) Abandoned signs;

(2) Banners, except as allowed in mixed-use and nonresidential districts;

(3) Damaged or broken signs;

(4) No building wall, pylon, or monument sign shall be used as a billboard, except as expressly provided in this Section;

(5) Any sign which obstructs the view of bicyclists or motorists using any street, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device, or a signal shall be prohibited;

(6) Snipe signs or signs attached to trees, utility poles, public benches, or streetlights;

(7) Signs imitating or resembling official traffic signs, signals, or devices;

(8) Illuminated signs that:

(a) Are illuminated to such intensity or without proper shielding so as to constitute a hazard to the operation of motor vehicles upon a public street or substantially interfere with the reasonable enjoyment of residential property; or,

(b) Have any type of intermittent illumination, including flashing, fading, revolving or blinking lights, or any type of moving, traveling or changing message by means of lights or illumination unless specifically permitted as part of the allowable signage enumerated in this ULDO.

(9) Portable signs except as permitted in Subsection 14.02.505, *Temporary Signs*, of this Section;

(10) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying the sign; and,

(11) All off-premise advertising and other signs not expressly permitted by this ULDO.

(c) **Prohibited Design Elements**. The following design elements, regardless of sign type, are prohibited:

(1) *Traffic Hazards*. Signs that interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal, or device because of its position, shape, or color;

(2) *Safety or Health*. Signs that constitute a hazard to safety or health by reason of inadequate design, construction, repair, or maintenance;

(3) *Confusion*. Signs that use the words "stop," "look," "go slow," "caution," "danger," "warning," or any other word, phrase, symbol, or character in a manner that has the potential to interfere, mislead, or confuse pedestrians or traffic;

(4) *Glare*. Signs that are illuminated with lights that cause a glare into or upon surrounding property based on the illumination standards established in Subsection 14.02.602, *Location and Design Standards*, or a glare that the Director of Planning and Development (Director) determines is a distraction to operators of vehicles or pedestrians on a public right-of-way;

(5) *Lighting*. Signs that contain reflectors, lights, or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation, unless specifically permitted as part of the allowable signage enumerated in this ULDO;

(6) *Indecent or Obscene*. Signs that contain statements, words, or pictures of an obscene, indecent, or immoral character as to likely offend public morals or decency of a reasonable person;

(7) *Moving Parts*. Except for changeable copy signs that otherwise comply with the requirements of this Section, signs that have visible moving, revolving, or rotating parts or visible mechanical movement of any kind, achieved by electrical or mechanical means;

(8) *Nuisance*. Sound, smoke, heat, or odor emitters; and

(9) *Unfinished Wood*. Unfinished wood support structures, except for stake signs, which may use unfinished stakes.

(d) **Prohibited Sign Locations**. A sign, regardless of sign type, is prohibited from being in the following locations:

(1) *Closed Businesses*. Signs that advertise a business or product that is no longer in existence;

(2) *Blocked Ingress or Egress*. Signs that prevent free ingress to or egress from any door, window, fire escape, or any other exit required by the building or fire code of the City or by any other ordinance;

(3) *Street Intersections*. No sign or advertising device shall be erected or maintained at the intersection of streets in such a manner as to obstruct free and clear vision of the intersection;

(4) *Outdoor Amenities*. Snipe signs or signs attached to or located upon outdoor exposed amenities such as trees, street signs, or utility poles that are visible from any street;

(5) *Vehicles*. Signs that are painted on or attached to a motor vehicle unless:

(A) The vehicle is operable and has current registration and tags;

(B) The sign is an on-premises sign;

(C) The vehicle is legally parked within a parking space; and

(D) The display of the sign is incidental to the vehicle use.

(6) *Encroachment*. Except for marquee signs, projecting signs, and hanging signs that comply with the standards of Subsection 14.02.504, *Permanent Signs*, signs that are located on, or project or extend over, any public right-of-way or other public property;

(7) *Semis and Storage*. Signs that are painted on or attached to semi-trailers, shipping containers, or portable storage units except for the brand name of the semi-trailer, container, storage unit; and

(8) *Consented Locations*. No sign or sign structure placed on private or public property without the consent of the owner or authorized agent.

Effective on: 8/9/2022

Subsection 14.02.504 Permanent Signs

(a) **Applicability**. This Section applies to freestanding signs, attached signs, and to other signs that are intended for display for more than a temporary time period.

(b) **Generally**. All signs shall be permanently installed in locations designated in the sign permit application, and shall not exceed the allowable dimensions of this Section.

(c) **Unlisted Signs.** Signs that are not listed in this Section are prohibited as permanent signs.

(d) **Allowed Sign Types by District.** Table 14.02.504-1, *Allowed Sign Type by District*, identifies on-premises signs allowed by zoning district.

Table 14.02.504-1, *Allowed Sign Type by District*

Sign Type	Residential Districts	Mixed-Use, Public Non-Residential Districts				
	RE, GR, SU, MR	C-MU	DA	SC, C	PI	IL, IH
Permanent Attached Signs						
Awning Sign	--	P	P	P	P	P
Canopy Sign (attached)	--	P	P	P	P	--
Hanging Sign	--	P	P	P	--	--
Marquee Sign	--	P	P	P	P	--
Projecting Sign	--	P	P	P	--	--
Roof Sign	--	--	P	--	--	--
Wall Sign	P	P	P	P	P	P
Permanent Freestanding Signs						
Access Sign	P	P	P	P	P	P
Billboard	--	--	--	P	--	P
Canopy Sign (freestanding)	--	--	--	P	--	P
Directory Sign	--	P	P	P	P	P
Monument Sign	P[1]	P	P	P	P	P
Pylon or Pole Sign	P[1]	--	--	P	P	P

TABLE NOTES:
"--" = Not Permitted | "P"=Permitted
1. For permitted nonresidential and multi-family uses only.

(e) **Allowed Attached Permanent Signs.** All permanently attached signs shall follow the standards established in Table 14.02.504-2, *Allowed Attached Permanent Sign Types*.

Table 14.02.504-2, *Allowed Attached Permanent Signs*

Zoning District	Residential Districts	Mixed-Use and Non-Residential Districts					Illustration
	RE, GR, SU, MR	C-MU	DA	SC, C	PI	IL, IH	
Awning Sign							
Number Allowed	--	1 per each tenant or occupant with a ground-floor entry or storefront					
Maximum Area	--	1 sq. ft. per every ft. of awning or 60 sq. ft., whichever is smaller					
Minimum Clearance	--	8 ft. above grade					
Maximum Projection (distance from facade)	-	4 ft.					
Changeable Copy Permitted	--	--					
Illumination	--	External Only					
Sign Permit Required	--	Yes					
Canopy (or Over-Canopy) Sign							

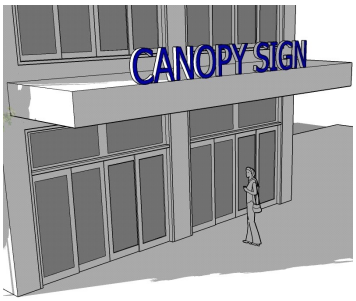
Table 14.02.504-2, *Allowed Attached Permanent Signs*							
Zoning District	**Residential Districts**	**Mixed-Use and Non-Residential Districts**					**Illustration**
	RE, GR, SU, MR	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**	
Number Allowed	--	1 per building front or per storefront for a multi-tenant building		1 per building front or per storefront for a multi-tenant building	1 per building front or per storefront for a multi-tenant building	1 per building front or per storefront for a multi-tenant building	
Maximum Area	--	75% of canopy width	50% of canopy width	75% of canopy width	75% of canopy width	75% of canopy width	
Minimum Height (copy above sign)	--	2 ft.		6 ft.	6 ft.	6 ft.	
Changeable Copy Permitted	--	--		--	--	--	
Illumination	--	External or Internal		External or Internal	External or Internal	External or Internal	
Other Standards	--	--	--	--	--	--	
Sign Permit Required	--	Yes	Yes	Yes	Yes	Yes	
Hanging Sign							
Number Allowed	--	1 per tenant or occupant with a ground-floor entry or storefront			--	--	
Maximum Area	--	6 sq. ft.			--	--	
Maximum Height	--	8 ft. above grade			--	--	
Changeable Copy Permitted	--	--			--	--	
Illumination	--	Yes, indirect light only			--	--	
Other Standards	--	1. Not extend within 2 ft. of the curb line. 2. May be suspended under a marquee sign or under a canopy or awning.			--	--	
Sign Permit Required	--	Yes			--	--	
Marquee Sign							

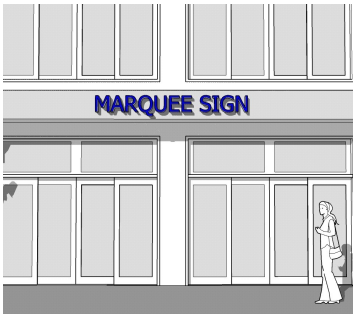
Table 14.02.504-2, *Allowed Attached Permanent Signs*							
Zoning District	**Residential Districts**	**Mixed-Use and Non-Residential Districts**					**Illustration**
	RE, GR, SU, MR	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**	
Number Allowed	--	1 per street-facing facade			1 per street-facing facade	--	
Maximum Area	--	100 sq. ft. total		150 sq. ft. total	150 sq. ft. total	--	
Maximum Height	--	4 ft. from lowest point of marquee to highest point, excluding any ornamentation supported directly by the marquee			4 ft. from lowest point of marquee to highest point, excluding any ornamentation supported directly by the marquee	--	
Minimum Clearance	--	8 ft. above grade			8 ft. above grade	--	
Changeable Copy Permitted	--	Yes			Yes	--	
Illumination	--	Downlighting only; only the changeable copy area may be internally illuminated			Downlighting only; only the changeable copy area may be internally illuminated	--	
Other Signs	--	If used, then a wall sign is prohibited on same facade			If used, then a wall sign is prohibited on same facade	--	
Other Standards	--	1. May not project more than 6 ft. from the building; 2. Sign may be on up to three sides of a marquee.			1. May not project more than 6 ft. from the building; 2. Sign may be on up to three sides of a marquee.	--	
Sign Permit Required	--	Yes			Yes	--	
Projecting Sign							

Table 14.02.504-2, *Allowed Attached Permanent Signs*							
Zoning District	**Residential Districts**	**Mixed-Use and Non-Residential Districts**					**Illustration**
	RE, GR, SU, MR	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**	
Number Allowed	--	1 per establishment	1 per building or 1 per 20 ft. of building frontage if multiple occupants.	1 per establishment	--	--	
Maximum Area	--	12 sq. ft.		16 sq. ft.	--	--	
Maximum Distance from Building Wall to Farthest Part of Sign	--	4 ft.	4 ft.	4 ft.	--	--	
Minimum Clearance	--	8 ft. above sidewalk or walkway			--	--	
Minimum Clearance, Vehicular Way	--	14 ft. above street	--	14 ft. above street	--	--	
Changeable Copy Permitted	--	--			--	--	
Illumination	--	Internal or External			--	--	
Other Signs	--	If used, then a wall sign is prohibited on same facade			--	--	
Sign Permit Required	--	Yes			--	--	
Roof Sign							

Table 14.02.504-2, *Allowed Attached Permanent Signs*							
Zoning District	**Residential Districts**	**Mixed-Use and Non-Residential Districts**					**Illustration**
	RE, GR, SU, MR	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**	
Number Allowed	--	1 per building frontage		--	--	--	
Maximum Area	--	120 sq. ft. for 1-2 story buildings; 240 sq. ft. for 3 or more storied buildings		--	--	--	
Maximum Height	--	4 ft. for 1-2 story buildings; 8 ft. for 3 or more storied buildings		--	--	--	
Changeable Copy Permitted	--	--		--	--	--	
Illumination	--	Internal or External		--	--	--	
Other Standards	--	1. Roof signs shall not extend 8 ft. above the top of a flat roof or the top ridge of a mansard, gable, hip, cone, gambrel, shed, or any other sloped roof; 2. Roof signs and their supporting system shall be designed to withstand wind loads established in the International Building Code.		--	--	--	
Sign Permit Required	--	Yes		--	--	--	
Wall Sign							

Table 14.02.504-2, *Allowed Attached Permanent Signs*

Zoning District	Residential Districts	Mixed-Use and Non-Residential Districts					Illustration
	RE, GR, SU, MR	C-MU	DA	SC, C	PI	IL, IH	
Number Allowed	1 per building frontage	1 per public street frontage	1 per building facade or tenant (multi-tenant bldg.); Maximum 2 per building	No minimum; subject to the aggregate maximum sign area	1 per public street frontage		
Maximum Area	5 sq. ft.	20% of any wall facing a dedicated public right-of-way		25% of any wall facing a dedicated public right-of-way			
Maximum Height	The eaveline or the bottom of the second story window sill, whichever is lower.			The eaveline or building parapet wall			
Changeable Copy Permitted	--	--		--			
Illumination	No	External or Internal		External or Internal			
Other Standards	1. No wall sign shall project more than 18 inches from the building wall. 2. No wall sign or its supporting structure shall cover any window or part of a window. 3. In the DT district, wall signs shall have a texture or depth to distinguish them from the sub.						
Sign Permit Required	No	Residential: No; Nonresidential: Yes		Yes	Yes	Yes	

TABLE NOTES:
ft. = Feet; sq. ft. = Square feet
-- = Characteristic, requirement, or sign type not applicable or required;
Yes = Characteristic or sign type is permitted;
No = Characteristic or sign type not permitted.

(f) **Allowed Freestanding Permanent Signs.** All permanent freestanding signs shall follow the standards established in Table 14.02.504-3, *Allowed Freestanding Permanent Signs*.

Table 14.02.504-3, *Allowed Freestanding Permanent Signs*

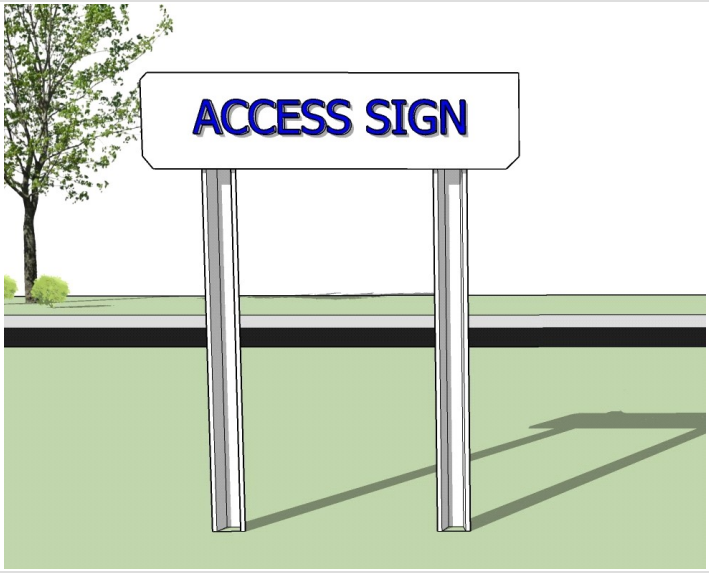
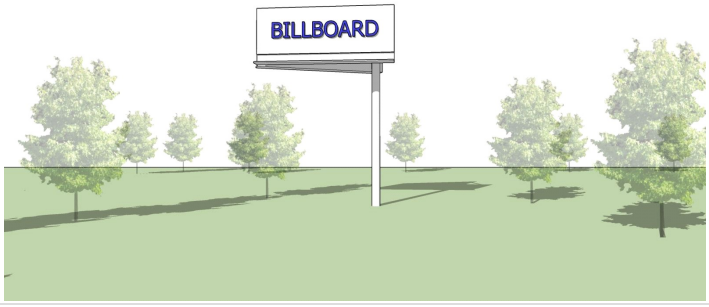
	Residential Districts	Mixed-Use and Nonresidential Districts				
Zoning District (in the City Limits)	**RE, GR, SU, MR**	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**
Access Sign[1]						
						
Number Allowed	No more than 3 per principal use					
Maximum Area	4 sq. ft. per sign			6 sq. ft. per sign		
Minimum/Maximum Height	1 ft/4 ft.					
Minimum Setback (edge of pavement / property line)	3 ft./0 ft.					
Changeable Copy Permitted	--					
Illumination	Internal or External					
Sign Spacing	No two directional signs hung from separate poles shall be located within 5 feet of each other.					
Other Standards	1. All such signs located on corner lots or intersections and greater than 3 feet in height shall not be placed inside the visibility triangle as described in Section 14.01.400, *Measurements and Allowances*. 2. There shall be no more than 4 total directional sign poles at any road intersection. 3. More than 1 sign may be hung from the same pole.					
Sign Permit Required	No					
Billboard						
						

Table 14.02.504-3, *Allowed Freestanding Permanent Signs*						
	Residential Districts	Mixed-Use and Nonresidential Districts				
Zoning District (in the City Limits)	**RE, GR, SU, MR**	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**
Number Allowed	--	1				
Maximum Area	--	750 sq. ft.				
Maximum Height	--	35 ft. above grade to the highest point of the billboard				
Minimum Setback (edge of pavement / property line)	--	40 ft.				
Changeable Copy Permitted	--	Yes				
Illumination	--	External				
Sign Spacing	--	700 ft.				
Other Standards	1. Billboards shall be constructed to meet the construction standards as established in the City's Building Code. 2. All lighting of billboards shall be so shielded as not to produce intensive or excessive light or glare on adjacent property. 3. Billboards with electronic message displays shall be subject to all operational requirements for electronic message centers.					
Sign Permit Required	--	Yes				
Canopy Sign						
						
Number Allowed	--	--	--	1 per street frontage	--	1 per street frontage
Maximum Area	--	--	--	40% of the canopy fascia face per street-facing side	--	40% of the canopy fascia face per street-facing side
Minimum/Maximum Height	--	--	--	Shall not extend above the canopy fascia board	--	Shall not extend above the canopy fascia board
Changeable Copy Permitted	--	--	--	--	--	--
Illumination	--	--	--	Internal or external	--	Internal or external
Other Standards		1. Color branding shall be permitted and shall not count towards the aggregate sign total.				
Sign Permit Required	--	--	--	Yes	--	Yes
Directory Sign						

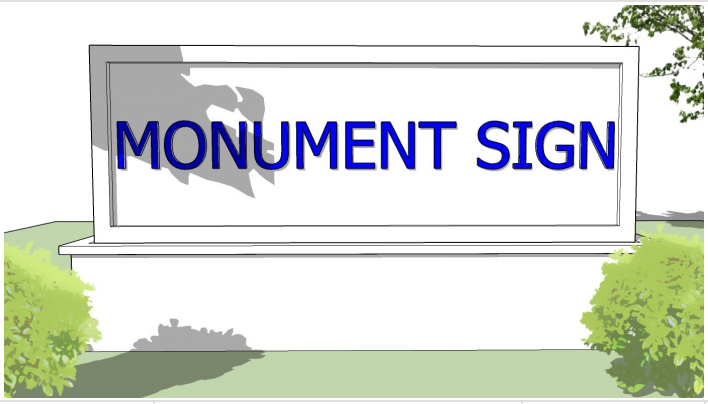
Table 14.02.504-3, *Allowed Freestanding Permanent Signs*						
	Residential Districts	Mixed-Use and Nonresidential Districts				
Zoning District (in the City Limits)	**RE, GR, SU, MR**	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**
						
Number Allowed	--	1 per property with a multi-tenant building				
Maximum Area	--	2 sq. ft. per linear foot of street frontage; maximum 100 sq. ft.				
Maximum Height	--	10 ft.				
Minimum Setback	--	0 ft.				
Changeable Copy Permitted	--	Yes				
Illumination	--	Internal or External				
Other Standards	--	1. The bottom portion of the sign shall rest flush against the ground, allowing no space between the ground and the bottom of the sign structure.				
Sign Permit Required	--	Yes				
Monument Sign						
						
Number Allowed	1 per property street frontage on nonresidential properties	1 per property street frontage		1 per establishment[3]	1 per property street frontage	1 per establishment[3]

Table 14.02.504-3, *Allowed Freestanding Permanent Signs*						
	Residential Districts	**Mixed-Use and Nonresidential Districts**				
Zoning District (in the City Limits)	**RE, GR, SU, MR**	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**
Maximum Area	32 sq. ft.	60 sq. ft.		< 200 ft. of street frontage = 60 sq. ft. > 200 ft. of street frontage = 75 sq. ft.	32 sq. ft.	75 sq. ft.
Maximum Height	6 ft.	8 ft.	6 ft.	25 ft.		25 ft.
Minimum Setback	10 ft.[4]					
Illumination	Internal or External					
Sign Permit Required	Yes					
Subdivision Entry Sign						
						
Number Allowed	2 per entry to the subdivision	--				
Maximum Area	32 sq.ft.	--				
Maximum Height	6 ft.	--				
Minimum Setback	10 ft. from street right-of-way or property line for a private street	--				
Changeable Copy Permitted	--	--				
Illumination	Internal or External	--				
Other Standards	1. Sign may be located on a base constructed of concrete not to exceed 18 inches in height and shall be surrounded by landscaping and other decorative material. 2. Sign shall be located outside of existing or future utilities and any required visibility triangle as established in Section 14.01.400, *Measurements and Allowances*.					
Sign Permit Required	Yes	--				
Pylon or Pole Sign						

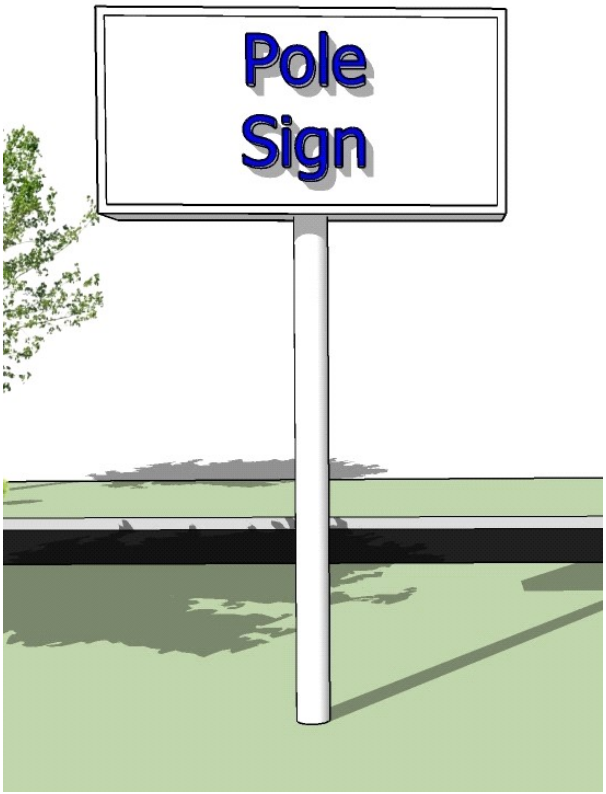
Table 14.02.504-3, *Allowed Freestanding Permanent Signs*						
	Residential Districts	Mixed-Use and Nonresidential Districts				
Zoning District (in the City Limits)	**RE, GR, SU, MR**	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**
						
Number Allowed	1 per street frontage on nonresidential properties	1 per street frontage on nonresidential properties	--	1 per street frontage	1 per street frontage	1 per street frontage
Maximum Area (Per Sign Panel / Cumulative)	20 sq. ft. per sign of lots 75 ft. or less of linear frontage; 40 sq. ft. per sign of lots greater than 75 ft. of linear frontage / no cumulative maximum	35 sq. ft. / 1 sq. ft. per linear ft. of street frontage; 250 sq. ft. maximum	--	35 sq. ft. / 1 sq. ft. per linear ft. of street frontage; 250 sq. ft. maximum	48 sq. ft. per sign / no cumulative maximum	120 sq. ft. per sign / no cumulative maximum
Maximum Height	15 ft.	20 ft.	--	30 ft.	20 ft.	30 ft.
Minimum Clearance	8 ft. above grade	8 ft. above grade and 20 ft. above adjacent drive aisle, if edge of sign is within one foot of aisle	--	8 ft. above grade and 20 ft. above adjacent drive aisle, if edge of sign is within one foot of aisle		
Minimum Setback	10 ft.	10 ft.	--	10 ft.		

Table 14.02.504-3, *Allowed Freestanding Permanent Signs*						
	Residential Districts	Mixed-Use and Nonresidential Districts				
Zoning District (in the City Limits)	**RE, GR, SU, MR**	**C-MU**	**DA**	**SC, C**	**PI**	**IL, IH**
Changeable Copy Permitted	Yes	Yes	--	Yes		
Illumination	Internal or External		--	Internal or External		
Other Standards	The width of the support(s) of the sign shall be a minimum of 60% of the width of the sign face.		--	The width of the support(s) of the sign shall be a minimum of 60% of the width of the sign face.		
			--			
Sign Permit Required	Yes		--	Yes		

TABLE NOTES:
ft. = Feet; sq. ft. = Square feet
1. Directional signs shall only be permitted in conjunction with a religious, charitable, civic, fraternal, or similar organization.
2. Identification sign area shall be determined for residential development sites on whether the site is for single-family or multi-family types.
3. On lots fronting on three or more public streets, then two monument signs shall be permitted.
4. Freestanding signs may be placed three feet from the building-side edge of a sidewalk.

(g) **Awnings and Marquees**. In addition to the standards established in this Section, the following standards shall be met for awning and marquee sign types in all zoning districts where permitted:

(1) *Extension Standards*. Any awning or marquee extending over any public street or thoroughfare shall be constructed by either of or a combination of the following methods:

(A) Constructed on steel beams projecting through the street wall of the structure or building and capable of supporting the weight of such canopy or marquee and an additional live load weight of 60 pounds per square foot; or

(B) Solidly anchored against the street wall of such building or structure on steel plates bolted through the wall and hung by rigid rods anchored through such street wall and attached to the extended portion of such canopy or marquee and capable of carrying the weight thereof and an additional live load weight of 60 pounds per square foot.

(2) *Anchored*. Awnings shall be attached to the framework securely anchored to the street wall of the building or structure in a manner approved by the Building Official.

(3) *Public Right-of-Way*. Any marquee or awning permitted to extend over any public street or thoroughfare shall conform to the following:

(A) It shall not extend in one section more than 25 feet along the line of the street;

(B) It shall provide a minimum clearance above the sidewalk of the lowest part thereof of not less than seven feet;

(C) It shall not extend beyond the street line nearer than 18 inches to a vertical extension of the curb line; and

(D) The construction of any marquee or awning from a street wall and extending over any portion of a public sidewalk or thoroughfare shall be liable for injury to any person using such public sidewalk underneath or adjacent to the canopy, marquee, or awning resulting from any faulty construction, maintenance or dangerous condition of the marquee or awning and shall hold the City harmless for such injury.

(h) **Changeable Copy**. Changeable copy may be permitted as an electronic message center (EMC) or manual changeable copy reader for signs noted in Table 14.02.504-2, *Allowed Attached Permanent Signs*, Table 14.02.504-3, *Allowed Freestanding Permanent Signs,* and subject to the applicable standards of this Section, including the following design requirements:

(1) *Enclosure*. Electronic message centers or manual changeable copy are permitted as part of a sign if they are enclosed on all sides with a durable material finish. The enclosure shall extend a minimum of six inches from the perimeter of the electronic message center in all directions. Gaps between the changeable copy reader board and the surround are permitted to accommodate locks and hinges for a cover for the changeable copy area, but only to the extent necessary for such locks and hinges to operate.

(2) *Size and Proportions*. Changeable copy centers square footage shall not exceed the maximum sign area permitted for that sign type within the zoning district where the proposed sign is to be located.

(3) *Electronic Message Center (EMC) Requirements*. EMC signs are allowed for signs noted in Table 14.02.504-2, *Allowed Attached Permanent Signs*, Table 14.02.504-3, *Allowed Freestanding Permanent Signs,* and are subject to the following operational requirements:

(A) *Operational Limitations*.

(i) *Residential Zoning Districts*. In residential zoning districts, EMCs shall contain static messages only and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the flashing, scintillating or varying of light intensity.

(ii) *Mixed-Use and Non-Residential Districts*. In mixed-use and public nonresidential zones, EMCs, all EMC display features and functions are permitted, with the exception of flashing, which shall be prohibited, and full-motion video or film display via an electronic file imported into the EMC software or streamed in real-time into the EMC.

(B) *Message Change Sequence*. A maximum of 0.3 seconds is allowed between each message/page displayed on the sign. Messages shall not appear to be written on or erased from the display in a manner that is, less than the entire message at once.

(C) *Minimum Display Time*. Each message/page on the sign must be displayed for at least eight seconds.

(D) *Dimming Capabilities*. All permitted EMCs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions or that can be adjusted to comply with the 0.3 footcandle measurements.

(4) *Manual Changeable Copy*. Manual changeable copy message centers, including their frames, shall make up not more than 50 percent of the sign area. The balance of the sign area shall utilize permanently affixed letters or symbols.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Subsection 14.02.505 Temporary Signs

(a) **Generally**. The signs described in this Subsection may be installed or modified without a sign permit and not counted in the total square footage of signage allowed on any particular property or site, provided that the sign otherwise complies with the Building Code, all applicable regulations of this ULDO, and the following requirements:

(1) The temporary signage permitted by this Section shall be regulated by the base zoning district and by number, size, height, location, and duration of signs placed on a property on a temporary basis;

(2) All temporary signs shall be made of durable materials and shall be well-maintained;

(3) No temporary sign shall be located within a public right-of-way;

(4) The party posting the temporary sign is solely responsible for obtaining the permission of the property owner before posting their temporary sign; and

(5) The Director of Planning and Development (Director) has the authority to remove any temporary signage that does not meet any and all of the requirements of this Article.

(b) **Allowed Signs**. Table 14.02.505-1, *Allowed Temporary Signs*, sets out:

(1) The temporary sign types allowed in each zoning district; and

(2) The standards applicable to each sign type.

(c) **Unlisted Signs**. Signs that are not listed in Table 14.02.505-1 are prohibited as temporary signs.

Table 14.02.505-1, Allowed Temporary Signs

Sign Type	Residential Districts	Mixed-Use and Non-Residential Districts					Example Image
	RE, GR, SU, MR	C-MU	DA	SC, C	PI	IL, IH	
Balloon (Inflatable) Sign							
Number Allowed	--	1	--	1	--	1	
Maximum Area	--	50 sq. ft.	--	50 sq. ft.	--	50 sq. ft.	
Maximum Height	--	20 ft.	--	35 ft.	--	35 ft.	
Illumination	---	Ambient or Internal	--	Ambient or Internal	--	Ambient or Internal	
Maximum Days Sign May be Displayed (cycle)	--	7 days	--	7 days	--	7 days	
Maximum Cycles per Calendar Year	--	4	--	4	--	4	
Banner Sign							

Table 14.02.505-1, Allowed Temporary Signs							
Sign Type	Residential Districts	Mixed-Use and Non-Residential Districts					Example Image
	RE, GR, SU, MR	C-MU	DA	SC, C	PI	IL, IH	
Number Allowed	--	1 per street frontage for a single tenant building; 1 per business in a multi-tenant building, subject to separation requirements					
Maximum Area	--	35 sq. ft.	Shall not exceed the size of permitted wall sign (see Subsection 14.02.504)	35 sq. ft.			
Maximum Height	--	Attached: Below eave line or parapet wall; Ground Mounted: 5 ft.	Below eave line or parapet wall	Attached: Below eave line or parapet wall; Ground Mounted: 5 ft.	Attached: Below eave line or parapet wall; Ground Mounted: 5 ft.		
Illumination	--	Ambient Only					
Minimum Separation	--	25 feet from other temporary signs					
Maximum Days Sign May be Displayed (cycle)	--	30 days	7 days	30 days			
Maximum Cycles per Calendar Year	--	4	12	4			
Feather Sign							

Table 14.02.505-1, Allowed Temporary Signs							
Sign Type	Residential Districts	Mixed-Use and Non-Residential Districts					Example Image
	RE, GR, SU, MR	C-MU	DA	SC, C	PI	IL, IH	
Number Allowed	--	1 per 50 ft. of street frontage with a max. of 3 per street frontage	1 per 25 ft. of street frontage with a max. of 2 per street frontage	1 per 50 ft. of street frontage with a max. of 3 per street frontage			
Maximum Area	--	24 sq. ft.	24 sq. ft.	24 sq. ft.			
Maximum Height	--	8 ft.	8 ft.	8 ft.			
Minimum Setback	--	5 ft.	--	5 ft.			
Illumination	--	Ambient Only	Ambient Only	Ambient Only			
Maximum Days Sign May be Displayed (cycle)	--	30 days	7 days	30 days			
Maximum Cycles per Calendar Year	--	4	2	4			
Freestanding Nonresidential Sign							

Table 14.02.505-1, Allowed Temporary Signs							
Sign Type	Residential Districts	Mixed-Use and Non-Residential Districts					Example Image
	RE, GR, SU, MR	C-MU	DA	SC, C	PI	IL, IH	
Number Allowed	--	1 per lot	--	1 per lot	2 per street frontage		
Maximum Area	--	8 sq. ft.	--	32 sq. ft.	64 sq. ft.		
Maximum Height	--	6 ft.	--	8 ft.	8 ft.		
Minimum Separation	--	--	--	--	5 ft. from other temporary signs		
Minimum Setback	--	5 ft.	--	5 ft.	10 ft.		
Maximum Days Sign May be Displayed (cycle)	--	60	--	90	120		
Maximum Cycles per Calendar Year	--	1	--	1	2		
Other Signs	--	A detached nonresidential sign is prohibited from a property that already has a permanent freestanding sign	--	A detached nonresidential sign is prohibited from a property that already has a permanent freestanding sign			
H-Frame Sign							

Table 14.02.505-1, Allowed Temporary Signs							
Sign Type	Residential Districts	Mixed-Use and Non-Residential Districts					Example Image
	RE, GR, SU, MR	C-MU	DA	SC, C	PI	IL, IH	
Number Allowed	1 per street frontage						
Maximum Area	9 sq. ft.						
Maximum Height	6 ft.						
Minimum Setback	6 feet from edge of pavement and 20 ft. from an intersection						
Illumination	Ambient only						
Maximum Days Signs May be Displayed (cycle)	90 days						
Maximum Cycles Per Calendar Year	2						
Yard Sign							
Number Allowed	No maximum number; see next row for maximum area		--	One Every 30 ft.; Max. of 5	--	One Every 30 ft.; Max. of 5	
Maximum Area	6 sq. ft. per side		--	9 sq. ft. per side	--	9 sq. ft. per side	
Maximum Height	4 ft.		--	4 ft.	--	4 ft.	
Minimum Setback	5 ft. from edge of pavement		--	5 ft. from edge of pavement	--	5 ft. from edge of pavement	
Illumination	Ambient only		--	Ambient Only	--	Ambient Only	
Maximum Days Signs May be Displayed (cycle)	N/A		--	60 days, with not less than 30 days between display periods	--	60 days, with not less than 30 days between display periods	
Maximum Cycles Per Calendar Year	N/A		--	--	--	--	

(d) **Portable Signs**. Portable signs may be located in any non-residential zoning district on a temporary basis through issuance of a sign permit subject to the following requirements:

(6) *Maximum Size*. Signs shall not exceed 50 square feet in area;

(7) *Maximum Height*. Signs shall not exceed six feet in height;

(8) *Public Right-of-Way*. Portable signs shall not be located in any public right-of-way;

(9) *Duration*. One portable sign may be permitted for a period that shall not exceed 60 days in any calendar year;

(10) *Off-Premises Signs*. Off-premises advertising is prohibited; and

(11) *Other Standards.*

(A) Portable signs may not be adapted for use as permanent signs.

(B) All portable signs being displayed on the effective date of this ULDO are subject to the above regulations and shall be removed within 30 days unless authorized in accordance with the provisions of this Section.

(e) **Special Development Signs.** Freestanding nonresidential signs for the purpose of promoting development sites shall be permitted in all districts on a temporary basis. The sign shall not exceed 64 square feet per sign face area and may be erected on private property upon approval of the Director. The Director shall control the location and duration of such sign use to assure that the occupancy and use of adjacent lots are not interfered with and that no safety hazard is created. Such special development signs will be removed at the direction of the Director after 75 percent of the approved lots have been issued a certificate of occupancy.

Effective on: 8/9/2022

Subsection 14.02.506 Installation and Maintenance

(a) **Generally.** Signs and the ground area around signs shall be maintained as provided in this Subsection. These regulations apply to all signs, temporary or permanent, attached or detached, unless otherwise specifically provided in this Subsection. The routine maintenance of a sign as required in this Subsection shall be exempt from obtaining a sign permit.

(b) **Installation.**

(1) *Identification*. Every permitted sign shall display in a conspicuous place on the sign, in letters no less than one inch in height, the date of erection, the permit number, the name of the sign manufacturer and installer, and the voltage of any electrical apparatus used.

(2) *Anchoring*. Signs shall not be suspended by chains or other devices that will allow the sign to swing, due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections.

(3) *Supports*. Supports and braces shall be an integral part of the sign design. Angle iron or wires used for supports or braces shall be hidden from public view to the extent technically feasible.

(4) *Freestanding Signs*. Freestanding signs shall be self-supporting structures and be permanently attached to sufficient foundations.

(5) *Attached Signs*. Attached signs shall derive their principle and total support from the building to which they are attached.

(6) *Use of Fill Under Monument Signs*. Mounds or berms may be used to elevate permanent monument signs, provided that the mound or berm elevates the base of the sign not more than three feet above the natural grade at the location of the sign.

(7) *Electrical Switch*. The sign shall be equipped with a disconnecting switch in accordance with the provisions of the National Electric Code.

(8) *Inspection Request*. After any sign requiring a permit is constructed or erected, the sign contractor performing the work or service shall notify the Building Official for final inspection of the sign.

(9) *Electrical Sign*. Where an electrical sign is erected or constructed, an inspection by the electrical inspector shall be made.

(c) **Maintenance**.

(1) *Message*. Signs shall display messages. Signs that do not display a message for a period of more than 90 days are "abandoned signs," which are prohibited subject to Subsection 14.02.503, *Prohibited Signs*.

(2) *Upkeep of Ground Around Sign*. The area within a 10-foot radius of the base of a sign shall be kept free of weeds, rubbish, or flammable waste or material.

(3) *Supports and Other Hardware*. Structural supports, braces, bolds, clips, supporting frames, and fastenings of a sign shall be kept in good repair and safe condition, including replacement of defective parts so that the sign is securely fastened or anchored to a building wall, structural framing, or other foundation.

(4) *Paint and Finishes*. Paint and other finishes shall be maintained in good condition. Peeling finishes shall be repaired. Signs with running colors shall be repainted, repaired, removed, or replaced if the running colors were not part of the original design.

(5) *Corrosion and Rust*. Permanent signs and sign structures shall be finished and maintained to prevent corrosion and rust. A patina on copper elements is not considered rust.

(6) *Level Position*. Signs that are designed to be level shall be installed and maintained in a level position.

(7) *Materials*. All signs shall be constructed of durable materials and securely attached to framework with supports made of masonry, wood, metal, or other material of equivalent strength.

(8) *Damage or Destruction***.** Any damaged signs and sign structures sustaining damage to the extent of 40 percent of the sign shall be promptly repaired (to their original condition or better) or removed. Damaged or destroyed nonconforming permanent signs are subject to the applicable requirements of Article 14.07, *Nonconformities*. Damaged or destroyed temporary signs shall be removed.

Effective on: 8/9/2022

Section 14.02.600: Outdoor Lighting

Subsection 14.02.601 Light Fixture Standards

(a) **Generally**. All lighting shall be shielded so the source of illumination (bulb or direct lamp image) is not visible from the property line. This reduces glare and interference with boundary streets and adjacent properties. No lamp shall extend past the housing of a light fixture.

(b) **Light Fixture Type**. Light fixtures shall be:

(1) "Full cut-off" fixtures that limit lighting that is visible or measurable at the property line;

(2) Of constant intensity; and,

(3) Reflected or shielded so as not to:

(A) Be of excessive brightness;

(B) Cause glare hazardous to pedestrians or drivers;

(C) Create any public or private nuisance; or,

(D) Unreasonably interfere with an adjacent property owner's right to enjoy their property.

(4) "No cut-off" fixtures, used only for decorative purposes, provided:

(A) They have light fixtures that produce no more than 1,500 lumens (approximately equal to a 100-watt incandescent bulb); or,

(B) They use energy-efficient bulbs, such as compact fluorescent (CF) and light-emitting diode (LED).

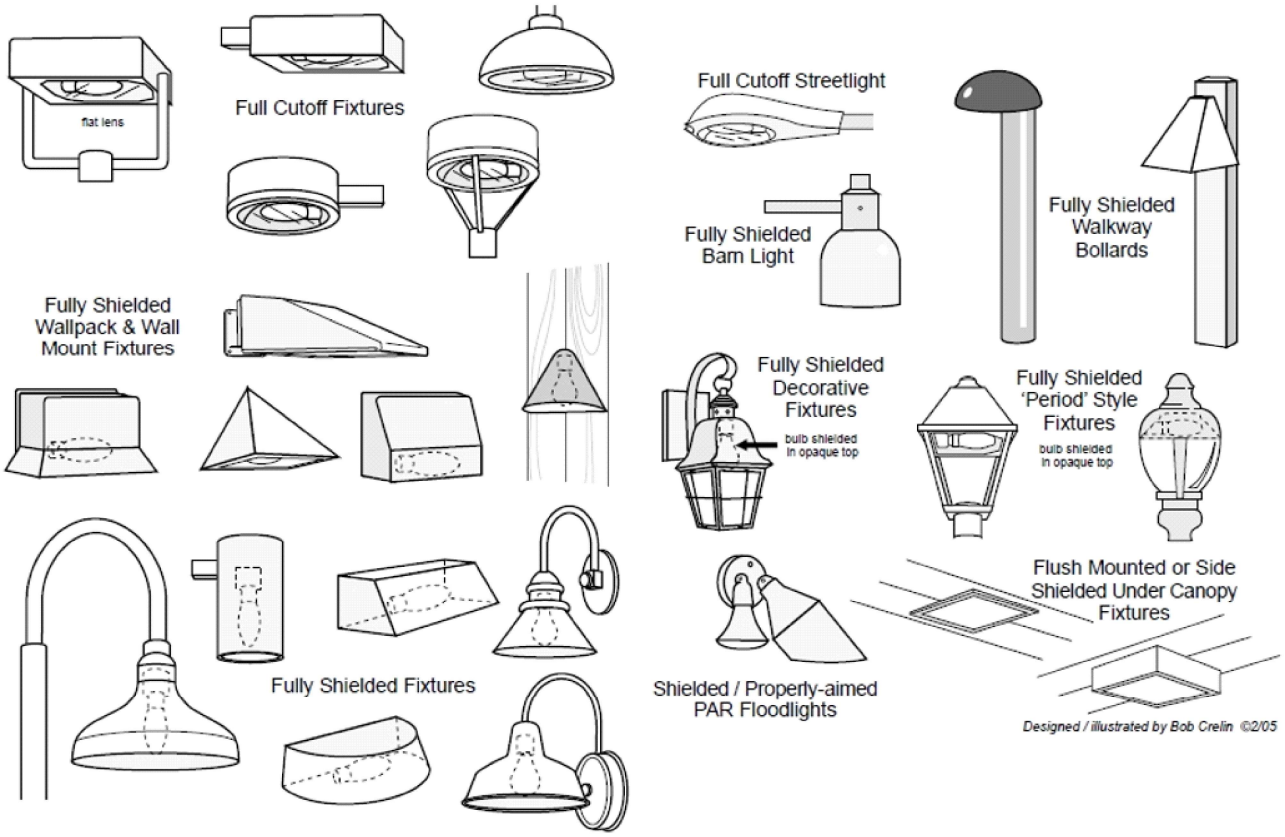
(c) **Cut-Off Requirements**. (See Figure 14.02.601-1, *Types of Light Fixtures*.)

(1) *Full Cut-Off*. Except in the DA Zoning District and as otherwise allowed, all lighting (including, but not limited to vehicle use areas, canopies, security, walkway, landscaping, signs, outdoor display areas, and building) shall have 100 percent of its output below 90 degrees from a vertical line through the fixture.

(2) *Adjacent to Residential Use or District*. All lighting fixtures that are mounted on a building wall facing a property line adjacent to a residential property line or public right-of-way boundary shall be fitted with a "house side shielding" reflector on the side facing the residential property line or public right-of-way.

(3) *Flags and Statutes*. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.

Figure 14.02.601-1, *Types of Light Fixtures*



(c) **Maximum Fixture Height**.

(1) *Fixtures Mounted on Residential Buildings and Accessory Structures*. Fixtures that are mounted on residential buildings or accessory structures shall not be located higher than 16 feet or above the lowest point of the roof eave, whichever is lower.

(2) *Fixtures Mounted on Mixed-Use and Nonresidential Buildings*. Fixtures that are mounted on nonresidential buildings shall not be located above the highest point of the roofline of any building.

(3) *Freestanding Full Cut-Off Fixtures*. Full cut-off fixtures shall have a maximum height of 30 feet.

(4) *Freestanding Non-Cut-Off fixtures*. Non-cut-off fixtures:

(A) Shall have a maximum height of 20 feet; and,

(B) Are not permitted on any side of a property that faces or abuts a residential property line.

Effective on: 8/9/2022

Subsection 14.02.602 Location and Design Standards

(a) **Generally**. Outdoor lighting installed after the effective date of this ULDO shall not exceed the footcandle values in Table 14.02.602-1, *Illumination Standards*, and Table 14.02.602-2, *Parking Lot Lighting*.

Table 14.02.602-1, *Illumination Standards*

Zoning District of Subject Property	Maximum Footcandles adjacent to a Side or Rear Property Line[1]	Maximum Footcandles adjacent to a Public Right of Way[1]
All values are stated in footcandles		
RE, GR, SU, MR	0.5	0.5
DA	2.0	2.5
C-MU, SC, and C	0.5	1.0
IN	1.0	2.5

TABLE NOTES:
1. Horizontal footcandles are measured horizontally from the surface of the property by holding a light meter parallel to the ground approximately one foot off the surface.

(b) **Nuisance Prohibited**. Outdoor lighting shall be deflected, shaded, and focused away from abutting properties and shall not be a nuisance to such abutting properties.

(c) **Parking Lot Lighting**. Parking facilities, including structured and open parking lots, spaces, drive aisles, entrances, and stairways shall meet the illumination standards set out in Table 14.02.602-2, *Parking Lot Lighting*. Light fixtures shall be designed and installed to prevent glare from being cast outside of any parking structure or parking lot.

(d) **Canopy Lighting.** Canopy lighting for uses that have sheltered outside work or service areas, such as fueling stations, shall recess all luminaries into the canopy so that they cannot be viewed off-site from an eye height of four feet (to protect automobile drivers from glare).

(e) **Special Purpose Outdoor Lighting**. Lighting not complying with the technical requirements of this Section but consistent with its intent may be installed for special purpose sites or uses or particular uses including, but not limited to, the following applications:

(1) Correctional facilities;

(2) Parking structures;

(3) Industrial sites; and

(4) Outdoor amphitheaters.

(f) **Outdoor Recreation Facilities**. Illumination levels for sports facilities may exceed the maximum permitted horizontal footcandle requirements and shall:

(1) Comply with the maximum footcandles adjacent to residential and nonresidential property lines standards established in Table 14.02.602-1, *Illumination Standards*.

(2) Be no higher than recommended for the appropriate class of play, as defined by the current version of the Illuminating Engineering Society of North America (IESNA) publication IES RP-6-15.

Effective on: 8/9/2022

ARTICLE 14.03: SUBDIVISION STANDARDS

Contents:

Section 14.03.100: Purpose and Applicability

Section 14.03.200: Subdivision Design Standards

Section 14.03.300: Public Improvements Dedication and Acceptance

Section 14.03.100: Purpose and Applicability

Subsection 14.03.101 Purpose

(a) **Generally**. This Article sets out regulations for subdivision of land to serve the needs of all public and private interests within the City and surrounding areas.

(b) **Purposes.** The purposes of this Article are to:

(1) *Health and Safety*. Require healthy and safe development patterns;

(2) *Economic Development*. Promote economic development;

(3) *Future Needs.* Protect the present and future needs of the subdivider and citizens;

(4) *Harmonious Development*. Provide for the harmonious development, for the coordination and alignment of streets within subdivisions and with other existing or planned streets, or with other features of the City;

(5) *Open Space*. Provide for appropriate open space for recreation, public facilities, light, and air;

(6) *Capital Improvements Projects*. Ensure conformance of development plans with the capital improvements projects that the City undertakes;

(7) *Compatibility*. Ensure that development is compatible with and properly integrated into existing and future neighborhoods;

(8) *Acceptance and Maintenance*. Assure that facilities to be accepted and maintained by the City government are properly located and constructed;

(9) *Infrastructure*. Facilitate adequate provision of transportation, potable water, wastewater, drainage, schools, parks, and other public requirements; and,

(10) *Contamination Protection*. Protect groundwater and surface water resources from contamination.

Effective on: 8/9/2022

Subsection 14.03.102 Applicability

(a) **Generally**. This Article shall apply to all plats and all subdivision of land within the territorial limits of the City and the City's Extraterritorial Jurisdiction (ETJ) as defined in Texas Local Government Code (TLGC) § 212.001; definition of subdivision, TLGC § 212.004.

(b) **Requirement to Plat**. Except as set forth in Paragraph d, *Exemption from Platting*, below, the owner or owners of a tract of land within the City limits or in the ETJ who divides the land into two or more parts, shall have a plat of the subdivision prepared in accordance with the Texas Local Government Code, Title 7, Chapter 212.004.

(c) **Compliance with ULDO Required to Subdivide**.

(1) *Platting Required*. Unless a division of land is specifically exempted from the requirements to obtain a plat, as set forth in Paragraph (d), *Exemption from Platting*, it shall be unlawful for any person or entity to:

(A) Subdivide any tract, lot, or parcel of land within the territorial limits of the City or within the City's ETJ until an appropriate plat of such subdivision is approved and recorded in conformity with this Article;

(B) Construct any public or private street, utility service or facility, building, structure, or other improvements on any tract, lot, or parcel of land within the territorial limits of the City or the City's ETJ until an appropriate plat is approved and recorded in conformity with this Article; or,

(C) Connect or serve any utility service or facility to any tract, lot, or parcel of land within the territorial limits of the City or the City's ETJ until an appropriate plat is approved and recorded in conformity with this Article.

(2) *Permits*. No building, electrical, mechanical, plumbing, certificate of occupancy, or any other permit issued by the City will be issued for the construction or repair of any improvement or the occupancy of any building or structure until an appropriate plat is approved and recorded in conformity with this Article; and it shall be unlawful for any person to construct or repair any improvement, or occupy any building or structure, without first obtaining the appropriate permit from the City.

(d) **Exemption from Platting.** Platting is not required only in the following circumstances:

(1) *Easements and Rights-of-Way*. Dedication of an easement or right-of-way by separate instrument recorded with the Hutchinson County Clerk;

(2) *Metes and Bounds with no Development*. Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision, or alteration is occurring;

(3) *Court Order*. Divisions of land created by court order;

(4) *Large Lots with no Improvements*. A division of land into parcels, all of which are greater than five acres in area and have access to a public right-of-way, and where no public improvement is being dedicated;

(5) *Cemetery Plots*. The selling of plots in cemeteries that comply with all state and local regulations; or,

(6) *Government Acquisition*. The acquisition of land for a governmental purpose by dedication, condemnation, or easement.

Effective on: 8/9/2022

Section 14.03.200: Subdivision Design Standards

Subsection 14.03.201 General Improvement Standards

(a) **Additional Provisions**. In addition to the requirements of this Article and Article 14.06, *Development Review Procedures*, all subdivisions shall comply with the following:

(1) *City Code*. All applicable provisions of the City's Code of Ordinances;

(2) *Public Health, Environment, Railroads, and Utilities*. The rules of the City of Borger Planning Department, Texas Commission on Environmental Quality, U.S. Army Corps of Engineers, and other applicable agencies;

(3) *State Roadways*. The rules of the Texas Department of Transportation if the subdivision or any lot within it abuts a state-maintained roadway; and,

(4) *Standard Specifications*. The specifications as adopted by the City or as required by the City.

(b) **Life Safety**. The construction related to improving, developing, or subdividing land shall be conducted in a safe manner to protect human life and property.

(c) **Silt and Erosion Control**. All projects subject to the Texas Pollutant Discharge Elimination System (TPDES) shall conform with Subsection 14.03.211, *Storm Drainage*, and any other City's regulations related to erosion control during construction.

(d) **Transportation Safety**. All projects undertaken on or near public rights-of-way shall be controlled in accordance with the Texas Manual on Uniform Traffic Control Devices (TMUTCD). Traffic control plans and measures, including, but not limited to, signing, marking, barricading, flagging, detouring, and closure shall all be conducted in accordance with TMUTCD criteria prior to lane closure.

(e) **Inspections and Approval of Construction Work.**

(1) *Compliance with City Specifications*. All subdivision construction work located within the corporate limits or the City's extraterritorial jurisdiction, such as street grading, drainage structures, curb and gutter, and installation of sanitary sewer and water systems, performed by the subdivider or his or her contractor shall be inspected during construction by the proper authority of the City and all such work shall comply with the specifications as adopted by the City or as required by the Director of Planning and Development.

(2) *Submittals for Approval*. The proper authority of the City shall submit written approval to the City Secretary of the construction of streets, curbs and gutters, alleys, drainage structures, sanitary sewers, water system, and any other item which may be required prior to release or refunding of any bonds or deposits held by the City and prior to their acceptance for maintenance by the City.

(f) **Curb and Gutter.** Stand-up type concrete curb and gutter, two feet wide and six inches thick, shall be constructed on all streets and avenues and shall be continuous from block corner to block corner. Radial curb and gutter shall be constructed at each corner of each block. Lay-down curbs shall be constructed across all alley intersections with streets and concrete drainage ways.

(g) **Excavation and Grading.** The site excavation and grading plan shall be designed and stamped by a licensed professional engineer and shall be so designed to carry surface waters to the nearest practical street, storm drain, or natural watercourse. All persons performing any excavation or grading operations shall put into effect all necessary safety precautions and shall provide adequate anti-erosion and/or drainage devices, debris basins, or other safety devices to protect life, limb, health, and welfare of private and public property of others from damage of any kind.

Effective on: 8/9/2022

Subsection 14.03.202 Street Network and Design

(a) **Generally**. The public street system pattern within a subdivision shall provide:

(1) *Access*. Adequate vehicular access to all properties within the subdivision;

(2) *Connections*. Adequate street connections to adjacent properties outside the subdivision to ensure adequate traffic circulation within the general area;

(3) *Extensions*. The continuation or appropriate extension of existing principal streets within the general area;

(4) *Circulation*. Local street system serving properties to be developed for residential purposes which discourages through traffic while maintaining sufficient access and traffic movement for convenient circulation within the subdivision and access by fire, police, and other emergency services personnel; and,

(5) *Traffic Demands*. A sufficient number of continuous streets to accommodate the traffic demands generated by the new development.

(6) *Public Access Required*. Every lot and parcel in a subdivision shall be served by a public or private street.

(7) *Reserve Strips*. There shall be no reserve strip at the end of a public or private street that limits access or connection to such street.

(b) **Alleys.** New alleys shall meet the following requirements:

(1) *Residential Properties*. Alleys may be used in conjunction with residential development to provide access to a parcel from the rear yard. In alley-loaded subdivisions platted on or after the effective date of this ULDO, vehicular access from the front of the property is prohibited. Providing alleys allows for the incentives set forth in Subsection 14.01.213, *Development Types*.

(2) *Commercial and Industrial Properties*. Alleys may be provided in all commercial and industrial areas; provided, however, that the Planning and Zoning Commission may waive the requirement where other definite and assured provision is made for service access, such as garbage pick-up, off-street loading and unloading, and parking consistent with and adequate for the uses proposed.

(3) *ROW Width*. Alleys shall have a minimum right-of-way width of 20 feet.

(4) *Pavement*. All alleys shall have a paved width of 15 feet and shall consist of an improved hard surface for the entire width of the alley.

(5) *Intersections and Alignment*. Alley intersections and sharp changes in alignment shall be avoided but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

(6) *Dead-End Alleys*. Dead-end alleys shall be avoided in subdivisions whenever possible unless natural resources, such as floodplains or open water prevent their connection to a local street and there is no alternative design that would serve all of the lots with alley access. In this case, a cul-de-sac shall be provided at the dead-end of any such alley.

(7) *Crossings*. Sidewalks shall continue across alleys at points of intersection.

(8) *Service Meters*. Upon discretion of any utility company, natural gas and electric meters shall be readable from alleys, and not obstructed by fencing or landscaping.

(c) **Private Streets.** Private streets shall meet all of the following requirements:

(1) *Setbacks*. Setbacks from private streets shall be measured in the same manner as setbacks from public streets.

(2) *Connectivity*. Private streets will not materially interfere with street connectivity in the City or create an unreasonable impact on an abutting public street by curtailing opportunities for alternative travel routes.

(3) *Adopted Plans*. Private streets shall not interfere with the implementation of any adopted City plans, capital improvements plans, or plans for construction or expansion of state or federal highways.

(4) All private streets shall have an easement recorded for their entire length and width that meets the standards of Subsection 14.03.207, *Easements*, and provides access to the subdivision for all residents, visitors, customers, employees, utility providers, and public safety personnel.

(5) Private streets shall be laid out, designed, and constructed in the same manner and to the same standards as public streets.

(d) **Curves and Street Jogs.**

(1) *Street Curve Requirements*.

(A) *Major Streets.* Major streets shall have a minimum radius at the centerline of 800 feet.

(B) *Secondary Streets.* Secondary streets shall have a minimum radius at the centerline of 300 feet.

(C) *Minor or Local Streets.* Minor or local residential streets shall have a minimum radius at the centerline of 150 feet, except in special circumstances the Planning and Zoning Commission may approve a minor or local residential street with a smaller radius.

(D) *Reverse Curves*. Reverse curves shall be separated by a tangent distance of at least 100 feet.

(2) *Street Jogs*. Jogs in streets shall be avoided in subdivisions unless the use of a street jog is unavoidable due to natural features, such as topography, large tree stands, wetlands, or bodies of water. When street jogs are necessary, they shall have a minimum centerline offset of 125 feet, as depicted in Figure 14.03.202-1, *Minimum Street Jog Distance*.

Figure 14.03.202-1, *Minimum Street Jog Distance*

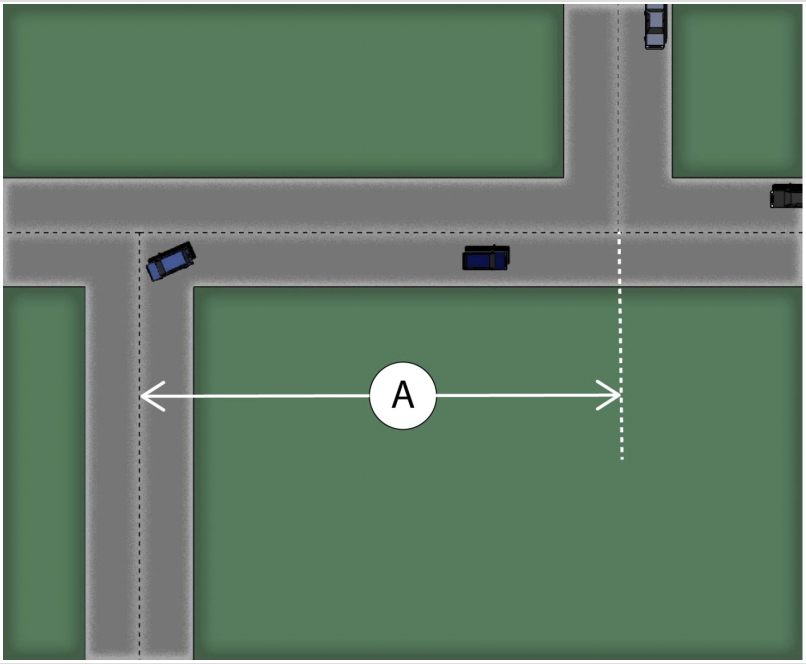


FIGURE NOTES:
A = 125 feet

(e) **Intersections**.

(6) *Generally.* Streets should be designed to intersect at right angles where practical, but shall not, in any case, intersect at an angle of less than 75 degrees. A bent street shall be curved approaching an intersection and shall be approximately at a right angle to the other street for at least 50 feet from the intersection, as depicted in Figure 14.03.202-2, *Minimum Intersection Approach*. No more than two streets shall intersect at any one point.

(7) *Curb Radius*. At each street intersection, the right-of-way line at each block corner shall have a 15-foot by 15-foot angled cut-off at street intersections. Any collector or thoroughfare designated street intersecting another thoroughfare or freeway designated street shall have a 30-foot by 30-foot angled cut-off at the street intersections.

(8) *Grade*. Intersections shall be designed with a flat grade wherever practical.

(9) *Sight Distance*. Intersections shall be planned and located to provide as much sight distance as possible and shall meet the visability triangle provisions in Section 14.01.400, *Measurements and Allowances*. Consideration shall be given to both the vertical and horizontal planes. Stopping sight distance shall be provided as the minimum sight distance for all approaches. A subdivider shall remove all earth banks, existing vegetation, etc. that limit this sight distance.

(10) *Intersection with State or Federal Highway*. The design of an improvement of an intersection of any new City-maintained street with an existing state or federal highway shall be in accordance with the specifications of the Texas Department of Transportation (TxDOT), but in no case shall the standards be less than the applicable City specifications and the requirements of this ULDO.

Figure 14.03.202-2, *Minimum Intersection Approach*

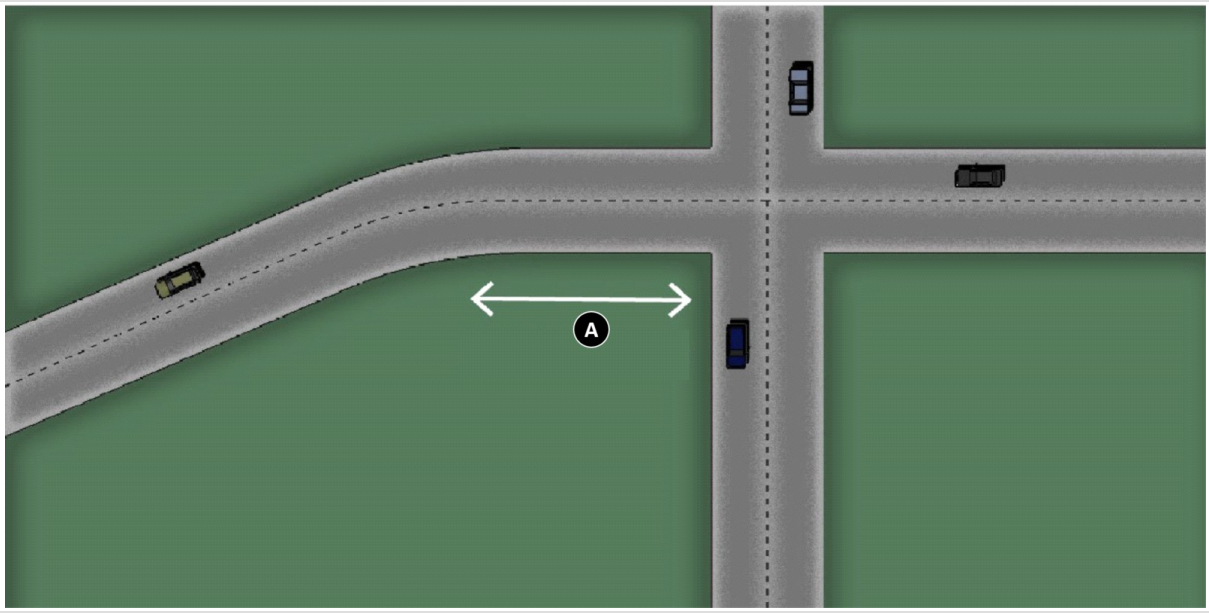


FIGURE NOTES:
A = 50 feet

(f) **Cul-De-Sacs.**

(11) *Maximum Street Length*. Cul-de-sac streets shall not be more than 400 feet in length. The length of the cul-de-sac shall be measured along the centerline of the cul-de-sac street from a point beginning at the intersection of the cul-de-sac street and the intersecting street to its furthest point from the point of the beginning. See Figure 14.03.202-3, *Maximum Cul-De-Sac Length*.

(12) *Terminating Radius*. The terminating end of a cul-de-sac shall have a minimum radius of 50 feet to the edge of the curb (not including the required right-of-way).

Figure 14.03.202-3, *Maximum Cul-De-Sac Length*

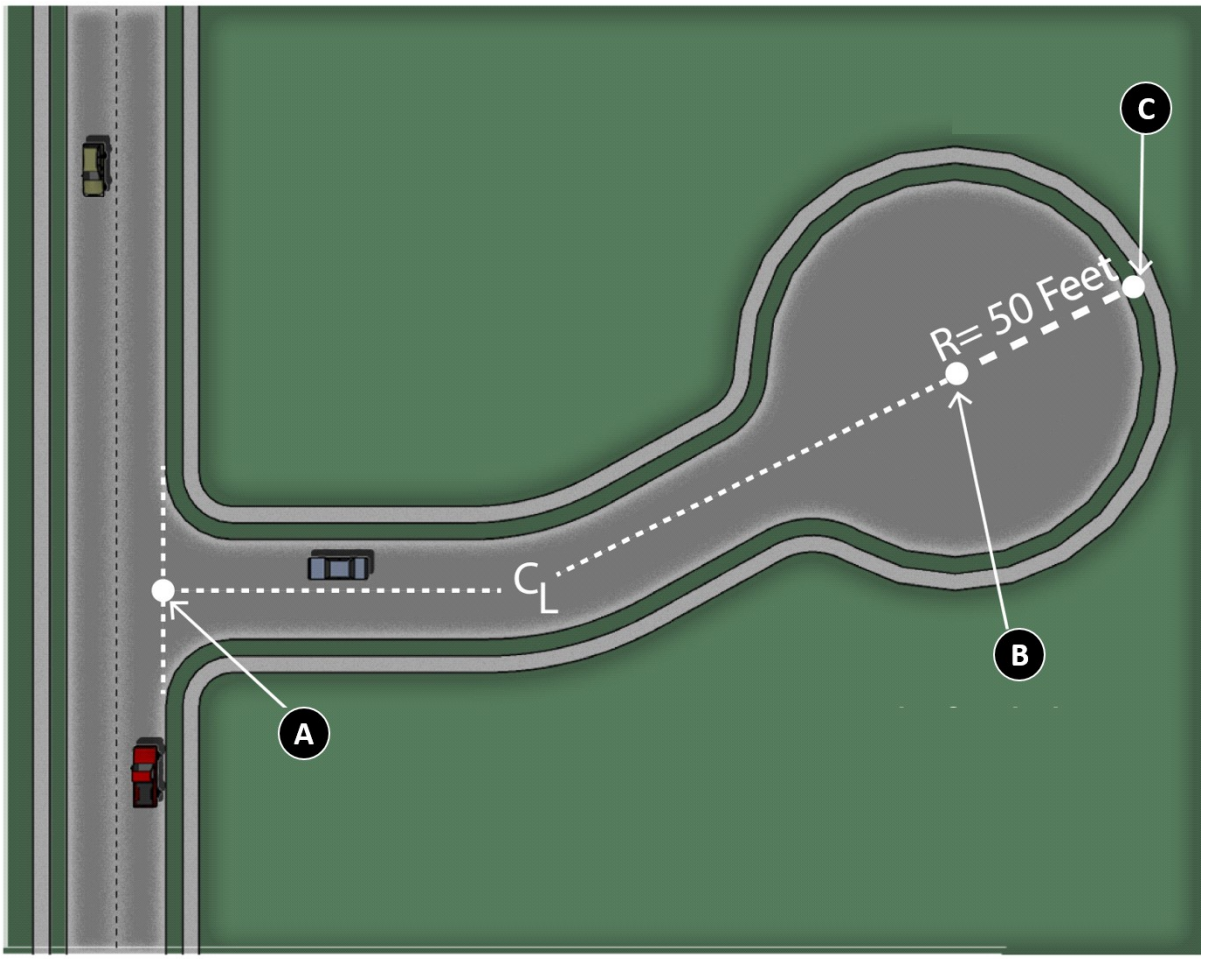


FIGURE NOTES:
A = Point of beginning at intersection of cul-de-sac and intersecting street | B = End of cul-de-sac length measurement at center of turnaround | C = Farthest point from the point of beginning

(g) **Dead-End Streets**. Dead-end streets are prohibited, except in instances where the street is terminated by a cul-de-sac or where the street is designated to be extended into adjacent property. Streets designated for extension into adjacent properties shall be fully constructed to the boundary of the development parcel. Temporary termination of any street designed to service a buildable lot is prohibited.

(h) **Half-Streets**. Half streets shall be avoided, except for:

(13) *Essential for Development*. Where they are essential for reasonable development of a subdivision in conformity with the other requirements of this ULDO; and,

(14) *Adjoining Property*. When the Planning and Zoning Commission finds that it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided.

(i) **Grades**.

(1) *All Streets*. All streets shall have a minimum grade of at least one-half percent.

(2) *Major Streets.* Major streets shall have a maximum grade of five percent unless steeper grades are required by the natural topography, in which case a seven and one-half percent grade may be used for a maximum continuous distance of 200 feet.

(3) *Secondary Streets*. Secondary streets shall have a maximum grade of seven and one-half percent.

(4) *Minor or Local Residential Streets.* Minor or local residential streets shall have a maximum grade of 10 percent.

(5) *Grade Changes*. Centerline grade changes with an algebraic difference of more than two percent shall be connected with vertical curves of sufficient length to provide a minimum sight distance of:

(A) No less than 200 feet on all streets;

(B) 600 feet on major streets; or,

(C) 400 feet on secondary streets and minor or local residential streets.

(6) *Cross Slopes*. Whenever a cross slope is necessary or desirable from one curb to the opposite curb, such cross slopes shall not be less than three inches in 30 feet nor more than 12 inches in 30 feet.

(j) **Street Signage and Traffic Control Devices**. The subdivider shall be responsible for the installation of all required street signs and traffic control devices, such signage and traffic control devices shall conform to the Texas Manual on Uniform Traffic Control Devices (TMUTCD).

(k) **Mailboxes.** Consideration to the location of property lines in relation to pavement widths shall be given for the placement of mailboxes to allow the mail carriers' vehicles to remain on the pavement surface while accessing the mailboxes.

Effective on: 8/9/2022

Subsection 14.03.203 Street Cross Sections

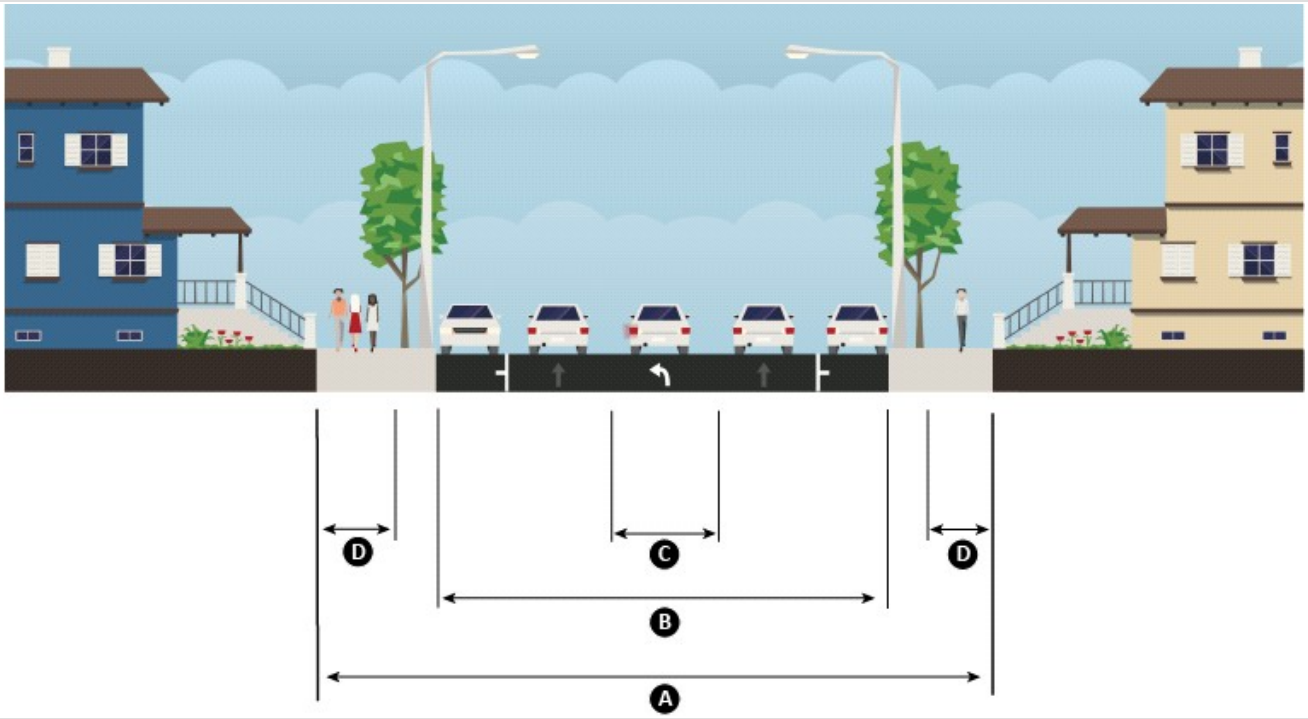
(a) **Right-of-Way and Pavement Widths.**

(1) Right-of-way dimensions shall conform to those set out in Table 14.03.203-1, *Right-of-Way Widths*.

(2) Where additional right-of-way is needed to obtain vertical curve, grade, sight distance triangles, turn lanes, or medians, the required right-of-way shall be adjusted to the extent necessary in accordance with local needs, as determined by the Director of Planning and Development (Director).

(b) **Street Pavement Width Measurements**. The required minimum street pavement widths shall be measured from the back-of-curb structure to the back-of-curb structure and shall include the entire curb rise and gutter portions of each structure.

Table 14.03.203-1, *Right-of-Way Widths*



Road Classification	Minimum Right-of-Way Width Required (A)	Minimum Pavement Width Required / Number of Lanes (B)	Turning Lane[2] / Median (C)	Sidewalk Width (D)
Major Street	75 Feet	55 Feet / 5	11	6 feet
Collector Street	55 Feet	33 Feet / 3	11	6 feet
Minor and Local Streets	50 Feet	31 Feet[1] / 2[3]	--	5 feet

TABLE NOTES:
-- = Not required
1. Curvilinear streets shall be increased to 40 feet in width.
2. The turning lane may contain a planted median at intervals approved by the City Engineer.
3. May provide a nine-foot wide parking lane on one side of street.
Source of Graphic: SteetMix.net

Effective on: 8/9/2022

Subsection 14.03.204 Street Names and Streetlights

(a) **Street Names.**

(1) *Required*. All streets shall have street signs located at all intersections with the name, suffix, and prefix visible and in conformance with the current Texas Manual on Uniform Traffic Control Devices, as amended.

(2) *New Streets*. New streets shall not duplicate existing street names.

(3) *Extensions of Existing Streets*. Existing street names shall be used in those instances where a new street is a direct extension of an existing street or a logical extension. The use of the same street name shall continue along any continuous right of way, so long as there are unique names for each intersection.

(4) *Suffixes*. Street name suffixes such as court, circle, or loop should be designated on streets that are cul-de-sacs or in a configuration of a loop street.

(5) *Prefixes*. Street name prefixes such as north, south, east, and west may be used to clarify the general location of the street; however, such prefixes shall be consistent with the existing and established street naming and address numbering system of the general area in which the street is located.

(6) *Naming and Continuation*. Alphabetical and numerical street names (for example, Avenue A or 1st Street) shall not be designated, except in those instances where such street is a direct extension of an existing street of the same name and is not a duplicate street name.

(7) *Street Name Change*. No street name, once designated, may be changed except by City ordinance.

(8) *Intersections*. Four-way street name signs shall be provided at all intersections.

(b) **Streetlights.**

(1) *Private Streets.* In any development with private streets, the Director shall review the lighting plan for adequacy regarding safety and ease of pedestrian and vehicular access. Generally, standards for private street lighting shall be the same as for public streets.

(2) *Streetlight Design.* The following streetlight requirements apply to private streets.

(A) *Location*. Streetlights shall be installed at all street intersections, at the end of all cul-de-sac, and at all significant changes in direction of the roadway. In addition, streetlights shall be installed at varying intervals along straight roadways in accordance with the intensity of illumination chosen.

(B) *Electrical Service*. Internal electrical service to the streetlights is not required to be located underground for all new subdivisions but is preferred. For redevelopment properties with existing overhead electrical services, the service may be provided by overhead and the streetlight mast arms may be mounted on the power poles provided that the required lighting intensity is maintained.

Effective on: 8/9/2022

Subsection 14.03.205 Blocks

(a) **General Layout.** The lengths, widths, and shapes of blocks shall conform to the:

(1) *Adequate Building Sites*. Ability to provide adequate building sites suitable to the specific needs and requirements of the proposed zoning district and type of use contemplated;

(2) *Surroundings*. Limitations and opportunities of soils, natural resources, topography, uses, or features that bound the parcel proposed for development;

(3) *Mobility and Accessibility*. Need to provide for mobility and accessibility for people who use alternative modes of transportation; and,

(4) *Safety*. Need for convenient access, circulation, control, and safety of street traffic.

(b) **Dimensions**.

(1) *Length*.

(A) *Minimum*. All blocks shall have a minimum length of at least 300 feet.

(B) *Maximum*. All blocks shall have a maximum length of 1,600 feet.

(2) *Depth*. Blocks shall be deep enough to allow two tiers of lots. The total depth of the block shall be at least equal to the distance required to accommodate two lots with abutting rear property lines in the subdivision's underlying zoning district as stated in Section 14.01.200, *Base Districts and Standards*, except where reverse frontage lots are located along a major or collector street or where such an arrangement is prevented by the size or other inherent site conditions on the property.

(3) *Measurement*. Block length is measured along the exterior side lot lines of the end lots, as depicted in Figure 14.03.205-1, *Block Length and Depth Measurement*. Block depth is measured along the shorter end of the block from one front lot line to the front lot line of the lot to the rear.

Figure 14.03.205-1, *Block Length and Depth Measurement*

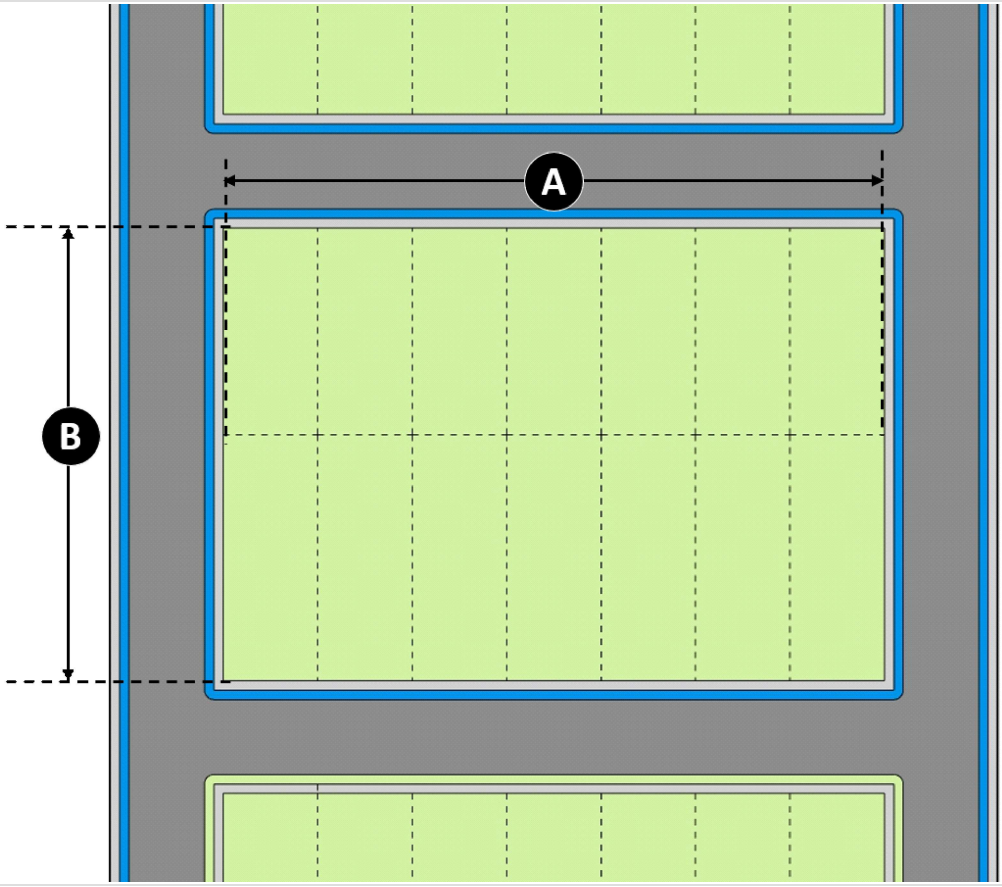


FIGURE NOTES:
A = Block length measurement from exterior side lot line to exterior side lot line | B = Block depth measured from front lot line to front lot line.

Effective on: 8/9/2022

Subsection 14.03.206 Lots

(a) **Generally.**

(1) *Specific Regulations by Zoning District*. New lots shall be dimensioned according to the requirements of Section 14.01.200, *Base Districts and Standards*. The size, shape, and orientation of lots shall be appropriate to the district in which they are located, the location of the proposed development, and the type of development contemplated.

(2) *Platting Required*. Lots are required to be platted unless specifically exempted by this ULDO. Lots shall be of appropriate size and arrangement to provide for adequate off-street parking, loading facilities, landscaping, and other required site improvements or open space/bufferyard areas. No lot shall be created for any nonresidential use that has an area, width, or depth that is less than required to accommodate the use and all site requirements under this ULDO.

(b) **Shape.**

(1) *Side Lots Lines*. Side lot lines shall be approximately at right angles to the centerlines of abutting streets. Alternative configurations may be approved in order to accomplish a public purpose, such as the preservation of natural resources or to optimize the use of the land in question.

(2) *Corner Lots.* Corner lots shall have the width necessary to allow for the construction of structures that meet the required setbacks from both streets. Corner lots shall allow for the dedication of a radius at the intersection that meets the specifications as adopted by the City or as required by the Director of Planning and Development (Director).

(c) **Access and Frontage.**

(1) *Residential Lots (Except Multi-Family and Mixed-Use Districts).*

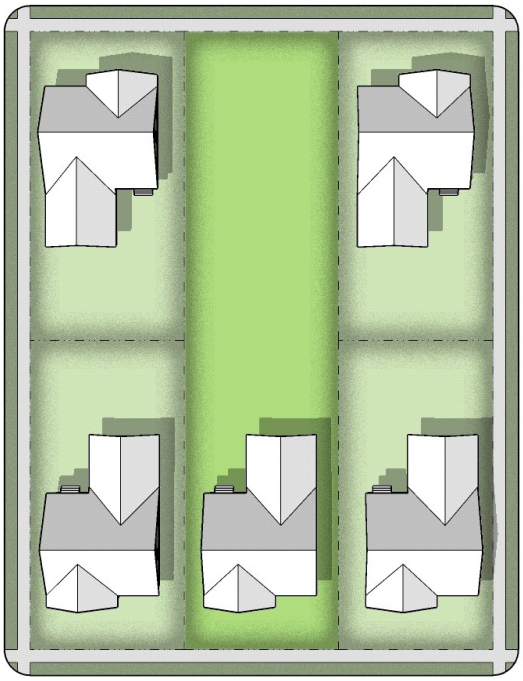
(A) Generally, new single-family detached and single-family attached dwellings shall front only on local streets. Alternatively, such lots may front on common open spaces, provided that vehicular access is taken from an alley.

(B) Manufactured home lots shall front only on local streets.

(2) *Nonresidential, Mixed-Use, and Multi-Family Lots*. Nonresidential, mixed-use, and multi-family lots that take access from collector or major streets shall provide adequate on-site maneuvering areas for automobiles to turn around.

(d) **Through Lots.** Through lots, as depicted in Figure 14.03.206-1, *Through Lot,* for single-family detached and single-family attached dwellings are not permitted.

Figure 14.03.206-1, *Through Lot*



Effective on: 8/9/2022

Subsection 14.03.207 Easements

(a) **Generally**. During the development review process, the City may require a variety of easements on private property or lots. These easements may include, but are not limited to the following purposes:

(1) Pedestrian access;

(2) Solid waste removal;

(3) Fire protection or hazard mitigation;

(4) Access to public utilities or drainage areas;

(5) Utilities;

(6) Drainage; and,

(7) Streetlighting.

(b) **Utility Easements**.

(1) *Common Lot Lines*. Easements across lots or centered on rear and side lot lines shall be provided for utilities where necessary and shall be a minimum of 15 feet wide with seven and one-half feet placed on each individual property.

(2) *No Common Lot Line*. Easements located on rear lot lines where no common lot line exists shall be a minimum of 15 feet in width.

(c) **Water and Wastewater Easements**. Easements required for water and wastewater utilities shall be a minimum of 20 feet in width in the right-of-way adjacent to the front property line or as otherwise specified by the City.

(d) **Drainage and Stormwater Easements**. Where a subdivision is traversed by a watercourse (or drainage way), there shall be provided a stormwater or drainage easement conforming substantially with lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose and approval by the City.

(e) **Pedestrian Access Easements.** Except for subdivisions where all lots are greater than five acres, the subdivider shall provide the following pedestrian access easements across a maximum of two tiers of lots. A pedestrian access easement shall be a minimum of 10 feet in width and shall include an all-weather surface with a minimum width of five feet.

(1) *Mid-block Pedestrian Connections*. The subdivider shall provide mid-block connections in the form of a pedestrian access easement to bisect blocks greater than 800 feet in length, where such blocks abut an arterial or collector street. In addition, the subdivider shall provide such mid-block connections to establish linkages to common facilities, such as parks, open areas, and public and civic uses.

(2) *Cul-de-Sac Turnaround Pedestrian Connections*. The subdivider shall provide a pedestrian access easement that connects the cul-de-sac turnaround to existing or proposed sidewalks, trails, and common facilities, as depicted in Figure 14.03.207-1, *Pedestrian Connections*.

Figure 14.03.207-1, *Pedestrian Connections*



(f) **Encroachments and Removal of Encroachments**. No structures or permanent encroachments shall be allowed to be located within the area of any easement required by this Subsection. The City or utility provider benefiting from the easement will make efforts to minimize disturbances; however, both shall have the right to remove any encroachment, structure, fence, landscaping (including overhanging limbs, shrubbery, or vegetation), or other improvements placed upon or over such easement. The City and/or utility provider shall not be obligated to restore or replace any such encroachment but shall restore any disturbed ground surfaces with seeding. The City may assess the cost of removing an unauthorized improvement from an easement against the landowner, including the placing of a lien on the property.

(g) **Maintenance of Easements**. The responsibility for the regular maintenance of the ground surface (meaning mowing and removal of trash) in any easement shall rest with the owner of the property within which the easement exists.

Effective on: 8/9/2022

Subsection 14.03.208 Sidewalks and Accessibility

(a) **Generally.** Concrete sidewalks are recommended along all public and private streets.

(b) **Width.** See Subsection 14.03.203, *Street Cross Sections,* for sidewalk widths based on street classification.

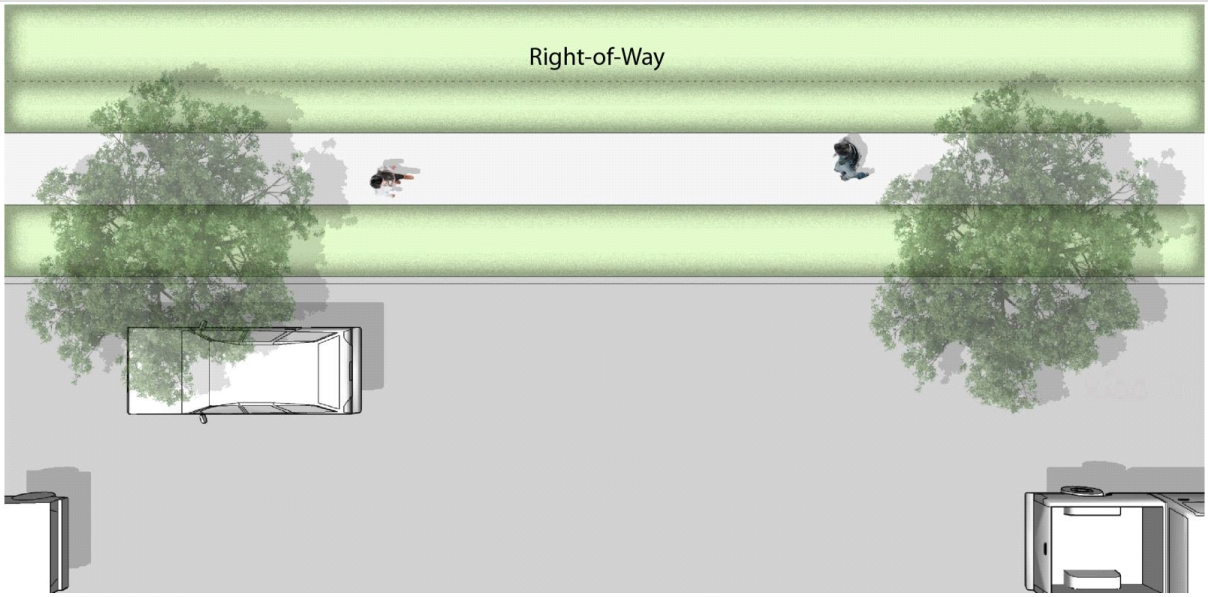
(c) **Location of Sidewalks.**

(1) Sidewalks shall be provided between the right-of-way line and the edge of pavement, as depicted in Figure 14.03.208-1, *Sidewalk Location*.

(2) Sidewalks may meander in the right-of-way in order to protect the root systems of mature trees provided that no sidewalk is located closer than three feet to the edge of pavement if no curb is present. A meandering sidewalk may periodically directly abut the curb. This arrangement shall not reduce the right-of-way width requirement.

(3) Sidewalks may also be installed in pedestrian access easements where adequate public right-of-way is not available.

Figure 14.03.208-1, *Sidewalk Location*



(d) **Crosswalks Required**. Where sidewalks are present crosswalks are required at the intersections of the following classifications of streets:

(1) Major and major;

(2) Major and collector street;

(3) Major and minor;

(4) Collector and collector; and,

(5) Collector and minor.

(e) **Construction Standards.**

(1) *Slope*. Sidewalks shall be made to slope toward the curb, with a maximum cross-slope of one inch of fall for every four feet of width, measured across the required width of the sidewalk (two percent grade).

(2) *Curb Ramps*. Wheelchair ramps shall be provided at all necessary intersections and as required by the Texas Department of Licensing and Regulation and the Americans with Disabilities Act.

(3) *Sidewalk Construction*. Sidewalks are to be constructed of 2,500 psi concrete, minimum four inches thick with trowel joints four feet on center and half-inch expansion joints at all drive edges and intermediate locations not exceeding 40 feet, and shall have a light sweep finish.

(f) **Alternative Sidewalk or Trail Plan**. A subdivider may achieve alternative compliance with the standards of this Section upon approval by the Planning and Zoning Commission of an alternative sidewalk or trail plan that provides equal or greater pedestrian circulation. The subdivider shall submit such plan at the time of the preliminary plan review. The Planning and Zoning Commission may approve such plan if better pedestrian and bicycle access and connectivity are provided through the use of off-street trails or multi-use pathways that connect to sidewalks or off-street trails or multi-use pathways on the perimeter of the parcel proposed for development.

Effective on: 8/9/2022

Subsection 14.03.209 Public Water Systems

(a) **Generally**.

(1) *Size*. Water systems shall be of sufficient size to furnish adequate domestic water supply and to furnish adequate fire flows to all lots. All water supply, distribution, pumping, and storage improvements shall be designed, installed, and constructed in accordance with current American Water Works Association (AWWA) Standards as approved and published by the AWWA, the specifications as adopted by the City or as required by the Director of Utilities and the Texas Commission on Environmental Quality.

(2) *City Limits*. All lots in any subdivision platted within the City limits shall be served by public water systems in accordance with the provisions of this Section. All lots outside the City limits shall be provided with service from an approved community water system.

(b) **Distribution System**. The water system shall be capable of supplying water to each lot in the subdivision. Any distribution system serving more than one lot shall be considered public and subject to the following:

(1) As-built drawings shall be provided to the Director of Utilities prior to refunding any deposits and prior to the acceptance of the system by the City for maintenance.

(2) The water distribution system shall be a closed-loop for all subdivisions. Dead-end lines shall be avoided unless installed to serve an area that may be developed in the future. Dead-end lines shall be provided with a two-inch blowoff valve. Valves shall be located so that the water line in each block can be shut off for leak repair or maintenance purposes.

(3) The minimum size water line permitted shall be four inches; the maximum length of a four-inch line shall be 1,000 feet or 30 lot connections, whichever controls.

(4) Water mains serving fire hydrants shall be six inches with a six-inch valve located between the fire hydrant and the water main.

(5) Water mains and valves shall be of materials as approved by the Director of Utilities.

(6) Lateral casings across streets shall be three inches and shall extend from the main to a minimum of two feet into the area between the curb and the property line and shall be located as close to the center of the lot it serves as possible. Water laterals shall not be located closer than five feet to a sewer lateral. The location of all laterals dimensioned to the nearest lot corner, shall be provided for future location by the Director of Utilities.

(7) Inspection of the water distribution system shall be made by the Director of Utilities or an authorized designated representative and shall be requested by the subdivider or his contractor prior to the backfilling of ditches.

(c) **Line Oversizing and Extensions**. All water lines shall be extended, where necessary, to the borders of the subdivision for future extensions of the distribution system and shall be valved off. The City may participate in the cost of oversizing lines required to serve land areas or improvements beyond the subdivision. Properties already served by water and wastewater shall not be required to install additional facilities unless the current lines are not of adequate capacity or standard to serve the proposed subdivision, in which case the subdivider will be required to install adequate facilities.

(d) **Fire Hydrants**. Fire hydrants shall be required to be installed in all subdivisions. Fire hydrants may be limited to specific make and models and shall conform to the minimum requirements of the State Insurance Commission and are subject to the approval of the Director of Utilities. Fire hydrants in residential areas shall be placed a minimum of 750 feet from any lot in the subdivision as measured along any public right-of-way or easement, which is open and unobstructed; or located such that a circle with a radius of 500 feet will intersect the circle with a radius of 500 feet of the next nearest fire hydrant.

(e) **Timing of Installation**. Water lines shall be installed to serve all lots within the proposed subdivision under the provisions of CHAPTER 13, *Utilities*, of the City's Code of Ordinances and shall be constructed in compliance with the specifications as adopted by the City or as required by the Director of Utilities.

Effective on: 8/9/2022

Subsection 14.03.210 Public Wastewater Systems

(a) **Generally**.

(1) *Compliance.* Public wastewater improvements shall be designed and constructed in accordance with this ULDO, the Director of Utility's requirements, the Texas Commission on Environmental Quality (TCEQ), and any other regulatory agency with jurisdiction.

(2) *Required.* All lots in any subdivision platted within the City limits shall be served by public wastewater systems in accordance with the provisions of this Section. All lots outside the City limits shall be provided with approved community wastewater systems if City services are not available.

(b) **Minimum Standards**.

(1) *Minimum Size*. A wastewater collection main shall have a minimum inside diameter of six inches. Larger lines may be required, depending on the demand, the size of the service area, and the requirements of the Director of Utilities.

(2) *Line Oversizing and Extensions.* All public wastewater systems shall be designed to serve both the subject property and the full sewer shed area tributary to the sewer system. Where necessary, sewer lines shall be extended to the borders of the development to allow for future extensions of the collection system. The City may participate in the cost of any oversizing of lines required to serve land areas or improvements beyond the development. Properties already served by wastewater systems shall not be required to install additional facilities unless the current lines are not of adequate capacity or standard to serve the proposed development, in which case the subdivider will be required to install adequate facilities.

(3) *Manholes*. Manholes shall be placed at least every 400 linear feet or when there is a change in grade, line size, elevation, or direction as determined by TCEQ standards.

(4) *Alignment*. Wastewater lines shall be designed with straight alignments.

(5) *Surface Water and Nondomestic Waste Prohibited*. No connection shall be made to any wastewater system within the City that permits the entrance of surface water or waste of other than domestic sewage characteristics without the specific authorization by the Director of Utilities.

(6) *Backfill*. All lines, including all service laterals, shall be installed and backfilled below proposed paved areas to City specifications prior to compaction of subgrade and placement of the paving.

(7) *Lifts Stations*. Lift stations shall be designed to the standards of Texas Administrative Code Chapter 217, *Design Criteria for Domestic Wastewater Systems*. The subdivider shall provide a site plan including, but not limited to, the following relevant information: overall site size, wet well location, electrical panel location, paved areas, service drop location, and location of fences.

(8) *Testing*. The subdivider shall provide the following tests to the Director of Utilities or authorized representative present during testing: hydrostatic test for force mains, low air pressure test for gravity sewer, standing for gravity sewer, deflection test for gravity sewer, and vacuum test for manholes. The subdivider shall submit all testing results in writing to the Director of Utilities.

(9) *Public Easements*. All public sanitary sewer facilities shall be placed in public easements as specified in Subsection 14.03.207, *Easements*.

(c) **Individual Sewer Service Connections**.

(1) *Timing of Installation.* Service connections (sewer "taps") shall be appropriately sized and installed and marked by stake for each building in a development at the time of construction of sewer improvements.

(2) *Location*. The final location of all sewer service connections shall be dimensioned to the nearest lot corner and shall be provided for future location by the Director of Utilities.

(3) *Duplex, Multiplex, and Apartment Dwelling Units*. Individual sanitary sewer service connections shall be installed for each dwelling unit in a duplex, multiplex, or apartment. Buildings containing more than two dwelling units may provide a common sewerage collection system from the building. Each service connection shall serve only one building ("sharing" of service connections is prohibited).

(4) *Individual Service Connections.* The individual service connections shall be a minimum of four inches inside diameter and may extend to a common building sewer system or individually to the public sewer. A manhole connection to the public sewer is required for all service connections greater than four inches inside diameter.

(5) *Cleanout*. A cleanout shall be provided at the right-of-way/property line on all service connection lines.

Effective on: 8/9/2022

Subsection 14.03.211 Storm Drainage

(a) **Generally.** Drainage facilities shall be designed and constructed in accordance with this Section, the City's Master Drainage Plan, and the specifications as adopted by the City or as required by the Director of Planning and Development (Director). Other hydrologic and hydraulic design methods may be used to satisfy drainage requirements with prior approval by the Director of Public Works.

(b) **Drainage Improvements Required**. The subdivider shall provide new drainage facilities or the improvement of existing drainage facilities to provide for the storm water drainage needs of the subdivision, in accordance with the requirements of this Subsection and as necessary to:

(1) *Conveyance to Discharge Point*. Provide for the conveyance of all storm water from the subdivision when fully developed to an adequate discharge point;

(2) *General Purpose*. Fulfill any purpose for which the requirements of this Section are imposed;

(3) *Protection*. Adequately protect the subdivision and adjacent properties from flooding, including the effects of the one-hundred-year rainfall event;

(4) *Post-Development*. Ensure that the runoff after development during the one-hundred-year rainfall event shall not be greater than prior to development and shall not negatively impact downstream property or neighboring property;

(5) *Upstream or Downstream Stage*. Properly control any increase in the upstream or downstream stage, concentration, or water surface elevation and erosion caused by the subdivision; and,

(6) *Off-Site Drainage*. Provide for the conveyance of off-site storm drainage based on ultimate developed watershed conditions through the subdivision.

(c) **Discharge Points**. All drainage improvements shall be terminated at a discharge point approved by the City. Such discharge point, or outlet, shall be designed and constructed to prevent damage to or overflowing into adjacent property. The City may require creek improvement, channel lining, energy dissipaters, or other low-impact improvements for such outlet to prevent erosion or increase the flow capacity.

(d) **Off-Site Drainage**. Off-site drainage facilities and improvements shall be provided by the subdivider whenever additional storm water runoff from the subdivision would adversely affect any off-site property or overload an existing drainage facility, whether natural or manmade. The on-site runoff shall not be discharged onto adjacent properties, except into existing creeks, channels or storm drains, unless the subdivider obtains drainage or

flowage easements from those properties. If the subdivider cannot obtain the necessary easements to make required off-site drainage improvements, upon request of the subdivider, after compliance with the provisions of this Section, the City may bring condemnation proceedings to obtain the off-site drainage easements.

(e) **Floodplains**. Where this Section requires a subdivision to make any drainage improvements in or adjacent to a floodplain to provide for the base flood, the subdivider with approval of the City may restrict development in the area subject to flooding in-lieu of making the required improvements. In such cases, the area to be left undeveloped shall be dedicated to the public as a drainage or conservation easement on the final plat.

(1) *Floodplain Restrictions*. The Floodplain Administrator shall, when it deems necessary for the health, safety, or welfare of an area and necessary for conservation of water, drainage, and sanitary facilities, or where prohibited in Section 14.04.100, *Flood Damage Prevention*, prohibit development of any portion of the property which lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from all destruction or damage resulting from clearing, grading, or dumping of earth, waste, tree stumps, or any other related material.

(2) *Creek Restrictions*. Major creeks shall remain in open natural condition; the subdivider may channelize smaller creeks or drainage ways upon approval by the City provided they meet the criteria of the Master Drainage Plan and the specifications as adopted by the City or as required by the Director. When a creek or excavated channel is to remain open, or in its natural state, the subdivider shall dedicate a drainage or conservation easement to the City.

(f) **Floodways and Improvements**.

(1) *Floodways Serving Large Drainage Areas*. Generally, floodways serving drainage areas larger than one square mile in area and that are still functioning primarily in a natural and adequate state shall not be altered to provide for the drainage needs of a subdivision, unless there is no other reasonable means or method to provide for such drainage.

(2) *Clearing*. As part of the required improvements, debris, small brush, vines, and other obstructions may be cleared for that portion of any channel located within or on the perimeter of the subdivision, as directed by or upon approval of the Director, prior to the connection of any utilities. The Director may require the subdivider to provide clearing of off-site floodways to the extent necessary to adequately receive or convey stormwater runoff from the subdivision, based on the roughness coefficient calculation during the design process for the final plat.

(g) **Site Erosion Control**. To minimize erosion resulting from the removal of vegetation and to reduce the introduction of erosion materials into the storm drainage systems, all subdivisions shall make use of erosion and sediment control devices in accordance with the recommendations in this ULDO and as directed by the Director. The erosion and sediment control devices shall be installed and maintained until sufficient vegetation cover has been provided or has been replaced to control erosion and sediment, as directed by the Director.

(h) **Separation of Stormwater and Wastewater Systems**. Stormwater and wastewater systems shall be used and maintained as separate systems. Drainage facilities shall be designed so they do not connect, direct, or allow stormwater into the wastewater system.

(i) **Street Access Crossing Channels**. No subdivision shall be designed to access a public street across a channel without providing adequate clearance for the channel under design storm conditions as required by the Director.

(j) **Storm Drainage Requirements**. The size of all drainage structures shall be designed using the "rational method." Drainage structures shall be constructed in such locations and of such size to adequately serve the subdivision and the contributing drainage area. The subdivider shall provide all the necessary easements and rights-of-way inside the subdivision or outside the subdivision for drainage structures, including storm sewers and open or lined channels. Easements for drainage structures shall be at least ten feet wider than the structure.

(k) **Open or Lined Drainage Channels.** Drainage channels, when required, shall conform substantially to the line of the existing watercourse and shall be constructed to extend through the subdivision. All open or lined drainage channels shall have a minimum bottom width of two feet and a depth based on maximum design flow. Side slopes of channels shall not be steeper than one foot vertical to two feet horizontal distance. Concrete channels may have vertical sides if approved by the Director.

(l) **Storm Sewers**. Water in excess of what gutters will carry at maximum design flow shall be diverted into storm sewers or channels.

Effective on: 8/9/2022

Subsection 14.03.212 Markers and Monuments

(a) **Generally**. The subdivider's registered professional land surveyor shall provide reference monuments and markers in the subdivision, based on the Texas Coordinate System of 1983, North Central Zone.

(b) **Permanent Markers**. The surveyor of record shall install permanent markers at all corners of block lines, control points, and at the points of curvature. Such markers shall be iron rods or pipes of magnetic quality a minimum of one-half inch in diameter and 14 inches in length. The surveyor shall place the rod below the finished grade, at the required locations.

(c) **Control Points**. Control points are any property corner of any tract, parcel, or lot which is not square or rectangular.

Effective on: 8/9/2022

Section 14.03.300: Public Improvements Dedication and Acceptance

Subsection 14.03.301 Dedication of Improvements

(a) **Generally**. This Subsection applies to dedications of land, public improvements, infrastructure, and related appurtenances or easements required for the development of property in the City and the extraterritorial jurisdiction.

(b) **Dedication of Land and Public Improvements.**

(1) *Required*. Dedication to the City shall be required for all land, public improvements, infrastructure, and related appurtenances, easements, or rights-of-ways.

(2) *Approval*. All public improvements in a subdivision shall be shown on the plat.

(A) Previous approval of a subdivision shall not constitute an acceptance by the City of the roads, streets, alleys, or other public lands as indicated for dedication on the plat.

(B) The dedication of any of these lands for public use of any nature within the City shall be accepted by the City only by specific action of the City Council.

(3) *Form of Dedications***.** All dedications shall be made by a legal instrument approved as to form by the City. Other dedications shall be shown on the site plan or plat unless the City determines that another form of dedication (for example, a recorded easement) is more appropriate.

(4) *Method of Dedication*. Dedication of public facility sites and land areas shall be made at the time of final platting in one of any combination of the following ways:

(A) By dedicating to the City in fee simple, on the final plat; or,

(B) By granting the land areas in fee simple on general warranty deeds to the City.

Effective on: 8/9/2022

Subsection 14.03.302 Installation and Guarantees

(a) **Generally**. In lieu of the completion of required public improvements, before the final plat is recorded, the subdivider may submit a performance bond guaranteeing the completion of construction of these improvements. Any surety bond is subject to approval as to form by the City.

(b) **Form**. The performance bond shall be in the form of a cash deposit, surety bond, or irrevocable letter of credit. The bond shall be in an amount equal to or greater than the estimated cost plus 10 percent needed to complete the construction of the required improvement.

(c) **Letter of Credit**. The irrevocable letter of credit shall be on a form with the bank's letterhead and in a format approved by the City.

(d) **Accompanying Documents**. The bond shall be accompanied with a copy of the construction contract for the required improvements and planned cut and fill activity or an estimate provided by the subdivider's engineer that is approved by the Director of Planning and Development (Director). The Director shall have the authority to require a different bond amount if there is a question or disagreement about the cost necessary to complete the construction of the required improvements. The Director shall utilize current bid prices received on City projects or unit prices known on current improvements in other new subdivisions as the basis for requiring a different bond amount.

(e) **Other Improvements**. If the subdivider is installing or constructing any of the other improvements required by this Article not related to water, sewer, paving, or drainage, a bond in lieu of those improvements may be allowed if approved by the department director responsible for those installations.

Effective on: 8/9/2022

Subsection 14.03.303 Acceptance.

(a) **Construction Inspections**.

(1) *Engineer and Contractor Duties*. The subdivider's engineer shall design, stake, and help interpret the plans during the construction of improvements. The subdivider's contractor shall construct the improvements in accordance with this Article and approved construction plans. The subdivider, engineer, and contractor, as appropriate, shall maintain regular contact with the appropriate departmental director during the construction of improvements.

(2) *City Inspection*. The appropriate City departmental director shall inspect any and all phases of construction.

(3) *Stop-Work Order.* The Director of Planning and Development (Director) may, at any time, issue a stop-work order when, in his or her judgment, the requirements of this Article, the specifications as adopted by the City, or as required by the Director and/or another appropriate departmental director have been violated.

(4) *Activities Requiring Director's Approval*. None of the following shall take place without the approval of the Director:

(A) Covering of wastewater, water, or storm sewer pipe;

(B) Application to the street subgrade of flexible base material, subgrade material, or stabilization; or,

(C) Pouring of concrete or application of asphaltic surface to the street base.

(b) **Procedure for Acceptance.**

(1) *Request for Inspection and As-Built Drawings*. When construction of the required improvements is complete, the subdivider's licensed professional engineer shall notify the Director and request an inspection of the work. The subdivider's engineer shall provide to the City one complete set of as-built documents of all improvements that have been constructed.

(2) *Initial Inspection*. The Director and/or another appropriate departmental director shall inspect the improvements and issue a punch list of any deficiencies.

(3) *Scheduling Final Inspection*. The subdivider shall schedule a final inspection within 60 days of the initial inspection or a complete reinspection may be required along with a new punch list of deficiencies.

(4) *Preliminary Acceptance*. After any deficiencies have been corrected and a final inspection has been satisfactorily completed, the City shall accept the improvements.

(5) *Rejection*. If the City rejects any or all of the improvements and if the subdivider fails to remedy all noted deficiencies, the City shall proceed to enforce the performance bond. The City shall not preliminarily accept any further improvements until the subdivider remedies all noted deficiencies.

(c) **Condition of Acceptance.**

(1) *Eligible Improvements*. Acceptance of the public improvements into the City maintenance system shall only constitute acceptance of roads, streets, bridges, stormwater drainage systems, water systems, wastewater systems, public open spaces, and their related appurtenances.

(2) *Ineligible Improvements*. Detention facilities shall not be accepted for maintenance by the City. Only 100-year capacity open ditch type drainage channels meeting all the requirements of this Article shall be considered for acceptance into the City maintenance system.

(d) **Release of Bond.** The City shall release the performance bond when the Director and other appropriate departmental directors have accepted all applicable public improvements into the City maintenance system.

Effective on: 8/9/2022

ARTICLE 14.04: ENVIRONMENTAL MANAGEMENT

Contents:

Section 14.04.100: Flood Damage Prevention

Section 14.04.200: Flood Hazard Reduction

Section 14.04.100: Flood Damage Prevention

Subsection 14.04.101 Statutory Authorization

The Legislature of the State of Texas has in the Flood Control Insurance Act, V.T.C.A., Water Code § 16.315 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

Effective on: 8/9/2022

Subsection 14.04.102 Findings of Fact

(a) **Flood Hazard Areas**. 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) **Flood Losses**. 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.

Effective on: 8/9/2022

Subsection 14.04.103 Purposes and Applicability

(a) **Statement of purpose.** This Section promotes the public health, safety, and general welfare and minimizes public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Ensure that potential buyers are notified that the property is in a flood area;

(3) 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;

(4) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, and sewer lines, streets and bridges located in floodplains;

(5) Minimize prolonged business interruptions;

(6) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; and,

(7) Minimize the expenditure of public money for costly flood-control projects.

(b) **Compliance.** No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Article and other applicable regulations.

(c) **Liability Disclaimer.** The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by manmade or natural causes. This Section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the City or any official or employee of the City for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

Effective on: 8/9/2022

Subsection 14.04.104 Establishment of Floodplain Requirement

(a) **Basis for Establishing the Areas of Special Flood Hazard.** The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for the City of Borger, Hutchinson County, Texas" dated February 2, 1996, with accompanying Flood Insurance Rate Map (FIRM), Community Number 480374, dated February 2, 1996, and any revisions thereto are hereby adopted by reference and declared to be a part of the City's Code of Ordinances.

(b) **Floodway Not Designated.**

(1) *General Requirement*. When a floodway has not been designated, the Floodplain Administrator shall require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRM.

(2) *Exception to General Requirement*. If it can be 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 City then the general requirement as stated in Paragraph (c)(1), above, shall be no longer be applicable.

(c) **Floodplain Development Permit.** A floodplain development permit shall be required to ensure conformance with the permit requirement of Subsection 14.06.306, *Floodplain Development Permit*.

Effective on: 8/9/2022

Subsection 14.04.105 Methods of Reducing Flood Losses

In order to accomplish its purposes, this Section uses the following methods:

(a) **Prohibited Uses**. Restricting or prohibiting uses that are dangerous to health, safety, or property in times of flood or cause excessive increases in flood heights or velocities;

(b) **Flood Protection**. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) **Grade Alterations.** Controlling the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) **Development Activities.** Controlling filling, grading, dredging, and other development which may increase flood damage; and,

(e) **Flood Barriers.** Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Effective on: 8/9/2022

Section 14.04.200: Flood Hazard Reduction

Subsection 14.04.201 Establishment of Floodplain Development Permit

(a) **Required**. A floodplain development permit, as established in Subsection 14.06.306, *Floodplain Development Permit,* for development in a floodplain is required to ensure conformance with this Section.

(b) **Application**. Application for a floodplain development permit shall be presented to the Floodplain Administrator and shall include 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. The Floodplain Administrator shall prescribe floodplain development permit application forms. The following information is also required and shall be maintained and held open for public inspection in accordance with Subsection 14.05.107, *Floodplain Administrator*:

(1) *Lowest Floor*. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures in the floodplain;

(2) *Floodproofing Elevation*. Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed;

(3) *Certificate*. A certificate from a registered professional engineer or architect that a nonresidential floodproofed structure shall meet the floodproofing criteria of Paragraph 14.04.203(c), *Nonresidential Construction*; and,

(4) *Alteration of Watercourse or Drainage*. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of the proposed development.

(c) **Approval or Denial**. Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this Article and the following relevant factors:

(1) *Danger to Life and Property*. The danger to life and property due to flooding or erosion damage;

(2) *Susceptibility to Flood Damage*. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) *Sweeping of Materials*. The danger that materials may be swept onto other lands to the injury of others;

(4) *Compatibility*. The compatibility of the proposed use with existing and anticipated development;

(5) *Emergency Access*. The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) *Costs of Governmental Services*. 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) *Expected Floodwaters*. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters, and the effects of wave action expected at the site, where applicable, are manageable;

(8) *Waterfront Necessity*. The necessity to the facility of a waterfront location, where applicable;

(9) *Alternative Locations*. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and,

(10) *Affirmative Findings*. The relationship of the proposed use to the City's Comprehensive Plan for that area.

(d) **Revocation of Floodplain Development Permit.**

(1) *Grounds for Revocation*. In addition to the remedies provided in Article 14.08, *Enforcement and Remedies*, whenever the Floodplain Administrator finds that there are grounds for revocation of a floodplain development permit, written notice shall be given to the permittee by personal service or by certified mail, return receipt requested, addressed to the applicant at the address set forth in the floodplain development permit application. That notice may require that any work on the property currently underway is required to stop immediately, that a stop order is being issued, and shall set forth:

(A) The specific grounds upon which the floodplain development permit in question may be revoked;

(B) The fact that there will be a hearing before the Floodplain Administrator in which the City will seek the revocation of the floodplain development permit;

(C) The date, time, and place of such hearing; and,

(D) The fact that the permittee may appear in person or be represented by an attorney.

(2) *Final Decision*. After completion of the presentation of evidence by all parties appearing, the Floodplain Administrator shall make written findings and render a written order as to whether or not there are grounds for revocation of the floodplain development permit. If there are such grounds, the Floodplain Administrator shall revoke the floodplain development permit. The Floodplain Administrator may take other lesser actions deemed appropriate including, but not limited to, the temporary suspension of the permit, the revision of the floodplain development permit, or the addition of conditions. A true and accurate copy of the Floodplain Administrator's order shall be personally delivered or mailed by certified mail, return receipt requested, to the permittee.

(3) *Refunds*. If a floodplain development permit is revoked, suspended, or revised by the Floodplain Administrator, the City is not liable to any person for any refund of any part of any fees.

(4) *Appeal*. The revocation, suspension, or revision of a floodplain development permit may be appealed to the City Council and upon the filing of a written application with the City Secretary within 10 days after the Floodplain Administrator's written order is rendered. An appeal of a revocation, suspension, or revision of a floodplain development permit does not temporarily suspend the Floodplain Administrator's order of revocation pending the appeal.

Effective on: 8/9/2022

Subsection 14.04.202 General Standards

In all areas of special flood hazard, the following provisions are required for all new construction and substantial improvements:

(a) **Anchoring**. 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) **Methods and Practice**. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(c) **Materials**. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(d) **Utilities**. 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) **Water Supply Systems.** All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the systems;

(f) **Sanitary Sewers**. New and replacement sanitary sewer systems shall be designed to minimize or eliminate the infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and,

(g) **On-Site Waste Disposal**. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Effective on: 8/9/2022

Subsection 14.04.203 Specific Standards

(a) **Generally**. In all areas of special flood hazard where base flood elevation data are provided, as set forth in this Subsection, the following provisions apply.

(b) **Residential Construction**. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standard of this Section, as proposed in Subsection 14.06.306, *Floodplain Development Permit*, is satisfied.

(c) **Nonresidential Construction**. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the 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 that includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(d) **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 that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(1) *Openings on Walls*. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) *Bottom of Openings*. The bottom of all openings shall be no higher than one foot above grade.

(3) *Coverings or Devices*. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(e) **Manufactured Homes.**

(1) *Zone A*. Manufactured homes in Zone A on the City's Flood Hazard Boundary Map or Flood Insurance Rate Map (FIRM) shall be installed using methods and practices that minimize flood damage. For the purpose of this requirement, manufactured homes shall 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.

(2) *Zones A1-30, AH, and AE*.

(A) Manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the City's FIRM on sites shall:

(i) Be on the site for fewer than 180 consecutive days;

(ii) Be fully licensed and ready for highway use; or,

(iii) In an expansion to an existing manufactured home park or subdivision or 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 is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(B) Manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, and AE on the City's FIRM that are not subject to the provisions of paragraph (A), above, shall be elevated so that either:

(i) The lowest floor of the manufactured home is at or above the base flood elevation; or,

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(f) **Recreational Vehicles**. Recreational vehicles placed on sites within zones A1-30, AH, and AE on the City's FIRM either:

(1) *Temporary*. Be on the site for fewer than 180 consecutive days;

(2) *Fully Licensed*. Be fully licensed and ready for highway use so that the vehicle is attached to the site only by quick disconnect type utilities and security devices on its wheels or jacking system, and has no permanently attached additions; or,

(3) *Anchoring*. Meet the permit requirements of Subsection 14.06.306, *Floodplain Development Permit*, and the elevation and anchoring requirements for manufactured homes in paragraph (e)(1), above.

Effective on: 8/9/2022

Subsection 14.04.204 Standards for Subdivision Proposals

(a) **Generally**. All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with this Section.

(b) **Floodplain Development Permit**. All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet the requirements of Section 14.04.100, *Flood Damage Prevention.*

(c) **Data Generation**. Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which are greater than 50 lots or five acres, whichever is lesser.

(d) **Adequate Drainage**. All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(e) **Utilities**. All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

Effective on: 8/9/2022

Subsection 14.04.205 Standards for Areas of Shallow Flooding (AO/AH Zones)

(a) **Generally**. Located within the areas of special flood hazard established in Subsection 14.04.104(a), *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 provisions within this Subsection apply.

(b) **Drainage Paths**. Require within Zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(c) **Certification**. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as established in Subsection 14.06.306, *Floodplain Development Permit*, are satisfied.

(d) **Nonresidential**. All new construction and substantial improvements of nonresidential structures shall:

(1) *Elevation*. Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the City's Flood Insurance Rate Map (at least two feet if no depth number is specified); or,

(2) *Watertight*. 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, 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.

(e) **Residential**. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the City's Flood Insurance Rate Map (at least two feet if no depth number is specified).

Effective on: 8/9/2022

Subsection 14.04.206 Floodways

(a) **Floodways**. Floodways are located within areas of special flood hazards established in Subsection 14.04.104(a), *Basis for Establishing the Areas of Special Flood Hazard*. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the provisions within this Subsection shall apply.

(b) **Encroachments**. 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 analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the City during the occurrence of the base flood discharge.

(c) **Increase in Base Flood Elevations**. Under the provisions of 44 CFR 65.12 of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the City first applies for a conditional Flood Insurance Rate Map and floodway revision through FEMA.

(d) **Permitted Encroachments**. If paragraphs (a) and (b), above, are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.

Effective on: 8/9/2022

ARTICLE 14.05: ADMINISTRATIVE BODIES AND PROVISIONS

Contents:

Section 14.05.100: Official and Administrative Bodies Established and Authorized

Section 14.05.200: Administrative Provisions

Section 14.05.100: Official and Administrative Bodies Established and Authorized

Subsection 14.05.101 City Council

(a) **Established**. The City Council is established in the City's Home Rule Charter.

(b) **Powers and Duties**. The City Council shall have the authority to make final decisions on the development review applications denoted in Table 14.06.210-1, *Development Review Summary Table*.

Effective on: 8/9/2022

Subsection 14.05.102 Planning and Zoning Commission

(a) **Established.** This Subsection establishes the Planning and Zoning Commission (Commission), with membership, qualifications, and terms of office in accordance with and controlled by the provisions of Texas Local Government Code Section 211.007, Zoning Commission.

(b) **Membership, Appointment, and Qualifications.**

(1) *Number of Members*. The Commission shall consist of seven members serving staggered terms of three years.

(2) *Qualifications*. All members of the Commission shall be resident citizens, taxpayers, and qualified voters of the City.

(3) *Appointment*. The members of the Commission shall be appointed by the City Council and removable for cause by the City Council upon written charges and after public hearing.

(c) **Filling of Vacancies.** All vacancies occurring for any reason within the membership of the Commission shall be filled by appointment made by the City Council and shall be for the unexpired term.

(d) **Powers and Duties**.

(1) *Matters in this ULDO*. The Commission shall have the authority to make recommendations or make final decisions on the development review applications denoted in Table 14.06.210-1, *Development Review Summary Table*.

(2) *Matters Outside of this ULDO*. The Commission shall have the following additional powers and duties. The Commission shall:

(A) Act as an advisory body to the Council relating to the widening or extension of public improvements and utilities; and,

(B) Recommend a Comprehensive Plan and amendments of the Plan to the City Council, along with any adopted special area plans and their amendments.

(e) **Officers and Staff**. The Commission shall elect a Chairperson and Vice-Chairperson at the first meeting of each calendar year. The Director of Planning and Development shall serve as Secretary to the Commission.

(f) **Quorum and Voting**. A quorum shall consist of a majority of the entire membership of the Commission, and any issue to be voted on shall be resolved by a majority of those members present. The Chairperson shall be entitled to vote upon any question, but shall have no veto power.

(g) **Meetings and Procedures**.

(1) *Frequency, Location, Date. and Time*. The Commission shall meet not less than once each month, unless there are no items for it to review. Meetings shall be held at the place, time, and date stated on the notice of meeting posted at City Hall. Meetings shall be open to the public and held in conformance with Texas Local Government Code Chapter 552, Public Information. The Chairperson may call a special meeting following required notice.

(2) *Absences*. Any member of the Commission who misses three consecutive regular meetings without a valid reason, as determined by Council, shall be deemed no longer interested in serving, and the Council shall appoint a new member pursuant to Chapter 1, Article 1.04, Division 2, *Planning and Zoning Commission*, Subsection 3 above, *Filling of Vacancies*.

(3) *Rules of Procedure*. The Commission may establish its own rules of procedure, provided that such shall not conflict with the laws applicable to the Commission or the provisions of this ULDO.

Effective on: 8/9/2022

Subsection 14.05.103 Board of Adjustment

(a) **Established**. This Subsection establishes a Board of Adjustment (BOA), with membership, qualifications, and terms of office in accordance with and controlled by the provisions of Texas Local Government Code Section 211.008, Board of Adjustment.

(b) **Membership and Appointment**.

(1) The BOA shall consist of five members, each to be appointed by resolution of the City Council for a term of two years and removable for cause by the City Council upon written charges and after a public hearing.

(2) Each member reappointed or each new appointee shall serve for a full term of two years unless removed as provided above.

(c) **Powers and Duties**. The BOA is a quasi-judicial board and shall have the authority to make final decisions on the development review applications denoted in Table 14.06.210-1, *Development Review Summary Table*.

(d) **Officers and Staff**. The BOA shall elect a Chairperson and Vice-Chairperson at the first meeting of each calendar year. The Director of Planning and Development shall serve as Secretary to the BOA.

(e) **Alternate Members and Vacancies**. The City Council may appoint alternate members of the BOA to temporarily serve in the absence of a permanent member. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. The City Council may fill a vacancy among the alternate members in the same manner as a vacancy among the regular members.

(f) **Quorum and Voting**. Each case before the BOA must be heard by at least 75 percent of the members of the entire membership of the BOA, and any issue to be voted on shall be resolved by a majority vote of those members present. The Chairperson shall be entitled to vote upon any question but shall have no veto power.

(g) **Meetings and Procedures**.

(1) *Frequency, Location, Date, and Time*. The BOA shall meet at least once each month unless there are no items to decide upon. Meetings shall be held at the place, time, and date stated on the notice of meeting posted at City Hall. Meetings shall be open to the public and held in conformance with Texas Local Government Code Chapter 522, Public Information. The Chairperson may call a special meeting following the required notice.

(2) *Absences*. Any member of the BOA who misses three consecutive regular meetings without a valid reason, as determined by Council, shall be deemed no longer interested in serving, and the Council may remove that member for cause on written charge after a public hearing. Council shall then appoint a new member to fill the vacancy for the remainder of the unexpired term.

(3) *Rules of Procedure*. The BOA may establish its own rules of procedure, provided that such shall not be in conflict with the laws applicable to the BOA or the provisions of this ULDO.

Effective on: 8/9/2022

Subsection 14.05.104 Director of Planning and Development

(a) **Generally**. For purposes of this ULDO, the Director of Planning and Development (Director) shall serve as the Administrator of this ULDO. The Director serves as a member of the City staff who is ultimately responsible for processing an application to a final decision (in case of administrative review applications) or making a recommendation to another review body (in case of all other applications). The Director may designate City staff members to manage applications through the review process, to be points of contact for applicants, and shall perform such other duties as may be required in this ULDO. The Director may also delegate review responsibilities to other members of the City staff with relevant technical training or expertise, or, as appropriate, to consultants that are authorized by the City Manager.

(b) **Powers and Duties**. The Director shall have the authority to make recommendations or final decisions on the development review applications denoted in Table 14.06.210-1, *Development Review Summary Table.*

Effective on: 8/9/2022

Subsection 14.05.105 Building Official

(a) **Powers and Duties Relative to Matters in this ULDO**. The Building Official shall have the authority to make final decisions on the development review applications denoted in Table 14.06.210-1, *Development Review Summary.*

(b) **Powers and Duties Relative to Matters Outside of this ULDO**. In addition to the powers and duties set forth above, the Building Official shall perform duties as outlined in the remainder of the City Code.

Effective on: 8/9/2022

Subsection 14.05.106 City Engineer

(a) **Delegation.** The Director of Planning and Development, in consultation with the Director of Public Works and Director of Utilities, serves as the City Engineer unless and until the City appoints another person to the City Engineer position.

(b) **Powers and Duties Relative to Matters in this ULDO**. The City Engineer shall have the authority to make final decisions on the development review applications denoted in Table 14.06.210-1, *Development Review Summary.*

(c) **Powers and Duties Relative to Matters Outside of this ULDO**. In addition to the powers and duties set forth above, the City Engineer shall perform duties as outlined in the remainder of the City Code.

Effective on: 8/9/2022

Subsection 14.05.107 Floodplain Administrator

(a) **Designation of Floodplain Administrator.** This Subsection establishes the Director of Planning and Development as the Floodplain Administrator to administer and enforce the relevant provisions of this ULDO and other appropriate sections of Code of Federal Regulations (CFR) Title 44, Emergency Management and Assistance, pertaining to floodplain management.

(b) **Powers and Duties.** The powers and duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this ULDO;

(2) Maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency (FEMA) upon request;

(3) Review permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding;

(4) Review, approve, or deny all applications for development permits required by the adoption of this ULDO;

(5) Review permits for proposed developments 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, being 33 USC 1344) from which prior approval is required;

(6) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (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;

(7) Notify, in riverine situations, adjacent communities and 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 (FEMA);

(8) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;

(9) When base flood elevation data have not been provided in accordance with Chapter 3, Section 3.12.007 of the City Code, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from federal, state, or other sources in order to administer the provisions of Chapter 3, Sections 3.12.071 through 3.12.073;

(10) When a regulatory floodway has been designated, the Floodplain Administrator shall 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; and,

(11) Under the provisions of 44 CFR 65.12 of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, and AH on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA.

Effective on: 8/9/2022

Section 14.05.200: Administrative Provisions

Subsection 14.05.201 Applicability of ULDO

No person may use, occupy, subdivide, or develop land, or use, occupy, erect or modify buildings, signs, or other structures, except in accordance with all applicable provisions of this ULDO. For purposes of this Section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Effective on: 8/9/2022

Subsection 14.05.202 Conformity with ULDO

There shall be no land used or subdivided nor structure constructed, occupied, enlarged, altered, or moved until:

(a) The designated administrative body vested with the authority to make a final decision on a development review application under this ULDO finds no conflict with any provision of this ULDO;

(b) The applicant obtains all pertinent approvals in accordance with ARTICLE 14.06, *Development Review Procedures*; and,

(c) The administrative body with the designated authority issues all required permits or authorizations to proceed.

Effective on: 8/9/2022

Subsection 14.05.203 Abrogation and Conflicting Provisions

(a) **Abrogation**. Except for those provisions of the City Code explicitly repealed upon the adoption of this ULDO, this Chapter is not intended to repeal, abrogate, or impair any existing public or private laws, easements, covenants, or deed restrictions.

(b) **Conflict**.

(1) *Public Restrictions*. The following provisions apply to laws adopted by a federal, state, or local legislative body.

(A) Where this ULDO conflicts with another local, state, or federal law, whichever the Director of Planning and Development (Director) finds imposes the more stringent restrictions controls. Where the Director finds conflicting provisions to be equally stringent, then the provision more recently adopted controls.

(B) Where the text of this ULDO conflicts with its tables or illustrative material, the text controls. Where a table of this ULDO conflicts with an illustration, the table controls.

(2) *Private Restrictions*. The City does not interpret or enforce private restrictions, including, but not limited to, deed restrictions, covenants, or private easements.

(c) **Interpretation.** In the interpretation and application of this ULDO, all provisions shall be:

(1) *Minimum Requirements*. Considered as minimum requirements;

(2) *In Favor of City*. Liberally construed in favor of the governing body; and,

(3) *State Statutes*. Deemed neither to limit nor repeal any other powers granted under state statutes.

Effective on: 8/9/2022

Subsection 14.05.204 Severability

(a) **Generally**. If a court of competent jurisdiction holds any provision of this ULDO to be illegal or invalid, the remainder of this ULDO shall not be affected.

(b) **As-Applied**. If a court of competent jurisdiction holds any application of a provision of this ULDO to a particular structure, land, or water to be illegal or invalid "as-applied", such judgment shall not be applicable to any other structure, land, or water not specifically included in the judgment.

Effective on: 8/9/2022

Subsection 14.05.205 District Designation of Annexed Territory

(a) **Generally**. If land is annexed from Hutchinson or Carson counties into the City, it shall be zoned in accordance with the Future Land Use Map as set out in the City's Comprehensive Plan. Table 14.01.201-1, *Zoning Districts*, denotes the future land use classes of the Comprehensive Plan and their associated zoning districts. Property owners may petition the City for different zoning of the property in accordance with Subsection 14.06.402, *Zoning Map Amendment*. Simultaneous processing of the annexation and the zoning map amendment is permitted.

(b) **RA Zoning**. If the City Council finds that land for annexation has an inadequate level of public facilities to serve permitted uses in the zoning district that would apply in Subsection A, *Generally*, above, the Council may annex the property under the RA, Rural Agricultural zoning district in accordance with the requirements set forth in Subsection 14.06.402, *Zoning Map Amendment*.

Effective on: 8/9/2022

Subsection 14.05.206 Transitional Provisions

(a) **Generally**. It is the intent of the City Council to respect the property rights of applicants with existing or pending development approvals.

(b) **Effect on Existing Ordinances**. The City's ordinances in effect prior to the effective date of this ULDO, unless expressly repealed or amended by this ULDO, or by some other City Council action, remain in effect; provided, however, that where this ULDO is more restrictive or where it includes additional provisions (including those that are inconsistent or in conflict with existing ordinances) the City shall enforce this ULDO as set out in Subsection 14.05.203, *Abrogation and Conflicting Provisions*.

(c) **Pending Applications**.

(1) *Generally*. Each development review application shall be evaluated in accordance with the adopted ordinances and technical regulations in effect at the time that each complete application is submitted.

(2) *Stale Applications*. Pending development review applications that the applicant does not pursue with diligence may expire pursuant to Subsection 14.06.209, *Stale Applications and Extensions*.

(d) **Development Approvals that Predate the ULDO**.

(1) *Generally*. Development applications approved prior to the effective date of this ULDO may be carried out within the scope of the development approval, including applicable standards in effect at the time of approval, provided that the approval is valid and has not expired.

(2) *Duration of Approvals*. Development approvals that are valid on the effective date of this ULDO are valid until their expiration date; or, if no expiration date is specified in the approval documents or prior regulations, pursuant to Table 14.06.210-1, *Development Review Summary Table.*

Effective on: 8/9/2022

ARTICLE 14.06: DEVELOPMENT REVIEW PROCEDURES

Contents:

Section 14.06.100: Purpose and Applicability

Section 14.06.200: Common Review Procedures

Section 14.06.300: Administrative Review Procedures

Section 14.06.400: Legislative Review Procedures

Section 14.06.500: Quasi-Judicial Review Procedures

Section 14.06.600: Subdivision Review Procedures

Section 14.06.100: Purpose and Applicability

Subsection 14.06.101 Purpose

The purpose of this Article is to set out all the City's development review procedures in one place and to standardize them to the maximum practicable degree.

Effective on: 8/9/2022

Subsection 14.06.102 Applicability

(a) **Generally**. The sections of this Article apply to all development activity that requires a recommendation or final decision from City staff or a Council, Commission, Committee, or Board denoted in Section 14.05.100, *Official and Administrative Bodies Established*.

(b) **Sequence of Development Approval**. Where more than one development review application is required by this ULDO to initiate, continue, or complete development on the same property, applicable administrative bodies shall generally make final decisions in the following sequence:

(1) Legislative applications prior to final decisions on all other applications;

(2) Quasi-judicial applications prior to final decisions on subdivision or administrative applications; and,

(3) Subdivision applications prior to final decisions on administrative applications.

Effective on: 8/9/2022

Section 14.06.200: Common Review Procedures

Subsection 14.06.201 Pre-Application Conference

(a) **Purpose.** The purpose of a pre-application conference is to familiarize the applicant with the submittal requirements and review procedures, including all applicable standards and any known constraints, hazards, or special conditions associated with the subject property.

(b) **Applications Requiring a Pre-Application Conference.** Prior to the filing of a plat, the subdivider shall meet with the Director of Planning and Development (Director) to become acquainted with the requirements of the City and the relationship of the proposed subdivision to existing subdivisions in the general area. At the pre-application conference, the street requirements, utilities, and general character of the development may be discussed.

(c) **Concept Plan.** The applicant may submit a concept plan as a basis for discussion prior to or at the pre-application conference. The concept plan shall be of sufficient detail to accurately convey the concept, character, location, parcel size, and the size and scale of the proposed development. The applicant may submit additional materials at his or her discretion.

(d) **Meeting Materials.** In addition to the concept plan set forth in Paragraph (c) above, the applicant shall submit prior to or bring to the pre-application conference materials supporting the development, including, but not limited to:

(1) The location of the project;

(2) The proposed uses (in general terms);

(3) The proposed arrangement of buildings, parking, site access points, proposed open spaces, and drainage facilities;

(4) The relationship to existing development;

(5) Generally, the presence of natural resources, open water, floodplains, and floodways on the parcel proposed for development; and,

(6) Any other conditions or items that the applicant believes are relevant to the processing of the application.

(e) **Requested Submittals.** At or following the pre-application conference, the Director may request that the applicant provide additional materials at the time of application submittal as may be necessary to permit the informed exercise of judgment under the decision criteria for the application.

(f) **Disclaimer.** Outcomes of the pre-application conference shall not imply, in whole or in part, any final decision on the application.

Effective on: 8/9/2022

Subsection 14.06.202 Application Submittal and Completeness

(a) **Forms and Fees**. Every development review application required by this ULDO shall be submitted in a format and in numbers established by the Director of Planning and Development (Director) and shall include the corresponding application fee that is established by the City Council.

(b) **Authorization to Initiate an Application**. Table 14.06.202-1, *Application Authorization*, denotes those who are authorized to initiate each of the application types.

Table 14.06.202-1, Application Authorization

Application Type	City Council or PZC	Property Owner[1]	Party Aggrieved by an Administrative Decision[1]
Administrative Applications		♦	
Legislative Applications	♦	♦	
Quasi-Judicial Applications		♦	♦
Subdivision Applications	♦[2]	♦	

TABLE NOTES:
♦ Entity may initiate an application
1. Including his or her agent
2. Vacating plat only

(c) **Refunds**. Fees for rejected, denied, expired, voided, or revoked applications are not refundable.

(d) **Deadlines**. The Director may establish periodic application submittal deadlines.

(e) **Completeness Review.**

(1) *Director Responsibility*. The Director shall review all development review submittals for completeness.

(2) *Meaning of Completeness*. The Director shall deem complete a submittal that contains:

(A) All of the submittal information required in the application form;

(B) Documents or drawings that are prepared and certified by qualified professionals (where such certifications are required);

(C) The application fee; and,

(D) Any additional information required from the pre-application conference, if applicable.

(f) **Completeness does not Equate to Approval.** A determination of completeness does not mean that:

(1) *Accuracy or Compliance*. The contents of the submittal are accurate or that they comply with the standards of this ULDO;

(2) *Positive Recommendation or Final Decision.* The application will receive a positive recommendation or final decision from the applicable decision-making or review body; or,

(3) *Additional Clarification or Information.* That during the review and deliberation process, additional clarification or information will not be needed.

(g) **Incomplete Applications.**

(1) *Notification and Resubmittal.* If the Director determines a submittal not to be complete, the Director shall:

(A) Notify the applicant in writing with a list of all missing or incomplete items; and,

(B) Provide a minimum of 10 business days for the applicant to resubmit the missing or incomplete items.

(2) *Rejection.* If the missing or incomplete items are not submitted within the 10-day period provided for above, then the Director shall deem the application rejected, shall notify the applicant, and shall make the rejected application available for the applicant to retrieve. After the Director rejects an application, a new application and fee shall be required if the applicant wishes to apply again.

(3) *Not Considered Filed or Submitted.* Incomplete or rejected applications are not considered "filed" or "submitted" for the purposes of Texas Local Government Code (TLGC) Chapter 212, TLGC Chapter 245, or for any other purpose.

(h) **Continuing Review Process.** Complete applications shall subsequently undergo the processes established in Subsection 14.06.203, *Staff Review and Distribution*.

Effective on: 8/9/2022

Subsection 14.06.203 Staff Review and Distribution

(a) **Final Decision or Distribution**. After completeness determination, the appropriate administrative body shall complete the review responsibilities in accordance with Section 14.06.210-1, *Development Review Summary Table*, including the following:

(1) *Review and Comment*. Review the administrative application and provide comments to the applicant, which may include required revisions based on the requirements of this ULDO and other adopted standards.

(2) *Review and Decide*. Review and make a final decision on the administrative application.

(3) *Distribute*. Distribute the legislative, quasi-judicial, or subdivision application to the appropriate administrative body or outside agency, including, but not limited to, utilities and school districts, for recommendation or final decision.

(b) **Required Revisions**.

(1) *Comments*. During the application review, the Director of Planning and Development (Director) may provide comments from administrative bodies, where applicable, to the applicant. The applicant shall revise and resubmit the application with the requested changes.

(2) *Resubmittal*. Upon receipt of a resubmittal, the Director may refer the application to agencies again if the changes substantially affect the interests of the agency in ways not anticipated by the agency's original comments or require the agency's technical expertise for appropriate review.

(c) **Administrative Recommendation or Decision**. Promptly after submittal of a complete application that addresses the required revisions provided pursuant to paragraph (b) above (or, after finding that no revisions are required):

(1) *Administrative Applications*. If the application is for a review procedure addressed in Section 14.06.300, *Administrative Review Procedures*, then the City staff member denoted in Table 14.06.210-1, *Development Review Summary Table*, shall approve, conditionally approve, or deny the application, as appropriate.

(2) *Legislative, Quasi-Judicial, and Subdivision Applications*. If according to Table 14.06.210-1, *Development Review Summary Table*, the application requires a public meeting or public hearing prior to a final decision, then the applicable City staff member shall forward a recommendation to the appropriate governmental body who will consider it for further recommendation or final decision.

(d) **Site Development Plan and Plat Decisions**. Within 30 days of submitting a complete application for a site development plan or an application listed in Section 14.06.600, *Subdivision Review Procedures*, the recommendation and decision-making body shown in Table 14.06.210-1, *Development Review Summary Table*, shall approve, approve with conditions, or disapprove with a written explanation for the disapproval provided to the applicant.

(e) **Common Decision Criteria**. In addition to all other applicable provisions of this ULDO, recommending and/or decision-making bodies shall consider the provisions of Subsection 14.06.204, *Common Decision Criteria*, when making a recommendation or a final decision.

(f) **Continuing Review Process**. Applications requiring a public meeting or hearing shall subsequently undergo the processes established in Subsection 14.06.205, *Public Notice*, and Subsection 14.06.206, *Public Meetings and Hearings*.

Effective on: 8/9/2022

Subsection 14.06.204 Common Decision Criteria

In determining whether to approve, approve with conditions or modifications, or deny an application, the applicable review bodies shall consider the decision criteria denoted in Table 14.06.204-1, *Decision Criteria Applicability*. Additional decision criteria may apply and are enumerated in the specific review procedures of this Article.

Table 14.06.204-1, *Decision Criteria Applicability*

Decision Criteria	All Applications[1]	Legislative Applications	Quasi-Judicial Applications[1]	Subdivision Review Applications
The request complies with the applicable standards of this ULDO, the City's Code of Ordinances, the drainage specifications as adopted by the City or as required by the Director of Planning and Development, and any applicable county, state, or federal requirements.	Yes	--	--	--
The request conforms to any prior approval for the development, including, but not limited to, a special use permit, preliminary plan, or site development plan.	Yes	--	--	--
The request is consistent with the Comprehensive Plan, including the Future Land Use Map, applicable utility plans, and capital improvements plans; or, if it addresses a topic that is not contained or not fully developed in these documents, the request does not impair their implementation.	Yes	--	--	--
The request promotes the purposes of this ULDO as established in Subsection 14.01.102, *Purposes*, and in other applicable purpose statements in this ULDO.	--	Yes	Yes	--
Adequate facilities, including public or private utilities, solid waste service, roads, drainage, and other improvements are present or are planned to be provided.	--	Yes[2]	Yes	Yes
The request demonstrates compatibility with surrounding conforming and permitted land uses and structures and with the general character of the area.	--	Yes[2]	Yes	--

TABLE NOTES:
Yes = Decision criteria applies
-- = Decision criteria do not apply
1. Excluding appeal of administrative decision
2. Excluding ULDO text amendment

Effective on: 8/9/2022

Subsection 14.06.205 Public Notice

(a) **Generally.**

(1) *Required Notice*. Table 14.06.205-1, *Required Notice*, sets out the specific notice requirements for each type of application where notice is required.

(2) *Open to Public*. All public hearings shall be open to the public except as otherwise provided in Texas Local Government Code (TLGC) Chapter 551, *Open Meetings*. However, not all decisions require public hearings.

(b) **Types of Notice.**

(1) *Publication Notice*. When required, published notice shall be provided in a local publication of record in accordance with the requirements of the TLGC, Chapter 211.

(2) *Mail*. When required, mailed notice shall be provided to each property owner, as indicated by the most recently approved municipal tax roll of real property.

(c) **Applicability.** Public Notice of public hearings required by this ULDO shall be provided as required by Table 14.06.205-1, *Required Notice*.

Table 14.06.205-1, Required Notice

Application Type	UDC Reference	Application	Type of Notice Required	
			Publication Notice	Mailed Notice
Administrative	14.06.301	Administrative Adjustment	--	--
	14.06.302	Site Development Plan	--	--
	14.06.303	Minor or Amending Plat	--	--
	14.06.304	Construction Plans	--	--
	14.06.305	Building Permit	--	--
	14.06.306	Floodplain Development Permit	--	--
	14.06.307	Driveway Permit	--	--
	14.06.308	On-Site Water or Wastewater Facility	--	--
	14.06.309	Sign Permit	--	--
	14.06.310	Temporary Use Permit	--	--
	14.06.311	Certificate of Occupancy	--	--
	14.06.312	Written Interpretation	--	--
	14.06.313	Minor Modification of an Approved Application	--	--
Legislative	14.06.401	ULDO Text Amendment (TLGC 211.006)	Not less than 15 days prior to public hearing	--
	14.06.402	Zoning Map Amendment (TLGC 211.006)	Not less than 15 days prior to public hearing	Not less than 15 days prior to public hearing[1]
	14.06.403	Special Use Permit	Not less than 15 days prior to public hearing	Not less than 10 days prior to public hearing[1]
Quasi-Judicial	14.06.501	Variances (TLGC 211.010)	Not less than 15 days prior to public hearing	Not less than 15 days prior to public hearing[1]
	14.06.502	Appeals of Administrative Decisions (TLGC 211.010)	Not less than 15 days prior to the public hearing	Not less than 15 days prior to public hearing[2]
Subdivision	14.06.401	Development Plat	--	--
	14.06.401	Preliminary Plan	--	--
	14.06.401	Final Plat	--	--
	14.06.401	Replat	Not less than 15 days prior to public hearing[3]	Not less than 15 days prior to public hearing[1,3]

Table 14.06.205-1, Required Notice				
Application Type	UDC Reference	Application	Type of Notice Required	
			Publication Notice	Mailed Notice
	14.06.401	Vacating Plat	--	--
	14.06.401	Waiver	--	--

Table Notes:

-- = Not Required

1. To owners of property within 200 feet.
2. TLGC 211.010(d) requires "due notice to the parties in interest". At a minimum, this shall include the original applicant and the persons who are the party to the appeal.
3. Refer to Texas Local Government Code Section 212.015 to determine if a public hearing is required for a replat.

(d) **Procedural Requirements for Notice**. Public notice of hearings shall be given as follow:

(1) *Publication Notice*. Notice shall be published in an official newspaper of general circulation in the City as provided by state law.

(2) *Mailed Written Notice*. The notice shall be in written form and sent to all owners of real property and shall be:

(A) Located within 200 feet of the subject property or within 200 feet of any other abutting property under the same ownership as the subject property;

(B) Measured from the perimeter of the property;

(C) Taken inclusive of public streets; and,

(D) Served by using the last known address as listed on the City tax roll and depositing the notice, postage paid, with the United States Postal Service (USPS).

(e) **Contents of Notice.** Published and mailed notices shall provide at least the following information:

(1) A statement that interested parties may appear at the public hearing and be heard with respect to the application;

(2) The time, date, and place where the application may be inspected by the public;

(3) The contact point for additional information;

(4) The time, date, and location of the public hearing;

(5) The substance of the application; and,

(6) The address, general location, and legal description of the land that is the subject of the application.

(f) **Computation of Time**. In computing the time periods for notice, the day of mailing, publication, or posting shall not be counted, but the day of the public hearing shall be counted.

(g) **Constructive Notice**. Failure of a surrounding property owner to receive notice of a hearing shall not affect the validity of the final decision.

Effective on: 8/9/2022

Subsection 14.06.206 Public Meetings and Hearings

(a) **Generally**. All public meetings and hearings shall be open to the public except as otherwise provided in Texas Local Government Code Chapter 552, *Public Information*. However, not all decisions require public hearings. Therefore, recommendations and decisions that are authorized by this ULDO are classified as requiring a "public meeting" or "public hearing."

(b) **Public Meetings**.

(1) *Public Meeting Required*. Any legislative, quasi-judicial, or subdivision application that does not require a public hearing prior to a final decision requires a final decision to be made at a public meeting. Requests that may be approved at a public meeting may be docketed on the consent agenda.

(2) *Consent Agenda*. Any appointed or elected administrative body may establish a consent agenda. The consent agenda may consist of all matters brought before the body for final decision that do not require a public hearing. All items on the consent agenda may be approved simultaneously by motion without comment or debate. An item may be removed from the consent agenda prior to the approval at the request of any member of the administrative body present at the meeting, or by the Director of Planning and Development. Items removed from the consent agenda shall be considered as individual items on the regular agenda.

(c) **Time of Hearing**. For all matters properly brought before the City Council, Board of Adjustment, or the Planning and Zoning Commission, the City shall select a reasonable time and place for such hearing provided, however, that such time shall be no later than 30 days following the submission of a complete application, per Subsection 14.06.202, *Application Submittal and Completeness,* for a procedure listed in Section 14.06.600, *Subdivision Review Procedures*, and 45 days following the submission of a complete application for all other procedures.

(d) **Procedures**. Elected and appointed administrative bodies may adopt rules of procedure for the conduct of public hearings. The adopted rules of procedure shall reflect the following general procedures:

(1) Any person may appear at a public hearing, submit evidence, and be heard;

(2) If a speaker represents an organization, the body conducting the hearing may request written evidence of that person's authority to speak on behalf of the group in regard to the matter under consideration;

(3) Persons appearing at a public hearing shall identify themselves and state their address and similar information about any organization they represent;

(4) Citizens, applicants, and the City have the right to present expert witnesses; and,

(5) The Chairperson may impose a reasonable time limit on speakers and may limit testimony that is irrelevant or redundant.

(e) **Attendance by Applicant at Public Hearing**. An applicant or representative shall be required to attend the public hearing at which the subject application is to be considered. Failure on the part of the applicant or representative to appear at a properly noticed public hearing may constitute grounds for a continuance on a certain new date or closing of the public hearing with public re-notification required.

(f) **Decisions.** A vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote, except when voice votes are authorized.

(g) **Continuing Review Process.** Applications receiving approval at a public meeting or hearing may subsequently undergo the processes established in Subsection 14.06.207, *Post-Approval Provisions*.

Effective on: 8/9/2022

Subsection 14.06.207 Post-Approval Provisions

(a) **Conditional Approval or Modification of Application at Public Meeting or Hearing**.

(1) *Modification*. An applicant may agree to modify an application, including the plans and specifications submitted, in response to questions or comments by persons appearing at a public meeting or hearing or to suggestions or recommendations by the administrative body holding the meeting or hearing.

(2) *No Further Action*. Unless such modifications are so substantial that the administrative body determines that it cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised application materials, the administrative body may make a recommendation or conditionally approve the application with the requirement that the formalized approval is not effective until the applicant submits materials reflecting the agreed-upon changes to the Director of Planning and Development (Director). An administrative body shall not accept any subsequent application and shall make no further approvals related to the subject property until the applicant submits the required modifications.

(3) *Referral*. Where deemed appropriate by the final decision-making body, modifications may be referred back to the recommending body for review, prior to further consideration.

(b) **Modification of an Approved Application.** Except as provided in Subsection (c), *Correction of Errors in Approved but Unrecorded Plats*, below, modifications to approved applications shall be done in accordance with Subsection 14.06.313, *Minor Modification of an Approved Application*, or, if the change does not meet the criteria for a minor modification, the application shall be resubmitted as a new application.

(c) **Correction of Errors in Approved but Unrecorded Plats**.

(1) *Director Review and Approval*. An approved but unrecorded final plat, minor plat, or replat that is found to contain an insignificant error, including, but not limited to, scriveners errors or typographical errors, or the addition, deletion, or relocation of easements, may be corrected by the applicant, upon approval by the Director.

(2) *Amending Plat*. Any correction of a recorded plat shall be in accordance with Subsection 14.06.303, *Minor or Amending Plat*.

(d) **Revocation of Approval**. An administrative body may revoke any permit or approval it issued where there has been a violation of the provisions of this ULDO or a misrepresentation of fact(s) on the application or in the public meeting or hearing.

(e) **Approvals Run With Land**. Except for temporary use permits, and unless an elected or appointed administrative body conditions an approval to the contrary, permits or approvals authorizing a particular land use or structure shall run with the land and transfer with the subsequent ownership of the land and structures. Temporary use permits shall be tied to a particular applicant for a particular time frame.

(f) **Recordation of Plat**. Upon approval of a minor or amending plat, development plat, final plat, replat, or vacating plat, and after the proper escrow deposit or bond has been filed with the City Secretary, if applicable, the plat shall be signed by the Mayor and attested by the City Secretary after which the City Secretary shall file a reproducible copy of the plat with the Hutchinson County Clerk's office within the time limits of Subsection 14.06.210, *Development Review Summary Table*. A reproducible copy with the filing information shall be retained in the City archives and the original plat shall be returned to the subdivider. The plat shall be an official plat of record after it has been filed with the City Secretary and the County Clerk.

Effective on: 8/9/2022

Subsection 14.06.208 Appeals of Legislative, Quasi-Judicial, and Subdivision Decisions

(a) **Appeal of Administrative Decision**. Any party aggrieved by or alleging error in a final decision of an administrative official on a matter addressed in this ULDO may appeal in accordance with Subsection 14.06.503, *Appeal of Administrative Decision*.

(b) **Appeal of Planning and Zoning Commission Decision**. Any party aggrieved by or alleging an error in a final decision of the Planning and Zoning Commission (Commission) may appeal to the City Council within 10 calendar days of the Commission's decision.

(c) **Appeal of City Council Decision**. Any party aggrieved by or alleging an error in a final decision of the City Council may appeal to a court of competent jurisdiction.

Effective on: 8/9/2022

Subsection 14.06.209 Stale Applications and Extensions

(a) **Generally**. Applicants shall diligently pursue completion of development projects. Accordingly, this Subsection voids unapproved applications for administrative, quasi-judicial, and subdivision applications that become stale due to inaction by the applicant. In addition, this Subsection allows for an extension of the life of such stale applications and of the expiration deadlines established in Subsection 14.06.210, *Development Review Summary Table*, for approved applications that may expire due to inactivity of the applicant.

(b) **Voiding of Stale Applications**.

(1) *Stale*. An unapproved application becomes "stale" after 45 days from receiving review comments if the applicant fails to completely address the comments and allow further processing of the application, unless the Director of Planning and Development (Director) determines that the applicant is actively pursuing action to address such comments. If the Director makes such a determination, then the application becomes stale 90 days after the date of receipt of the comments if the applicant fails to completely address the comments.

(2) *Void*. Stale applications automatically become null, void, and expired without further notice 30 days after the date when they became stale if the applicant fails to take action or to request an extension of time.

(c) **Extension of Time**.

(1) *Request*. Prior to the expiration of an approved application or unapproved stale application, the applicant may request in writing an extension of the expiration date of up to six months.

(2) *Amendments*. If the City Council amends this ULDO or adopts other applicable regulations during the period of time when the application was stale, the application shall:

(a) Not be subject to compliance to the new regulations until the original application is considered to be voided; and,

(b) Become subject to the new regulations and ordinances if the period of time to request an extension lapses.

(d) **Expiration of Extension**. Approved applications or unapproved stale applications shall expire after the six-month extension lapses if the Director determines that the applicant is not actively pursuing action to complete the development or address comments.

Effective on: 8/9/2022

Subsection 14.06.210 Development Review Summary Table

(a) **Generally**. Procedures for obtaining approval pursuant to this ULDO are summarized in this Section.

(b) **Applications and Procedures**. Each application or permit required by this ULDO is detailed out in the below table.

Table 14.06.210-1
Development Review Summary

Development Application (Procedural Reference)	Applicable Standards	Timing	Expiration	Review Responsibilities	
				Recommendation	Final Decision
ADMINISTRATIVE APPLICATIONS: Require final decisions in which City staff apply the standards in this ULDO. Administrative approvals typically require objective analysis by City staff and may involve the exercise of limited discretion.					
Administrative Adjustment (Subsection 14.06.301)	--	In order to make a limited modification to any numerical standard on an application that has already been approved but that has not received a certificate of occupancy	Same as the application being adjusted	Director of Planning and Development (Director)	
Site Development Plan (Subsection 14.06.302)	ARTICLE 14.02	Prior to the issuance of a building permit	2 years	Director	
Minor or Amending Plat (Subsection 14.06.303)	ARTICLE 14.03	Prior to developing a minor subdivision or making a minor modification to a recorded plat	2 years; None after recordation	Director	
Construction Plans (Subsection 14.06.304)	--	Concurrent with a Preliminary Plan	2 years	Director	
Building Permit (Subsection 14.06.305)	--	Prior to the construction of any building or structure	2 years	Building Official	
Floodplain Development Permit (Subsection 14.06.306)	ARTICLE 14.04	Prior to initiating or continuing any development or substantial improvement within a regulatory floodplain as shown on a Flood Insurance Rate Map (FIRM)	2 years	Floodplain Administrator	
Driveway Permit (Subsection 14.06.307)	ARTICLE 3.15	Prior to beginning construction	2 years	Director	
On-Site Water or Wastewater Facility Permit (Subsection 14.06.308)	CHAPTER 13	Prior to beginning construction	2 years	Director	
Sign Permit (Subsection 14.06.309)	Section 14.02.500	Prior to installing or substantially modifying a sign	2 years	Director	
Temporary Use Permit (Subsection 14.06.310)	Subsection 14.01.310	Prior to establishing a temporary use related to a public or commercial event with an expected peak attendance between 50 and 500 persons	2 years	Director	
Certificate of Occupancy (Subsection 14.06.311)	--	Upon completion of construction or before a change in occupancy	None	Building Official	

Table 14.06.210-1 Development Review Summary					
Development Application (Procedural Reference)	Applicable Standards	Timing	Expiration	Review Responsibilities	
				Recommendation	Final Decision
Written Interpretation (Subsection 14.06.312)	--	None	None	Director	
Minor Modification of an Approved Plan (Subsection 14.06.313)	--	In order to make a limited modification to a legislative or quasi-judicial application that has already been approved but that has not received a certificate of occupancy	Same as the application being modified	Administrative body that made the initial approval	
LEGISLATIVE APPLICATIONS: Require final decisions that establish or change the way the use, design, or development of land will occur on a site-specific, City-wide, or intermediate scale. Elected and appointed administrative bodies make final decisions based on general considerations of fostering and preserving the public health, safety, and general welfare, including the City's fiscal well-being. Such final decisions are characterized by the exercise of broad discretion.					
ULDO Text Amendments (Subsection 14.06.401)	--	Prior to amending the ULDO	None	Planning and Zoning Commission	City Council
Zoning Map Amendments (Subsection 14.06.402)	--	Prior to a change in land use	None	Planning and Zoning Commission	City Council
Special Use Permit (Subsection 14.06.403)	Subsection 14.01.304	Prior to establishing a special use	None	Planning and Zoning Commission	City Council
QUASI-JUDICIAL APPLICATIONS; Require final decisions that establish the way design or development will occur on specific sites in manners that either varies from the standards of this ULDO or that are contested by an aggrieved party. Such final decisions are characterized by the exercise of discretion.					
Variance (Subsection 14.06.501)	ARTICLE 14.02	Prior to or concurrent with submittal of a site development plan, building permit, or sign permit	None	Director	Board of Adjustment
Floodplain Variance (Subsection 14.06.502)	ARTICLE 14.04	Prior to or concurrent with submittal of a floodplain development permit	None	Floodplain Administrator	Board of Adjustment
Appeal of Administrative Decisions (Subsection 14.06.503)	--	Within 20 days of a decision	None	Board of Adjustment	
SUBDIVISION APPLICATIONS: Require final decisions related to dividing larger tracts of land into smaller lots. City staff or legislatively appointed administrative bodies take final action based on regulations in this ULDO and on technical requirements of various City departments, local and state agencies, and utilities. Such final decisions are characterized by limited discretion.					
Development Plat (Subsection 14.06.601)	Section 14.03.200	Prior to developing a minor subdivision or making a minor modification to a recorded plat	2 years; None after recordation	Director	Planning and Zoning Commission

Table 14.06.210-1 Development Review Summary					
Development Application (Procedural Reference)	Applicable Standards	Timing	Expiration	Review Responsibilities	
				Recommendation	Final Decision
Preliminary Plan (Subsection 14.06.602)	Section 14.03.200	Prior to final plat submittal	5 years	Director	Planning and Zoning Commission
Final Plats (Subsection 14.06.603)	Section 14.03.200	Prior to recordation and starting development	2 years; None after recordation	Director	
Replat (Subsection 14.06.604)	Section 14.03.200	Prior to changing the number of lots on a recorded plat	2 years; None after recordation	Planning and Zoning Commission	City Council
Vacating Plat (Subsection 14.06.605)	--	Prior to removing the force of a recorded plat covering a property or properties	2 years; None after recordation	Director	City Council
Waiver (Subsection 14.06.606)	Section 14.03.200	Concurrent with submittal of a preliminary plan where the applicant wishes to vary from the subdivision design standards	When associated plat expires	Director	Planning and Zoning Commission

Effective on: 8/9/2022

Section 14.06.300: Administrative Review Procedures

Subsection 14.06.301 Administrative Adjustment

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to an administrative adjustment.

(b) **Purpose.**

(1) *Changes of Modifications*. An administrative adjustment may allow small changes or modifications to certain standards of a proposed development that may be approved by the Director of Planning and Development (Director).

(2) *Percentage*. The Director may approve minor modifications of any numeric standard in this ULDO up to a maximum of 10 percent when there are practical difficulties in applying the development standards for a project that otherwise complies with the standards of this ULDO.

(3) *Variance Reference*. Requested adjustments greater than 10 percent shall be submitted and reviewed as a variance in accordance with Subsection 14.06.501, *Variance*.

(c) **Specific Decision Criteria.**

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny a site development plan, the review bodies shall consider the applicable common decision criteria in Subsection 14.06.204 and the following:

(A) *Maximum Percentage*. The requested adjustment does not exceed 10 percent of the minimum requirements.

(B) *Hardship*. The hardship, if any, under which the adjustment is sought, was not created by the owner or occupant of the subject property, nor was it suffered as a result of a violation of this ULDO or any other applicable code of the City.

(C) *Minimum Necessary*. The adjustment shall be the minimum necessary to grant relief from a demonstrated hardship.

(D) *Adjoining Property*. The adjustment shall not substantially impair the permitted use or development of adjoining property.

(2) *Affirmative Findings*. In order to approve an administrative adjustment, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

Effective on: 8/9/2022

Subsection 14.06.302 Site Development Plan

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to site development plans.

(b) **Purpose**. The purpose of a site development plan is to ensure that applicable developments comply with all development and design standards of this ULDO and, if applicable, with an approved special use permit for the subject property.

(c) **Exemptions**. The following activities shall not require a site development plan:

(1) *Residential*. Construction of single- or two-family residence in an improved subdivision or on an unplatted parcel; and,

(2) *Emergencies*. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(d) **Applicability**.

(1) *Land Uses*. Prior to development of any use or structure other than single-family (excluding manufactured homes), duplexes, or townhouse residential development, a site plan shall be approved by the City in accordance with this Subsection.

(2) *Approval Required*. No development described in subsection (d)(1) above, shall be lawful or permitted to proceed without final site plan approval. A site plan approved as part of a special use permit shall be considered a site plan approval.

(e) **Specific Decision Criteria**.

(1) *Review and Decision.* In determining whether to approve, approve with conditions, or deny a site development plan, the review bodies shall consider the applicable common decision criteria in Subsection 14.06.204 and the following:

(A) Safe and convenient traffic control, handling, and vehicle queuing;

(B) Assured pedestrian safety which may include the provision of sidewalks along the perimeter of the property;

(C) Efficient and economic public utilities;

(D) Public road or street access;

(E) Safe and efficient internal access including public, private, or emergency;

(F) Adequate parking and maneuvering areas;

(G) Noise control measures that comply with Chapter 8, ARTICLE 8.04, *Noise*, of the City's Code of Ordinances;

(H) Runoff, drainage, and flood control;

(I) Visual screening of areas offensive to the public or adjacent developments such as detention areas, retaining walls, utilities, and solid waste facilities;

(J) Compliance with ARTICLE 14.03, *Subdivision Standards*;

(K) Clear indication of what constitutes the building plot for purposes of signage; and,

(L) Location and density of buildings or dwellings where topography or characteristics of the site compel a lower density than would otherwise be allowed or require location consistent with accepted engineering practices and principles.

(2) *Affirmative Findings*. In order to approve a site development plan, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

(f) **Certificate of Occupancy**. The Building Official shall not issue a certificate of occupancy for the subject property unless and until all construction conforms to the approved building permit and site development plan.

Effective on: 8/9/2022

Subsection 14.06.303 Minor or Amending Plat

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to minor or amending plats.

(b) **Purpose**.

(1) *Minor Plat.*

(a) The purpose of a minor plat is to allow for the administrative approval of the subdivision of property into four or fewer lots if the subject property fronts on an existing public street with no need to dedicate new public right-of-way or extend public utilities.

(b) Any plat that requires a waiver in accordance with Subsection 14.06.606, *Waiver*, shall require review by the Planning and Zoning Commission.

(2) *Amending Plat*. An amending plat is any plat meeting the definition in Texas Local Government Code (TLGC) Section 212.016.

(c) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny a minor or amending plat, the review bodies shall consider the applicable common decision criteria in Section 14.06.200 and the following:

(a) *Number of Lots*. The minor plat is proposed for the creation of four or fewer lots.

(b) *Existing Street*. Each lot in the minor plat has frontage on an existing public street without the need for the creation or extension of a new public street.

(c) *Existing Utilities*. Existing public utilities of adequate capacity serve the entirety of the subject property in the minor plat without the need for extension.

(d) *TLGC Reference*. The purpose of the amending plat is solely one or more of those listed in TLGC Section 212.016.

(2) *Affirmative Findings*. In order to approve a minor plat or amending plat, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

Effective on: 8/9/2022

Subsection 14.06.304 Construction Plans

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to construction plans.

(b) **Purpose.** The purpose of construction plans is to provide for the detailed engineering drawings for all improvements required to serve the development. Construction plans and specifications shall be submitted to the Director of Planning and Development (Director) for all existing or proposed streets, sidewalks, drainage and utility improvements, and any other public improvements that are required or proposed to be constructed, reconstructed, improved, or modified to serve a development proposed in a preliminary plan.

(c) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny construction plans, the review body shall consider the applicable common decision criteria in Section 14.06.200, *Common Review Procedures*, and conformance to the specifications as adopted by the City or as required by the Director.

(2) *Affirmative Findings*. In order to approve construction plans, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

(d) **Responsibility of Applicant's Engineer**. The applicant's engineer of record is responsible for the accuracy, completeness, and conformance to City standards. The purpose of the City review is to ensure conformance to City policies and standards; however, the City review is limited to facts as presented on submitted plans. The City has no project engineering responsibility. The engineer certifying the plans is responsible for the accuracy and completeness of the documents submitted for review and actual construction. The City reserves the right to require corrections to actual conditions in the field which are found to be contrary to or omitted from submitted plans.

Effective on: 8/9/2022

Subsection 14.06.305 Building Permit

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to building permits.

(b) **Purpose**. The purpose of a building permit is to ensure that applicable structures are built in conformance with this ULDO, the approved site development plan, if applicable, and the City's Building Code.

(c) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny a building permit, the review body shall consider the applicable common decision criteria in Section 14.06.200, *Common Review Procedures*, and the proposal complies with the City's Building Code.

(2) *Affirmative Findings*. In order to approve a building permit, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

(d) **Platting**. The Building Official shall not issue a building permit, as required by the City's Building Code, for any principal structure unless:

(1) *Recorded Plat*. The subject property is part of a plat recorded with the Hutchinson County Clerk; or,

(2) *Improvements*. Required or proposed improvements associated with a final plat under review have been either installed or guaranteed in accordance with Subsection 14.03.302, *Installation and Guarantees*.

Effective on: 8/9/2022

Subsection 14.06.306 Floodplain Development Permit

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to floodplain development permits.

(b) **Purpose**. The purpose of a floodplain development permit is to ensure that all development proposed within a special flood hazard area and all development constructed, installed, commenced, improved, or maintained within a special flood hazard area, complies with the applicable provisions of this ULDO.

(c) **Application.** The application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but shall not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations and existing and proposed structures and the location of the foregoing in relation to areas of special flood hazard. The following information is required:

(1) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Subsection 14.04.203(c), *Nonresidential Construction*;

(4) A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and,

(5) The Floodplain Administrator shall maintain a record of all such information in accordance with Subsection 14.05.107(b)(1).

(d) **Specific Decision Criteria.**

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny a floodplain development permit, the review bodies shall consider the applicable common decision criteria in Section 14.06.200, *Common Review Procedures*, and the following:

(A) *Danger to Life and Property*. The danger to life and property due to flooding or erosion damage;

(B) *Susceptibility to Flood Damage*. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(C) *Sweeping of Material*. The danger that materials may be swept onto other lands to the injury of others;

(D) *Compatibility*. The compatibility of the proposed use with existing and anticipated development;

(E) *Emergency Access*. The safety of access to the property in times of flood for ordinary and emergency vehicles;

(F) *Costs of Governmental Services*. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities, such as sewer, gas, electrical, and water systems;

(G) *Expected Floodwaters*. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(H) *Waterfront Necessity*. The necessity to the facility of a waterfront location where applicable;

(I) *Alternative Locations*. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and,

(J) *Future Land Use*. The relationship of the proposed future use as adopted in the Comprehensive Plan for that area.

(2) *Affirmative Findings*. In order to approve a floodplain development permit, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

Effective on: 8/9/2022

Subsection 14.06.307 Driveway Permit

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to driveway permits.

(b) **Purpose**. The purpose of a driveway permit is to ensure that driveways are designed and installed in conformance with this ULDO, the approved site development plan, if applicable, and the specifications as adopted by the City or as required by the Director of Planning and Development (Director).

(c) **Specific Decision Criteria**.

(1) *Standards and Specifications*. In determining whether to approve, approve with conditions, or deny a driveway permit, the review body shall consider the applicable common decision criteria in Subsection 14.06.204 and the specifications as adopted by the City or as required by the Director.

(2) *Affirmative Findings*. In order to approve a driveway permit, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

Effective on: 8/9/2022

Subsection 14.06.308 On-Site Water or Wastewater Facility Permit

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to on-site water and wastewater permits.

(b) **Purpose**. The purpose of an on-site water or wastewater permit is to ensure that such facilities are located and installed in a manner that preserves public health and safety.

(c) **Wastewater Main Connections**. All properties immediately adjacent to City wastewater mains shall connect to such mains in accordance with Section 13.03.002, *Connection Required*, of the City Code.

(d) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny an on-site water or wastewater permit, the review body shall consider the applicable common decision criteria in Subsection 14.06.204 and the following:

(A) *Economic Feasibility*. The subject property is located in an area that is impractical or economically infeasible to connect to the City's centralized water distribution and/or wastewater collection system.

(B) *Master Plans*. The proposal complies with the City's water distribution and/or wastewater collection system master plans;

(C) *Environmental Factors*. The suitability of the soil conditions, topography, and other environmental factors affecting the development for the installation of the individual on-site wastewater disposal systems;

(D) *Lot Characteristics*. The total number of lots, size of lots, and overall density of the development is suitable for on-site water or wastewater;

(E) *Impact on Surroundings.*

(i) The impact on surrounding properties and environmentally sensitive areas adjacent to the development is minimal and buffer areas are available;

(ii) The impact on surrounding properties' ability to develop with suitable access to water and/or wastewater facilities is minimal; and,

(2) *Affirmative Findings*. In order to approve an on-site water or wastewater permit, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

Effective on: 8/9/2022

Subsection 14.06.309 Sign Permit

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to sign permits.

(b) **Purpose**. The purpose of a sign permit is to ensure that a sign is built in conformance with this ULDO.

(c) **Exceptions**. The following activities shall not require a sign permit:

(1) *Demolition*. Removal of a sign if the applicant obtains a demolition permit for the structure on which the sign is mounted;

(2) *Changing Copy*. Changing of permanent or changeable copy on an approved sign; and,

(3) *Maintenance*. Ordinary maintenance, repair, painting, repainting, or cleaning of a sign that does not involve structural changes or modifications.

(d) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny a sign permit, the review body shall consider the applicable common decision criteria in Section 14.06.200, *Common Review Procedures*, and if the proposal complies with Section 14.02.500, *Signs*.

(2) *Affirmative Findings*. In order to approve a sign permit, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

(e) **Emergencies**. In an emergency situation, a property owner may initiate work without first applying for a sign permit; however, the owner shall apply for a Sign Permit within 24 hours after the first working day.

(f) **Electrical Code**. All illuminated signs shall be subject to the provisions of the City's Electrical Code.

Effective on: 8/9/2022

Subsection 14.06.310 Temporary Use Permit

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following specific procedural provisions shall apply to temporary use permits.

(b) **Purpose**. The purpose of a temporary use permit is to ensure that temporary uses comply with the requirements of this ULDO, including Subsection 14.01.310, *Temporary Uses and Structure Standards*, and that they do not become permanent uses or structures.

(c) **Unlisted Uses**. The Director of Planning and Development (Director) may interpret other uses as requiring a temporary use permit based on the provisions in Subsection 14.01.302, *New and Unlisted Uses*.

(d) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny a temporary use permit, the review bodies shall consider the applicable common decision criteria in Subsection 14.06.204, *Common Decision Criteria*, and the use or structure conforms to the standards set out in Subsection 14.01.310, *Temporary Uses and Structure Standards*, and is compliant with other requirements in the City's Code of Ordinances.

(2) *Affirmative Findings*. In order to approve a temporary use permit, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

(e) **Additional Conditions**. The Director, in coordination with other City staff, may establish additional conditions that are desirable to ensure land use compatibility or minimize potential adverse impacts on neighboring properties, public streets, or the City as a whole. These may include, but are not limited to, the following:

(1) *Hours of Operation*. The modification or restrictions on hours of operation;

(2) *Clean Up*. Posting of a performance bond to ensure clean up and removal of signs, equipment, trash, and other similar items; or,

(3) *Attendance*. Limitations on the attendance of an event.

(f) **Denial**. The Director may deny a temporary use permit if the use is too large to be safe for the site, neighborhood, street, or infrastructure.

Effective on: 8/9/2022

Subsection 14.06.311 Certificate of Occupancy

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, a certificate of occupancy shall follow the specific procedural provisions within this subsection and shall be required for the following:

(1) Occupancy and use of a new building hereafter erected or structurally altered existing building;

(2) Change in use of an existing building to a use of a different classification;

(3) Occupancy and use of vacant land; or,

(4) Change in the use of land to a use of a different classification.

(b) **Purpose**. The purpose of a certificate of occupancy is to certify that a completed project adheres to this ULDO, the City's Building Code, approval conditions, the site development plan and building permit, and all other pertinent City of Borger Code of Ordinances. It is unlawful to occupy any building or structure unless the Building Official has issued a full, or temporary certificate of occupancy, as applicable.

(c) **Specific Decision Criteria**.

(1) *Review, Decision, and Findings*. In determining whether to approve, approve with conditions, or deny a certificate of occupancy, the review body shall consider the applicable common decision criteria in Subsection 14.06.204, *Common Decision Criteria*, and any other applicable standards or conditions imposed throughout the review process for the project.

(2) *Affirmative Findings*. In order to approve a certificate of occupancy, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

(d) **Compliance**. A certificate of occupancy shall state that the building or proposed use of a building or land complies with all the building or health laws and ordinances and with the provisions of this ULDO. A record of all certificates shall be kept on file in the office of the Building Official, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the land or building affected. Failure to maintain compliance with any of these provisions may be grounds for revocation of the certificate of occupancy.

Effective on: 8/9/2022

Subsection 14.06.312 Written Interpretation

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to written interpretations.

(b) **Purpose**. The purpose of a written interpretation is to provide any applicant with an administrative interpretation of the terms, provisions, or requirements of this ULDO if the applications of the terms, provisions, or requirements are not obvious.

(c) **Standards for Interpretations**. The Director of Planning and Development (Director) may base the interpretation on:

(1) The materials or scenario posed by the applicant;

(2) The plain and ordinary meaning of the terms that are subject to the application for an interpretation as set out in a dictionary of common usage;

(3) The provisions of ARTICLE 14.09, *Rules of Construction and Definitions*;

(4) The purpose statement for the ULDO section that is subject to interpretation;

(5) Any provision of this ULDO, the Comprehensive Plan, Texas state law, or federal law that are related to the same subject matter;

(6) Any technical meanings of words used in the provision subject to interpretation;

(7) Other interpretations rendered by the Director associated with the same or related provisions of this ULDO;

(8) The legislative history of the provision subject to interpretation; or,

(9) Sources outside of the ULDO that provide additional information on the provision in question, such as technical or professional literature.

(d) **No Legal Advice**. No written interpretation shall be construed as legal advice.

(e) **Final Decision**. For purposes of appeal, a written interpretation is deemed a final decision.

(f) **Recordkeeping**. The Director shall keep records of interpretations made pursuant to this Subsection, which he or she may periodically present to the Planning and Zoning Commission in accordance with Subsection 14.06.401, *ULDO Text Amendment*.

Effective on: 8/9/2022

Subsection 14.06.313 Minor Modification of an Approved Application

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to minor modifications of an approved application.

(b) **Purpose**. The purpose of a minor modifications of an approved application is to allow an applicant to make insignificant changes to an approved application that has not yet received a certificate of occupancy, without requiring the application to go through the entire review process again.

(c) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny a minor modification of an approved application, the review bodies shall consider the applicable common decision criteria in Subsection 14.06.204 and the following that apply:

(a) *Gross Floor Area (GFA)*. An addition to a structure does not exceed 10 percent of the previously approved total GFA of the structure.

(b) *Height*. Additional height of a structure does not exceed 10 percent of the previously approved height.

(c) *Position*. A shift in a structure position is less than 10 feet.

(d) *Density*. The overall density of the project does not increase as a result of the change in GFA, height, or position.

(e) *Condition of Approval*. The proposal does not violate a condition of approval for the original application.

(2) *Affirmative Findings*. In order to issue a minor modification of an approved application, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

(d) **Other Modifications**. All other modifications that do not meet the specific decision criteria in paragraph (c), above, shall require submittal of a new application.

Effective on: 8/9/2022

Section 14.06.400: Legislative Review Procedures

Subsection 14.06.401 ULDO Text Amendment

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following specific procedural provisions shall apply to ULDO text amendments.

(b) **Purpose**. The purpose of a ULDO text amendment is to change the text of this ULDO.

(c) **Specific Decision Criteria**. In determining whether to approve, approve with modifications, or deny a ULDO text amendment, the review bodies shall consider the provisions in Subsection 14.06.204, *Common Decision Criteria*, and the following:

(1) *Impact Mitigation*. The proposal helps to mitigate adverse impacts of the use and development of land on the natural or built environments, including, but not limited to, mobility, air quality, water quality, noise levels, storm water management, and vegetation; or will be neutral with respect to these issues.

(2) *Changing Condition*. The amendment is necessary to address a changing condition that was not anticipated in the Comprehensive Plan or this ULDO.

(3) *Strategic Objectives*. The proposal advances the strategic objectives of the City Council, such as fiscal responsibility, efficient use of infrastructure and public services, and other articulated City objectives.

(d) **Referral Back to Commission**. Instead of making a final decision on the proposed amendment, the City Council may refer the proposal back to the Planning and Zoning Commission for further consideration for a period not to exceed 90 days from the date of referral.

(e) **No Retroactive Cure of Violations**. The amendment of the text of this ULDO may transform a legally nonconforming situation into a conforming one. However, no text amendment shall be considered for the sole purpose of curing a violation of any part of this ULDO.

Effective on: 8/9/2022

Subsection 14.06.402 Zoning Map Amendment

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to zoning map amendments.

(b) **Purpose**. The purpose of a zoning map amendment is to change the zoning district of a property on the official zoning map from one zoning district to another.

(c) **Specific Decision Criteria**. In determining whether to approve, approve with conditions, or deny a zoning map amendment, the review bodies shall consider the applicable common decision criteria in Subsection 14.06.204, *Common Decision Criteria*, and the following:

(1) *Compatibility*. The range of uses and the character of development that is allowed by the proposed zoning district will be compatible with the properties in the immediate vicinity of the subject property.

(2) *Property Dimensions*. The subject property has sufficient dimensions to accommodate reasonable development that complies with the requirements of this ULDO, including parking and buffering requirements.

(3) *Need*. The pace of development and the amount of vacant land currently zoned for comparable development in the vicinity of the subject property suggests a need for the proposed zoning district in order to ensure an appropriate inventory of land to maintain a competitive land market that promotes economic development.

(d) **Protest Against Rezoning**. A zoning map amendment shall not become effective except by a favorable vote of three-fourths of all members of the City Council if either of the following sign a valid protest against the Amendment:

(1) *Subject Property*. Owners of 20 percent or more of the land included in such proposed Amendment; or

(2) *Within 200 Feet*. Owners of 20 percent of the land within 200 feet of the subject property, including any intervening public street.

Effective on: 8/9/2022

Subsection 14.06.403 Special Use Permit

(a) **Generally**. In addition to the applicable required procedures in Subsection 14.06.204, *Common Decision Criteria*, the following specific procedural provisions shall apply to special use permits.

(b) **Purpose**. The purpose of special use permit review is to determine, after a public hearing, if a use designated as a special use in Subsection 14.01.301, *Use Table*, should be allowed on a property subject to standards in Subsection 14.01.304, *Special Use Standards*.

(c) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny a special use permit, the review bodies shall consider the applicable common decision criteria in Subsection 14.06.204, *Common Decision Criteria*, and the following:

(A) *Generally*.

(i) The granting of the special use permit is not injurious or otherwise detrimental to the public health, safety, and the general welfare of the general public; and,

(ii) The granting of the special use permit is not substantially or permanently injurious to the property or improvements in the vicinity in which the property is located.

(B) *Concentration*. The special use does not create an unwanted concentration of similar special uses that is likely to discourage permitted uses by making the vicinity less desirable for them.

(C) *Location*. There is no practical alternative location where the use is permitted by right within the general vicinity of the parcel proposed for development or, if such a location exists, the proposed location is comparable or more favorable in terms of:

(i) Providing a needed community service;

(ii) Providing a critical mass of related and mutually supportive land uses that promote quality economic development and opportunity;

(iii) Providing a balance of land uses, ensuring that appropriate supporting activities, such as employment, housing, leisure-time, and retail centers are in close proximity to one another; and,

(iv) Making more efficient use of public infrastructure.

(2) *Approval*. In order to approve a special use permit, the final decision-making body shall consider all of the applicable decision criteria.

(d) **Conditions of Approval**. The Planning and Zoning Commission may recommend, and the City Council may approve, conditions of approval to the special use permit in order to mitigate its impacts on adjacent land uses such that it complies with the associated decision criteria. The subject matter of conditions may include, but shall not be limited to, the following:

(1) Additional landscaping or buffering;

(2) Building or façade improvements;

(3) Noise abatement measures;

(4) Limitations on lighting, such as lighting curfews or restrictions on levels of illumination;

(5) Measures to control, mitigate, or direct traffic;

(6) Parking, loading, stacking, and site circulation adjustments;

(7) Restrictions on outdoor displays, sales, or storage; and/or,

(8) Restrictions on signs that relate only to the sign structure, materials, lighting, placement, size, or type, but not to the content of messages displayed (unless such messages are not protected speech).

(e) **Duration**. Approval of a Special Use Permit is effective indefinitely unless the City Council sets an expiration date or requires renewal of the Special Use Permit after a given period of time. If the applicant fails to renew the Special Use Permit, or if the City Council denies the renewal, then the special use shall cease immediately.

Effective on: 8/9/2022

Section 14.06.500: Quasi-Judicial Review Procedures

Subsection 14.06.501 Variance

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to variances.

(b) **Purpose**. The purpose of a variance is to provide limited relief from the requirements of this ULDO in those cases where strict application of a particular requirement will create an unnecessary hardship by preventing the use and development of land in a reasonable manner that is otherwise allowed under this ULDO.

(c) **Applicability**.

(1) *When Required*. A variance is required to approve a deviation from a standard of this ULDO that is greater than that allowed by an administrative adjustment pursuant to Subsection 14.06.301, *Administrative Adjustment*.

(2) *Prohibitions and Exceptions*. Some requests for relief are not within the jurisdiction of the Board of Adjustment and are therefore either prohibited or not subject to this Section. These requests are:

(A) *Use and Sign Type Variances*. Variances are prohibited that would allow a use or a sign type in a zoning district in which the use or sign is prohibited.

(B) *Variances to Other Laws or Regulations*. Variances to state or federal laws are prohibited unless such authority is expressly granted to the City.

(C) *Conditions of Approval*. An applicant may seek modifications to conditions of approval with a new application submittal.

(D) *Nonconformities*. Variances that would have the effect of making existing nonconforming structures, site improvements, parking, or landscaping conforming are prohibited. Nonconforming situations are subject to the requirements of ARTICLE 14.07, *Nonconformities*.

(E) *Parking Credits and Reductions*. Adjustments to the amount of parking spaces required may be authorized in accordance with Subsection 14.02.305, *Parking Credits and Reductions*.

(F) *Floodplain Variances*. Variances to the requirements of Section 14.04.100, *Flood Damage Prevention*, and Section 14.04.200, *Flood Hazard Reduction*, may be authorized in accordance with Subsection 14.06.502, *Variance, Floodplain*.

(G) *Subdivision Standards*. Relief from the requirements of ARTICLE 14.03, *Subdivision Design Standards*, may be authorized in accordance with Subsection 14.06.606, *Waiver*.

(d) **Specific Decision Criteria**. The Board of Adjustment may approve, approve with conditions, or deny a variance based on the following criteria:

(1) *All Variances*.

(A) A variance will not adversely affect the public health, safety, and welfare;

(B) The granting of the variance is not based on a hardship that is self-imposed;

(C) The hardship is not based solely on the cost of complying with the regulation but is based on the particular physical surroundings, shape, or topographical conditions of the subject property;

(D) The hardship is based on circumstances that are unique to the property for which the variance is sought and not circumstances common to other properties;

(E) The variance requested is the minimum necessary that will make possible a permitted use of the land, building, or structure;

(F) A literal interpretation of the provisions of this ULDO would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located; and,

(G) Granting the variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same district.

(2) *Sign Variances.*

(A) In addition to the criteria for all variances, a variance from the sign standards as set out in Section 14.02.500, *Signs*, shall find that:

(i) There are special circumstances or conditions, such as the existence of buildings, topography, vegetation, sign structures, or other matters on adjacent lots or within the adjacent public right-of-way that substantially restrict the effectiveness of the sign in question. Such special

circumstances or conditions shall be unique to the particular business or enterprise to which the applicant desires to draw attention, and do not apply in general to all businesses or enterprises in the area;

(ii) The variance would be generally consistent with the purposes of this ULDO and, specifically, would not be injurious to the neighborhood in which the business or enterprise to which the applicant desires to draw attention is located; and,

(B) The Board of Adjustment may grant a variance subject to any conditions that it deems necessary or desirable to make the sign or any component or device associated with the sign compatible with the purposes of this Code.

(e) **Effect**.

(1) *Particular Variation*. Issuance of a variance shall authorize only the particular variation that is approved in the variance request.

(2) *Property Ownership*. A variance shall run with the land and not be affected by a change in ownership.

(3) *Other Approvals*. Approval of a variance does not guarantee that the development shall receive subsequent approval for other development review applications unless the relevant and applicable portions of this ULDO or any other applicable provisions are met.

Effective on: 8/9/2022

Subsection 14.06.502 Variance, Floodplain

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to floodplain variances.

(b) **Purpose**. The purpose of a floodplain variance is to provide limited relief from the requirements of Section 14.04.100, *Flood Damage Prevention*, and Section 14.04.200, *Flood Hazard Reduction*, where strict application of a particular requirement will create an unnecessary hardship by preventing the use and development of land in a reasonable manner that is otherwise allowed under this ULDO.

(c) **Variance Prohibition**. Floodplain variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(d) **Historic Structures**.

(1) *National Register and State Inventory*. Floodplain 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 this Section.

(2) *Decision Criteria*. Floodplain variances may be issued for the repair or rehabilitation of historic structures upon a determination that:

(a) The proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure; and,

(b) The floodplain variance is the minimum necessary to preserve the historic character and design of the structure.

(e) **One-Half Acre Lots**. Floodplain variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Subsection 14.06.306(d), *Specific Decision Criteria*, have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the floodplain variance increases.

(f) **Conditions of Approval**. Upon consideration of the factors in this Section, the Board of Adjustment (BOA) may attach such conditions to the granting of floodplain variances as it deems necessary to further the purpose and objectives of this ULDO, and specifically those set out in Subsection 14.04.103, *Purpose and Applicability*.

(g) **Prerequisites for Granting Floodplain Variances**.

(1) *Minimum Necessary.* The BOA shall only issue a floodplain variance upon a determination that the floodplain variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) *Prerequisites*. Floodplain variances shall only be issued upon:

(a) Showing a good and sufficient cause;

(b) A determination that failure to grant the floodplain variance would result in exceptional hardship to the applicant;

(c) A determination that the granting of a floodplain variance will not result in:

(1) Increased flood heights;

(2) Additional threats to public safety;

(3) Extraordinary public expense;

(4) Creation of nuisances;

(5) Fraud on or victimization of the public; or,

(6) Conflict with existing local laws or ordinances.

(d) The BOA may issue a floodplain variance 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 subsection (a)-(i) 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.

(h) **Notification**. 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.

(i) **Effect.** The issuance of a floodplain variance shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall authorize the preparation, filing, and processing of an application for any permits or approvals which may be required by the City, including, but not limited to, a floodplain development permit, building permit, Certificate of Occupancy, and subdivision review.

Effective on: 8/9/2022

Subsection 14.06.503 Appeal of Administrative Decision

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to appeal of administrative decisions.

(b) **Purpose**. The purpose of an appeal of administrative decision is to provide a vehicle for appeal of any final decision of the Director of Planning and Development (Director), Building Official, or Floodplain Administrator on an application set out in Section 14.06.300, *Administrative Review Procedures*.

(c) **Notice of Appeal**. Within 30 days after the date of an administrative final decision, an appeal may be initiated to the Director, in writing, by any person aggrieved by the decision. In the appeal application, the appellant shall set out all grounds for the appeal.

(d) **Transmission of Records**. The staff person whose decision is appealed shall transmit to the Board of Adjustment (BOA) all of the documents constituting the record of the appealed action.

(e) **Burden of Proof in Appeals**. The BOA shall presume the appealed final decision to be valid. The appellant shall present sufficient evidence and have the burden to justify a reversal of the decision being appealed.

(f) **Specific Decision Criteria**. In determining whether to affirm or reverse, in whole or in part, or modify the appealed decision, the applicable review bodies shall consider, and the BOA shall make findings on the following:

(1) *Record and Evidence*. The administrative decision was appropriate considering the written record of the case and the evidence presented; and,

(2) *ULDO Requirements*. The decision reflects the requirements contained in this ULDO.

(g) **Effect**.

(1) *Stay of Proceedings*. An appeal of any order, requirement, decision, or determination shall stay all proceedings unless the Director certifies that a stay would cause imminent peril to life or property.

(2) *Final Decision*. The BOA shall have the final decision-making powers of the administrative official from whom the appeal is taken. Further appeals of the Board's decision shall be heard by a court of competent jurisdiction.

(3) *No Variance*. A decision on an appeal of an administrative decision cannot grant or issue a Variance.

(4) *Flood Boundary*. A decision may support, reverse, or remand an order or determination of a boundary of the special flood hazard area.

Effective on: 8/9/2022

Section 14.06.600: Subdivision Review Procedures

Subsection 14.06.601 Development Plat

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to development plats.

(b) **Purpose**. Pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, the purpose of a development plat is to allow for development of a property for non-agricultural purposes:

(1) *Never Platted or Replatted*. That has not been platted or replatted prior to October 20, 2010, unless expressly exempted in this ULDO;

(2) *Exemption from Subdividing*. For which the property owner claims an exemption from the requirements to submit a minor, amending, preliminary, or final plat or a replat;

(3) *Private Access*. For which the only access is a private easement or street; or,

(4) *Greater than Five Acres*. The division of which will result in parcels or lots each of which is greater than five acres in size, and where no public improvement is proposed to be dedicated or constructed.

(c) **Exceptions**.

(1) *Prior Approval*. No development plat shall be required where the land to be developed has received final plat or replat approval prior to October 20, 2010.

(2) *Industrial or Commercial Subdivisions*. An industrial or commercial subdivision shall be processed for review in the same manner as provided for a residential subdivision except that no individual lots need be shown on such plat and only streets, blocks, easements, and minimum building lines need be indicated.

(d) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve or deny a development plat, the review bodies shall consider the applicable common decision criteria in Subsection 14.06.204 and the following:

(a) *Safety Hazard*. The proposed development will not create a safety hazard on a public roadway (such as by not providing adequate on-site parking or vehicle maneuvering space for a restricted access/gated entrance).

(b) *Public Improvements*. Appropriate agreements for acceptance and use of public improvements to serve the development have been tendered.

(c) *Standards and Specifications*. The proposed development conforms to the design and improvement standards contained in the specifications as adopted by the City or as required by the Director of Planning and Development.

(2) *Required Approval.* If the applicable decision-making body finds that a development plat complies with all applicable decision criteria, then it is required to approve the plat.

Effective on: 8/9/2022

Subsection 14.06.602 Preliminary Plan

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to preliminary plans.

(b) **Purpose**. The purpose of a preliminary plan is to provide sufficient information to evaluate and review the general design of a proposed subdivision to ensure compliance with the site development plan, if applicable, and the requirements of this ULDO prior to submittal of a final plat.

(c) **Specific Decision Criteria**. In determining whether to approve or deny a preliminary plan, the review bodies shall consider the applicable common decision criteria in Subsection 14.06.204.

(d) **Final Decision**.

(1) *30-Day Deadline*. The Planning and Zoning Commission (Commission) shall make a final decision on the preliminary plan at a regularly scheduled meeting held within 30 days of the date the plan is submitted. This deadline may be extended an additional 30 days if the applicant requests or consents in writing to the extension to act upon the plan.

(2) *No Action*. If no action is taken by the Commission at the end of the 30-day period, without the request or consent of an extension, the plan shall be deemed to have been approved.

(3) *Required Approval.* If the Commission finds that the preliminary plan complies with all applicable decision criteria, then it is required to approve the plan.

(e) **Appeal**. If the final decision on the preliminary plan is appealed, a vote of three-fourths of the City Council members shall be rendered to overturn the Commission's decision.

(f) **Effect.**

(1) *Next Steps*. Approval of a preliminary plan shall allow the applicant to proceed with the submission of construction plans and application for final plat approval. Construction plans shall show that the proposed public infrastructure is adequately sized and designed prior to final plat approval.

(2) *Grant of Approval*. Approval of the preliminary plan shall be deemed general approval of the subdivision's layout only and shall not constitute approval or acceptance of a final plat.

(3) *No Public Dedication*. Approval of the preliminary plan shall not constitute the acceptance of any public improvements or the creation and granting of any easements.

Effective on: 8/9/2022

Subsection 14.06.603 Final Plat

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to final plats.

(b) **Purpose**. The purpose of a final plat is to serve as the official recorded map of the property to be developed, showing the boundaries, lots, public streets, easements, and other significant facilities and features that are necessary to serve the development. The final plat shall conform to the approved preliminary plan.

(c) **Land Not to be Excluded**.

(1) *Avoidance*. A final plat shall generally not exclude land that could otherwise be included for the purpose of avoiding requirements of this ULDO, including, but not limited to, the requirement to improve existing perimeter streets or to dedicate a street designated on the City's Master Transportation Plan. If such property is excluded for good reason, the Planning and Zoning Commission (Commission) may still impose the requirement if compliance with the requirement is reasonably necessary to serve the development.

(2) *Remainder Tracts*. In no case shall a final plat exclude land so as to leave a remainder of such size, shape or location as not to be developable in substantial compliance with the requirements of this ULDO.

(d) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve or deny a final plat, the applicable review bodies shall consider the applicable common decision criteria in Subsection 14.06.204, *Common Decision Criteria*, and the plat displays a certificate of completion signed, sealed, and dated by the developer's engineer of record and approval of all public improvements by the Director of Planning and Development (Director).

(2) *Required Approval*. If the Director finds that a final plat complies with all applicable decision criteria, then he or she is required to approve the plat.

(e) **Commission Final Decision**.

(1) *Thirty (30)-Day Deadline*. The Commission shall make a final decision on the final plat at a regularly scheduled meeting held within 30 days of the date the final plat is submitted. The deadline may be extended an additional 30 days if the applicant requests or consents in writing to the extension to act upon the plat.

(2) *No Action*. If no action is taken by the Commission at the end of the 30-day period, without the request or consent of an extension, the plat shall be deemed to have been approved.

(f) **Appeal**. If the final decision on the final plat is appealed, a vote of three-fourths of the City Council members shall be rendered to overturn the Commission's decision.

(g) **Illegal Subdivision**. Where an applicant seeks approval of a final plat for land that was subdivided in violation of this ULDO, state law, or any prior ordinance, and the development cannot comply with this ULDO because of the unlawful subdivision, the Director may deny the plat.

(h) **Preliminary Renewal**.

(1) *Phasing*. For a development to be constructed in phases, the final plat may include only a portion of the land included in the preliminary plan.

(2) *Five-Year Period*. Where only a portion of an approved preliminary plan is submitted for final plat approval, a final plat of the remaining area may be submitted at any time within five years of the date of preliminary plan approval.

(3) *Renewal and Expiration*. If a final plat of the remaining area has not been submitted within the five-year time period, the portion of the preliminary plan for which no final plat has been submitted shall be deemed null and void. However, if at least one phase of the preliminary plan has received final plat approval, its public improvements have been completed, and it has been recorded with the Hutchinson County Clerk, an extension of five years to the five-year time limit shall be automatically granted effective on the date of final approval of the most recent final plat.

(i) **No Acceptance of Public Improvements**. Approval of the final plat shall not constitute the acceptance of any public improvements unless the City Council specifically agrees to such acceptance.

(j) **Effect**. The approval of a final plat is not considered an acceptance of any proposed dedication and does not impose on the City any duty regarding the maintenance or improvement of any dedicated parts until the appropriate municipal authorities make an actual appropriation of the dedicated parts by entry, use, or improvement. The disapproval of a final plat is considered a refusal by the City of the offered dedication indicated on the plat.

Effective on: 8/9/2022

Subsection 14.06.604 Replat

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to replats.

(b) **Purpose**. The purpose of a replat is to allow a property owner to add additional lots or public rights-of-way to a recorded plat without prior vacation.

(c) **Replatting without Vacating Preceding Plat**. In accordance with Texas Local Government Code Section 212.014, 212.0145 and 212.015, a replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

(1) Is signed and acknowledged by only the owners of the property being replatted;

(2) Is approved, after a recommendation by the Planning and Zoning Commission and a public hearing on the matter, if required by Texas Local Government Code Section 212.015, and/or by the City Council; and,

(3) Does not attempt to amend or remove any covenants or restrictions.

(d) **Replatted Lot Size**. In no case shall replatted lot sizes be smaller than the minimum set forth in Section 14.01.200, *Base Districts and Standards*, for the zoning district of the area proposed to be replatted.

(e) **Utilities**. The relocation and/or abandonment of any utilities shall be the responsibility of the subdivider and shall be provided for concurrently with the replat. The cost of any such relocation and/or abandonment shall be borne by the subdivider.

Effective on: 8/9/2022

Subsection 14.06.605 Vacating Plat

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to vacating plats.

(b) **Purpose**. The purpose of a vacating plat is to eliminate the subdivision of property reflected by a prior recorded plat, whereby the subdivided land would return to a single unit of property.

(c) **Vacation of Plat**. In accordance with Texas Local Government Code Section 212.013, a recorded plat may be vacated pursuant to the following.

(1) *Common Ownership*. The owners of the tract covered by a plat may vacate the plat at any time before any lot in the subdivision is sold.

(2) *Separate Ownership*. If lots in the subdivision have been sold, the subdivision, or any part of the subdivision, may be vacated on the application of all the owners of lots in the subdivision with approval obtained in the manner prescribed for the original plat for the subdivision.

(3) *When Vacated*. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.

(4) *Execution and Recording*. On the execution and recording of the vacating instrument, the vacated plat has no effect.

(5) *Utilities*. The relocation and/or abandonment of any utilities shall be the responsibility of the subdivider and shall be provided for concurrently with the vacation procedure. The cost of any such relocation and/or abandonment shall be borne by the subdivider.

(d) **Government Initiated Plat Vacation**.

(1) *Generally*. The City Council may vacate a plat of an approved subdivision when:

(A) No lots within the approved plat have been sold within five years from the date that the plat was approved;

(B) The City is unable to obtain funds from the subdivider's bonding company with which to complete construction of unfinished and abandoned public improvements, except that the vacation shall apply only to lots owned by the subdivider or its successor; or,

(C) The plat has been of record for more than five years and the Council determines that the further resale of lots within the subdivision presents a threat to public health, safety, and general welfare, except that the vacation shall apply only to lots owned by the subdivider or its successors.

(2) *Notice*. Prior to initiating a plat vacation, the Council shall follow the notice requirements set forth in Texas Local Government Code Section 212.015.

(e) **Utilities**. The relocation and/or abandonment of any utilities shall be the responsibility of the subdivider and shall be provided for concurrently with the vacating plat. The cost of any such relocation and/or abandonment shall be borne by the subdivider.

Effective on: 8/9/2022

Subsection 14.06.606 Waiver

(a) **Generally**. In addition to the applicable required procedures in Section 14.06.200, *Common Review Procedures*, the following shall apply to waivers.

(b) **Purpose**. The purpose of a waiver is to allow relief from the standards in Section 14.03.200, *Subdivision Design Standards*, which may be considered concurrently with a preliminary or final plat, minor plat, or replat, to address unforeseen circumstances or other difficulties in developing a property under the specific provisions of this ULDO.

(c) **Specific Decision Criteria**.

(1) *Review and Decision*. In determining whether to approve, approve with conditions, or deny a waiver, the applicable review bodies shall consider the applicable common decision criteria in Subsection 14.06.204 and the following:

(A) Strict application of the standard requested to be waived renders platting of the subject property unfeasible.

(B) The waiver requested is the minimum necessary that will make possible platting of the subject property.

(C) The reason for the waiver is based on a minimum of one of the following:

(i) The particular physical surroundings, shape, or topographical conditions of the subject property; or,

(ii) Achieving alternative compliance with the standard requested to be waived in a manner not contemplated in this ULDO.

(D) The subdivider has incorporated elements articulated in Section 14.03.200, *Subdivision Design Standards*, to compensate for non-compliance with the standards requested to be waived.

(2) *Affirmative Findings*. In order to approve a waiver, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

(d) **Effect**.

(1) *Property Ownership*. Approved waivers shall bind the development of the specific property regardless of any change in ownership of the property.

(2) *Annotation on Final Plat.* Approved waivers shall be indicated in written or graphic form on the final plat prior to recording the approved final plat with the Hutchinson County Clerk.

Effective on: 8/9/2022

ARTICLE 14.07: NONCONFORMITIES

Contents:

Section 14.07.100 Generally

Section 14.07.200 Uses

Section 14.07.300 Structures

Section 14.07.400 Lots

Section 14.07.500 Sign or Other Site Feature

Section 14.07.600 Nonconformity Expansion

Section 14.07.100 Generally

(a) **Purpose**. The purpose of this Article is to provide nonconformity regulations. Nonconformities include nonconforming uses, structures, lots, site features, and signs.

(b) **Applicability**. This Article's regulations apply to all nonconformities. Uses, structures, lots, signs, or other site features that were illegally established or constructed are not nonconformities and the provisions of this Article do not apply to them.

(c) **Territorial Changes**. Whenever zoning district boundaries change to a different zoning district from annexation, these regulations apply to any existing nonconformity.

Effective on: 8/9/2022

Section 14.07.200 Uses

(a) **Nonconforming Use Defined**. A nonconforming use means any use that:

(1) *Previously Nonconforming*. On the effective date of this ULDO, was previously lawfully established and complied with the applicable regulations in effect at the time it was established but does not comply with the applicable regulations of this ULDO; or,

(2) *Nonconforming Due to Amendment*. On or after the effective date of this ULDO, was lawfully operating according to this ULDO's provisions but which use, by ULDO text amendment, or other governmental action, then became an unpermitted use in the district in which the use is located. Also, territory annexed into the City may continue as provided pursuant to the Texas Local Government Code, Chapter 43.

(b) **General Limitations on Nonconforming Uses.**

(1) *Nonconforming Uses***.** A nonconforming use or a lawful use that becomes nonconforming because of adoption or amendment to this ULDO may continue after the effective date of adoption or amendment of this ULDO.

(2) *Abandonment*. If a nonconforming use is abandoned for 12 months, any future use shall conform to this ULDO. Abandonment of a nonconforming use terminates the right to operate that use.

(3) *Continuance*. The lawful use of any building existing as of the effective date of this ULDO may continue, although the use does not conform to this Section's provisions. This use may not expand, enlarge, or extend throughout the building, except in accordance with the requirements specified in Section 39.08.006, *Nonconformity Expansion*.

(4) *Expansion*. A conforming structure in an operating nonconforming use cannot expand, enlarge, or extend unless by the requirements specified in Section 14.07.600, *Nonconformity Expansion*.

(5) *Conditions*. The right of nonconforming uses to continue is subject to maintenance regulations adopted by the City designed to protect adjacent properties.

(6) *Destruction of Nonconforming Use*. Any nonconforming use destroyed or damaged to the extent less than 50 percent of the fair market value of the property at the time of the damage, may be repaired for such continued use, provided that such repairs be completed within six months from the date of the damage and provided that such repairs or replacement shall not change, expand or extend the nonconforming use. In the case that the damage or destruction exceeds 50 percent or more of its fair market value above its foundations, the damage or destruction shall not be repaired or reconstructed for the purpose of continuing the nonconforming use unless the damage or destruction is due to circumstances beyond the control of the property owner (such as fire, natural disaster, or accident).

(c) **Limitations for Specific Nonconforming Uses**.

(1) *Salvage or Scrap Metal Yard*. Nonconforming use involving salvage or scrap metal yards required by this ULDO to screen such salvage or scrap metal yard shall:

(A) Provide such screening in all zoning districts no later than two years from the effective date of this ULDO.

(B) When located in IL or IH zoning districts and where a special use permit is required, make application and obtain such special use permit no later than two years from the effective date of this ULDO.

(C) Salvage or scrap metal yards that are annexed into the City, subsequent to the effective date of this ULDO or created as nonconforming uses by the rezoning to a more restrictive zoning district, from the date of such annexation or rezoning, as the case may be, fall within and be subject to the provisions as set forth in this Article.

(2) *Adult Business*. An adult business in operation on the effective date of an annexation that does not conform to the location and zoning requirements pertaining to an adult business shall be a nonconforming use that may continue for three years from the effective date of annexation. Upon the expiration of three years, all nonconforming use rights shall terminate, and the use shall be illegal and shall terminate.

(A) The nonconforming adult business shall not be increased, enlarged, or altered except to comply with the requirements of subsections 14.01.304(f)(1), *Adult Business*, supplemental regulations (F) through (I).

(B) If two or more adult businesses are rendered nonconforming by the required separation in subsections 14.01.304(f)(1), *Adult Business*, supplemental regulations, (A) through (E) only, first in time is first in right. It shall be the burden of the adult business asserting a priority to prove its prior right.

(C) If the owner of an adult business is unable to recoup its investment in such business prior to termination, it may request an extension of time by filing a request with the Director of Planning and Development 90 days prior to the termination date.

(i) The application for an extension shall contain all of the data the applicant wishes to be considered in determining whether or not an extension should be granted.

(ii) The City Council may consider the application for extension and may grant additional time not to exceed one year if it finds that the applicant's need outweighs the public interest in termination.

(Ord. # O-002-25, 03/18/2025)

Effective on: 4/11/2025

Section 14.07.300 Structures

(a) **Nonconforming Structure Defined**. A nonconforming structure means any existing structure erected or modified on or before the effective date of this ULDO that complied with the regulations in effect at the time it was erected or modified but that does not comply with all the regulations applicable in this ULDO.

(b) **Limitations on Nonconforming Structures**.

(1) *Continuance*. Subject to this Section, any nonconforming structure may be occupied, operated, and maintained subject to maintenance regulations adopted by the City designed to protect adjacent properties. No nonconforming structure may be expanded, enlarged, or extended except in compliance with Section 14.07.600, *Nonconformity Expansion*.

(2) *Repairs or Alterations*. Repairs may be made to a nonconforming building or structure.

(3) *Moving*. No nonconforming building or structure may be moved in whole or in part to any other location on the lot, or to any other lot, unless every portion of the building or structure conforms to all of the district's regulations as currently set forth in this ULDO.

(4) *Restoration of Damaged Buildings*. A nonconforming structure that is damaged or partially destroyed by fire, wind, explosion, earthquake, or other calamities shall not be restored or used if the expense of restoration exceeds 50 percent of the fair market value of the building or structure when the damage occurred. Any nonconforming structure partially destroyed may be restored if restoration starts within 12 months of the date of partial destruction. If a nonconforming building or structure is damaged more than 50 percent of its replacement cost at that time, the repair or reconstruction of that structure shall conform to all the district's regulations where it is located. This repair or reconstruction is deemed a new structure.

(5) *Termination of Nonconforming Buildings or Structures*.

(A) *Damage*. The right to operate and maintain any structure terminates and ceases to exist whenever the nonconforming structure is damaged in any manner and from any cause, and the cost of repairing that damage exceeds 50 percent of the replacement cost of that structure on the damage date.

(B) *Obsolete*. The right to operate and maintain any nonconforming structure terminates and ceases to exist when the nonconforming structure becomes obsolete or substandard under any applicable City ordinance and the cost of placing that structure in compliance with the applicable ordinance exceeds 50 percent of the replacement cost of that building or structure on the date that the Building Official determines that the structure is obsolete or substandard.

(C) *Determination of Replacement Cost*. The replacement cost determination of any nonconforming structure does not include the cost of land or any factors other than the nonconforming structure itself.

Effective on: 8/9/2022

Section 14.07.400 Lots

(a) **Nonconforming Lot Defined**. A nonconforming lot means any existing lot created on or before the effective date of this ULDO that complied with the regulations in effect at the time of creation but that does not comply with all the regulations applicable in this ULDO.

(b) **Continuance**. The nonconforming lot may be used for any use allowed by the zoning district in which it is located, if:

(1) *Access to Street*. The lot has direct access to an existing improved public or private street or alley;

(2) *Contiguous Properties*. The lot is in separate ownership from all adjacent and contiguous parcels, therefore preventing acquisition of the additional land area needed to comply with the standards that would normally apply to the creation of the lot (for example, minimum area and width); and,

(3) *Other Standards*. Development on the lot complies with applicable standards of this ULDO (other than lot area and/or width).

(c) **Creation of Nonconforming Lots Prohibited**. The subdivision of any land may not result in a lot area or dimension that does not meet the minimum standards of this ULDO.

Effective on: 8/9/2022

Section 14.07.500 Sign or Other Site Feature

(a) **Nonconforming Sign or other Site Features Defined**. A nonconforming sign or other site feature means any existing sign or other site feature established on or after the effective date of this ULDO that complied with the regulations in effect at the time of development but that does not comply with all the regulations applicable in this ULDO. A site feature includes parking, loading, and stacking; landscaping and buffers; signs, including billboards; outdoor lighting; or other site conditions or standards required by Article 14.02, *Building and Site Design*.

(b) **Generally**. Except for provisions specifically related to signs below, the following shall apply to all other nonconforming site features.

(1) *Continuance*. Nonconforming site features may continue if there is no site expansion, enlargement, or extension.

(2) *Compliance*. If a structure or use is expanded, enlarged, or extended, nonconforming site features shall comply with the standards of this UDC based on the requirements of Table 14.02.101-1, *Building and Site Design Standards Applicability*.

(c) **Nonconforming Signs**.

(1) *Inspection, maintenance, and nonconforming*.

(A) A nonconforming sign existing as of the effective date of this ULDO may be continued, repaired, and maintained in good condition, but may not be otherwise altered.

(B) Except as permitted for specific types of signs, voluntary removal of a nonconforming sign for purposes other than maintenance terminates nonconforming rights for the sign.

(C) A nonconforming sign will have its nonconforming status terminated if the sign, or a substantial part of it, is voluntarily dismantled for any purpose other than routine maintenance or for changing of the copy or advertising message on the sign. However, if the sign is destroyed or damaged due to circumstances beyond the control of the property owner (such as fire, natural disaster, or accident), the sign may be reconstructed with the standards of this ULDO based on the requirements of Table 14.02.101-1, *Building and Site Design Standards Applicability*.

(2) *Damage*. Any sign face, support, or appurtenances of a nonconforming sign sustaining damage to the extent of 10 percent of the sign display area, support, or appurtenances shall be immediately removed or repaired.

(Ord. # O-002-25, 03/18/2025)
Effective on: 4/11/2025

Section 14.07.600 Nonconformity Expansion

(a) **Applicability.**

(1) The Director of Planning and Development (Director) may approve the extension or enlargement of a nonconforming structure provided that the extension or enlargement does not increase the degree of the nonconformity. For example, if a five-foot side setback is required, and the nonconforming structure has a three-foot side setback, it may be expanded provided that the extension complies with the five-foot required setback.

(2) The Board of Adjustment (BOA) may, after public notice and hearing as required in Texas Local Government Code Chapter 211, and subject to the conditions and safeguards in this Section, authorize the following:

(A) The reconstruction, extension, or enlargement of a structure occupied by a nonconforming use; or

(B) The extension of a nonconforming use.

(b) **Decision Criteria**. In granting the expansion, the Director may provide conditions of approval that, in its opinion, will secure substantially the purpose and intent of this ULDO as articulated in Subsection 14.01.102, *Purposes*.

Effective on: 8/9/2022

ARTICLE 14.08: ENFORCEMENT AND REMEDIES

Contents:

Section 14.08.100: Enforcement Procedures

Section 14.08.200: Remedies

Section 14.08.100: Enforcement Procedures

Subsection 14.08.101 Purpose

The purpose of this Article is to set out the procedures for enforcing this ULDO, and the remedies available to the City for violations of this ULDO.

Effective on: 8/9/2022

Subsection 14.08.102 Applicability

(a) **Compliance Required**. No person may use, occupy or develop land, buildings or other structures, or authorize or permit the use, occupancy or development of land, buildings or other structures, except in accordance with all the provisions of this ULDO.

(b) **Continuation of Prior Enforcement Actions**. Nothing in this ULDO shall prohibit the continuation of previous enforcement actions undertaken by the City pursuant to regulations in effect before the effective date of this ULDO. Enforcement actions initiated before the effective date of or amendments to this ULDO may be continued to completion or settlement under the terms of the regulations in effect prior to the effective date of this ULDO.

Effective on: 8/9/2022

Subsection 14.08.103 Violations

(a) **Complaints**. Any person may file a written complaint to the Director of Planning and Development (Director) on a suspected violation of this ULDO. The Director shall record the complaint immediately, investigate, and take action as provided in this Article.

(b) **Notice of Violation**.

(1) *Mailed Notice*. After verifying that a violation exists on the subject property, the Director shall send a violation notice by certified mail, postage pre-paid, return receipt requested, to the property owner on which the violation is taking place.

(2) *Notice Contents*. The notice shall contain the violation description, citation of the article, section, subsection, or paragraph of this ULDO being violated, address or location of property, date of noticed infraction, steps to correct, and the deadline to correct the infraction.

(c) **Timeframe for Violation to be Corrected**. Failure to correct the violation within 10 business days from the date of mailing the letter shall constitute an offense.

(d) **Correction**. Correction of the violation in the manner stipulated by the violation notice at any point during this enforcement process shall deem the notice null and void, and enforcement activity shall cease.

(e) **Existing Violations**.

(1) *Generally*. Any violation of the repealed provisions of the City's Code of Ordinances that this ULDO replaced shall continue to be a violation under this ULDO and shall be subject to the penalties and enforcement set out in this Article unless the use, development, construction, or other activity complies with the provisions of this ULDO.

(2) *Fines and Penalties*. Payment of fines shall be required for any civil penalty assessed under the repealed provisions of the City's Code of Ordinances, even if the original violation is no longer considered a violation under this ULDO.

Effective on: 8/9/2022

Section 14.08.200: Remedies

Subsection 14.08.201 Non-Judicial

(a) **Director Authority**. If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this ULDO, the Director of Planning and Development (Director), in addition to other remedies, may institute appropriate action to:

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

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

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

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

(b) **Property Owner Rights**. In addition to the other penalties and remedies of this Section, the right is hereby conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded, by a violation of the terms of this ULDO, to bring suit in a court of competent jurisdiction and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.

Effective on: 8/9/2022

Subsection 14.08.202 Judicial

The City may seek the following judicial remedies or any other judicial remedy as permitted by law to enforce this ULDO in any court of competent jurisdiction:

(a) **Injunctive Relief**. The City may seek an injunction in a court of competent jurisdiction to stop any violation of this ULDO. Such relief may include revocation or termination of permits for any reason. In any court proceeding in which the City seeks a preliminary injunction, it shall be presumed that a violation of this ULDO is, or could be, an injury to the public health, safety, or general welfare.

(b) **Abatement**. The City may seek a court order in the nature of mandamus, abatement, or other action to abate or remove a violation, or to otherwise restore the premises in question to the condition in which it existed prior to a violation.

Effective on: 8/9/2022

Subsection 14.08.203 Penalties

Any person, partnership, corporation, association, or legal entity found to have violated or failed to comply with any of the provisions of this ULDO, shall upon conviction in a court of competent jurisdiction, be fined in accordance with Section 1.01.009, Penalties, of the City of Borger Code of Ordinances. The imposition of a fine shall be in addition to all other remedies provided for in this ULDO. Each day that the provisions of this ULDO are violated shall constitute a separate and distinct offense.

Effective on: 8/9/2022

ARTICLE 14.09: RULES OF CONSTRUCTION AND DEFINITIONS

Contents:

Section 14.09.100: Rules of Construction

Section 14.09.200: Definitions

Section 14.09.100: Rules of Construction

Subsection 14.09.101 Rules of Construction

(a) **"Shall," "will," "should," "may," and "must."**

(1) The words "shall," "must," and "will" are always mandatory.

(2) The words "should" and "may" are discretionary.

(b) **Representative of the City**. Any office referred to in this ULDO by title means the person employed or appointed by the City in that position, or their duly authorized representative, and includes any person designated to perform the duties of such office.

(c) **Customary Usage**. Definitions not expressly prescribed in this ULDO are to be construed in accordance with customary usage in municipal planning and engineering practices.

(d) **Most Recent Version**. All references to other county, state, or federal regulations in this ULDO refer to the most current version and citation for those regulations, unless expressly indicated otherwise. If the referenced regulations have been repealed and not replaced by other regulations, requirements for compliance are no longer in effect.

(e) **Tense and Number**. Words in the present tense include the future and vice-versa. Words in the singular number include the plural number and vice-versa.

(f) **Building and Structure**. The word "structure" includes the word "building."

(g) **District**. The word "district" means zoning district.

(h) **City**. The word "City" means Borger, Texas.

(i) **Gender**. If a feminine term is used, the masculine also applies and vice-versa.

(j) **Conjunctions**.

(1) And. The word "and" shall be construed to include all connected items in a series or set of conditions or provisions.

(2) Or. The word "or" shall be construed to include one or more of the items in a series or set of conditions or provisions unless the context clearly indicates otherwise.

(k) **Lists**. The use of terms such as "including," "such as," or similar language is intended to provide examples, not to be exhaustive lists of all possibilities unless the context clearly indicates otherwise.

(l) **Rounding**. If any regulatory formula in this ULDO results in a non-whole number of an indivisible object or feature (for example, a bufferyard requiring 3.33 trees or a parking lot requiring 20.75 spaces), then the non-whole number shall be rounded down or up to the next lowest or highest whole number (in this case, the buffer case, 3 and in the parking lot case, 21).

(m) **Days**. All references to "days" are deemed calendar days unless expressly indicated otherwise. The time in which an act shall be completed is computed by excluding the first day and including the last day. In computing working days, if applicable, Saturdays, Sundays, or holidays observed by the City are excluded. A day concludes at the close of business for the Planning and Development Department, and any materials received after that time will be deemed to have been received the following day.

(n) **Illustrations, Tables, and Text**.

(1) *Text*. The text material of this ULDO controls over tables and illustrations in cases of inconsistency. Likewise, tables control over illustrations.

(2) *Graphics*. Illustrations and photographs in this ULDO are provided for illustrative purposes only.

(o) **Defined and Undefined Terms**. Terms defined in Section 14.09.200, *Definitions*, are those having a special meaning relative to the purposes of this ULDO. All words not defined in such Section shall be given their usual and customary meanings, according to the Director of Planning and Development, unless the context clearly indicates otherwise.

Effective on: 8/9/2022

Section 14.09.200: Definitions

Subsection 14.09.201 Definitions

A

Abandoned Sign means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

Effective on: 5/17/2021

Access Sign means a freestanding on-premise sign located at the entry or exit of a vehicle use area that may or may not give exit or entry directions or facility information.

Accessory Building means in a residential district, a subordinate building, attached or detached and used for a purpose customarily incidental to the main structure such as private garage for automobile storage, tool house, lath or greenhouse as a hobby (no business), home workshop, children's playhouse, storage house or garden shelter, but not involving the conduct of a business. In nonresidential districts any use incidental or subordinate to the primary use and housed in a separate building or structure. In no instance shall the use of the detached subordinate building be contrary to the land uses permitted in the zoning district in which said building is located.

Effective on: 6/12/2022

Accessory Dwelling Unit (ADU) means a secondary dwelling unit that is either located in a separate accessory building on the same lot as the principal dwelling unit or as a separate, independent unit within the principal building. The ADU provides a complete, independent living space with facilities for cooking, eating, sanitation, and sleeping.

Effective on: 6/12/2022

Accessory Use means a use subordinate to and incidental to the primary use of the main building or to the primary use of the premises.

Effective on: 6/12/2022

ADA means the Americans with Disabilities Act.

Adult Arcade means a business which offers its customers in one or more viewing booths motion or still pictures characterized by exposure of specified anatomical areas.

Effective on: 6/12/2022

Adult Bookstore/Film/Video Store means a business in which a substantial portion of its stock in trade consists of books, videos, tapes, cassettes, photographs, slides, magazines, and other periodicals which are distinguished or characterized by an emphasis on specific sexual activities, specified anatomical areas, or both.

Effective on: 6/12/2022

Adult Business means any business activity which offers the opportunity to view specified sexual activity, or view or touch for entertainment specified anatomical areas. Such definition further includes but is not limited to adult arcade, adult bookstore/film/video store, adult cabaret, adult lounge, adult motel or hotel, adult retail store, adult theater, and topless business establishments.

Effective on: 6/12/2022

Adult Cabaret means a business which offers to customers live performances characterized by exposure of specified anatomical areas.

Effective on: 5/17/2021

Adult Day Care Center means a facility that provides services under an adult day care program on a daily or regular basis, but not overnight, to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility. Adult day care centers shall be licensed by the Texas Department of Human Services and/or any other state or federal agency with jurisdiction.

Effective on: 6/12/2022

Adult Lounge means an adult cabaret which serves alcoholic beverages.

Effective on: 5/17/2021

Adult Motel or Hotel means a business which offers its customers a sleeping room or sitting room for a period of timeless than 10 hours and provides motion picture or still picture entertainment characterized by an emphasis on specific sexual activities, specified anatomical areas, or both.

Effective on: 6/12/2022

Adult Retail Store means a business in which a substantial portion of the stock in trade consists of items or products other than printed matter characterized by an emphasis on specified sexual activities, specified anatomical areas, or both.

Effective on: 5/17/2021

Adult Theater means a business with a capacity of more than five persons which offers customers motion or still pictures or live entertainment or performances characterized by exposure of specified anatomical areas.

Effective on: 6/12/2022

Agricultural and Animal Related Use Category means a use category that contains uses related to the commercial production, storage, processing, marketing, distribution or export of floricultural, horticultural, or viticultural crops, and the small-scale keeping and treatment of animals.

Uses in this use category include: community garden; floriculture, horticulture, row and field crops, viticulture, or orchard; kennel; plant nursery, greenhouse, and landscaping business; stable, private and noncommercial; veterinary clinic; veterinary hospital; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office; barn, silo, stable (private) or other agricultural storage; buildings associated with agricultural uses being pursued on site; greenhouse; minor utilities; parking and storage of operable farm vehicles and farm machinery; and roadside stand.

Effective on: 6/12/2022

Airport means any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

Alley means a minor public right-of-way, not intended to provide the primary means of access to abutting lots, which is used primarily for installation of public utilities, solid waste collection, and for vehicular access to the back or sides of properties otherwise abutting on a street.

Effective on: 5/17/2021

Alluvial Fan Flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and characterized by high velocity flows; active processes of erosion, sediment transport, deposition, and unpredictable flow paths.

Effective on: 5/17/2021

Amusement Redemption Machine means, in accordance with TLGC 234.131, any electronic, electromechanical, or mechanical contrivance designed, made, and adopted for bona fide amusement purposes that rewards the player exclusively with noncash merchandise, prizes, toys, or novelties, or a representation of value redeemable for those items, with a wholesale value available from a single play of the game or device in an amount not more than 10 times the amount charged to play the game or device once or five dollars, whichever amount is less. A coin-operated amusement machine designed primarily for children is not an amusement redemption machine.

Effective on: 6/12/2022

Animal Slaughterhouse or Packaging Plant means a building or structure where livestock is slaughtered and prepared for distribution to butcher shops or retail sales establishments such as grocery stores. A slaughterhouse is designed to accommodate the confinement and slaughtering of live animals and may include packing, treating, storage, or sale of the product on the premises.

Effective on: 6/12/2022

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Effective on: 5/17/2021

Area of Shallow Flooding means a designated AO, AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent 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 maybe evident. Such flooding is characterized by ponding or sheet flow.

Effective on: 6/12/2022

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

Effective on: 6/12/2022

Assisted Living Facility means a facility that provides meals and assistance with daily activities such as dressing, grooming, and bathing for the elderly or adults who are unable to manage these activities themselves. This definition does not include a nursing home or similar institutions with professionally trained technical staff devoted primarily to the care of the chronically ill or the incurable.

Effective on: 6/12/2022

Awning means a shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework (compare “marquee”).

Effective on: 5/17/2021

Awning Sign means a sign painted on, printed on, or attached flat against the surface of an awning.

Effective on: 6/12/2022

B

Bank and Credit Union means any of the class of business in a freestanding building, kiosk, or automated teller machine that provides financial services and the transmission of funds. Typical accessory uses may include automatic teller machines, drive-through service, offices, and parking.

Effective on: 6/12/2022

Banner Sign means a sign made of fabric or any nonrigid material with no enclosing framework.

Effective on: 5/17/2021

Bar, Tavern, and Lounge means an eating and drinking establishment providing or dispensing by the drink for on-site consumption fermented malt beverages, and/or malt, special malt, vinous, or spirituous liquors, and in which the gross receipts of food products is less than 60 percent of the entire gross receipts of such establishment. A bar, tavern, or lounge may include the provision of live entertainment and/or dancing; however, shall not include any adult business entertainment. Accessory uses may include the manufacture of alcoholic beverages for on-site consumption and/or retail sales.

Effective on: 6/12/2022

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

Effective on: 10/17/2021

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Effective on: 5/17/2021

Batch Plant means the production of concrete or asphalt that uses a manufacturing process involving the mixing of a number of materials.

Effective on: 5/17/2021

Bed And Breakfast Inn means tourist lodging services within rooms of the property owner's principal residence or one separate guest house within a single property served by a single water meter and electrical meter and subject to the limitations of home occupation. To qualify as a bed and breakfast, the owner shall provide proof of collection and payment of state and local hotel/motel occupancy tax to the City upon request.

Effective on: 6/12/2022

Billboard means a poster panel, painted bulletin, or other advertising devices which promotes and advertises commodities or services not offered on the premises on which such sign is located.

Effective on: 8/16/2021

Block means an area enclosed by streets and occupied by or intended for buildings; or if said word is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two streets which intersect said street on the said side.

Effective on: 5/17/2021

Board of Adjustment (BOA) means the City of Borger's Zoning Board of Adjustment as provided for in Subsection 14.05.103.

Effective on: 6/12/2022

Boarding House means a building other than a hotel, where lodging and meals for four or more persons are served for compensation.

Effective on: 5/17/2021

Boat and Recreational Vehicle Outdoor Storage means a facility where boats and other watercraft and vehicles including, but not limited to, travel trailers, fifth wheels, or motor homes are stored outdoors.

Effective on: 8/16/2021

Building Materials Sales means the sale and/or storage of building materials where a minimum of 60 percent of the building materials are new products which have not previously been used in the construction of, or as a part of, any structure.

Effective on: 5/17/2021

Building means any structure built for the support, shelter and enclosure of persons, animals, chattels, or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire each portion so divided may be deemed a separate building. Building includes the word "structure."

Effective on: 6/12/2022

Building Official means the person legally designated the inspection authority by the City to determine building code compliance and other similar compliance issues, or his or her authorized representative. See Subsection 14.05.105.

Effective on: 6/12/2022

Building Permit means an official permit issued by the City to allow a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any structure.

Effective on: 6/12/2022

Building Setback Line means the line parallel to the street right-of-way line designating the minimum distance from the street right-of-way line that a structure may be erected.

Effective on: 5/17/2021

C

C means the Commercial zoning district.

Effective on: 5/17/2021

Campground with Overnight Accommodations means a facility that may be designed for temporary (maximum of seven nights) use by travel trailers, recreation vehicles, or tents.

Effective on: 6/12/2022

Canopy means a framed accessory structure or exterior architectural feature which is attached to and supported from a wall or held up by its own supports, which provides shelter from the elements to persons, vehicles, or property.

Effective on: 5/17/2021

Canopy Sign means any sign painted, printed, attached, or otherwise applied to the surface of an attached or freestanding canopy.

Carbon Black Manufacturing means an establishment that is primarily engaged in manufacturing carbon black, bone black, and lamp black.

Effective on: 5/17/2021

Car Wash means a facility for the washing or cleaning of vehicles. A car wash may be:

- a single unit type with a single bay or a group of single bays with each bay to accommodate one vehicle only where a person uses a high-pressure hose to wash the vehicle by hand;
- an automated single unit type that has a single bay to accommodate one vehicle at a time; or,
- a tunnel unit type that allows washing of multiple vehicles in a tandem arrangement while moving through the structure.

Effective on: 6/12/2022

Cemetery, Columbarium, Mausoleum, and Memorial Park means land used or intended to be used for the burial of the dead, whether human or animal, including crematoriums, columbarium, mausoleums, and other buildings where funeral services may be held. This definition includes funeral homes and/or mortuaries.

Effective on: 8/16/2021

Certificate of Occupancy means an official certificate issued by the Building Inspector for the use of a building, structure, or land when it is determined by him that the building complies with all applicable City codes, ordinances, and regulations.

Effective on: 5/17/2021

Check Cashing Business means a person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check cashing business" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check cashing business" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or issue money orders for a minimum flat fee as a service that is incidental to its main purpose or business. The term "currency exchange" expressly includes businesses known as "check cashing" facilities.

Effective on: 6/12/2022

Child Day Care Center or Pre-School means a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week.

Effective on: 5/17/2021

Civic Use Category contains uses including buildings, structures, or facilities to provide a service to the public. Accessory uses may include limited retail, concessions, parking, and maintenance facilities.

Uses in this use category include: community, senior, or youth center; lodge or civic club; library, museum, or gallery; public assembly facility; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: assembly hall; associated office and storage; associated retail sales area related to principal use; athletic facilities; auditorium or theater; before- and after-school day care; classrooms; concession; day care; dormitory; food preparation and dining facility; laboratory; library; medical clinic; minor utilities; pre-school; and recreation facility.

Effective on: 6/12/2022

C-MU means the Corridor-Mixed Use zoning district.

Effective on: 5/17/2021

College and University means an institution established for educational purposes and offering a curriculum similar to the public schools or an accredited college or university but excluding trade and commercial schools.

Effective on: 6/12/2022

Commission means the Planning and Zoning Commission of the City. See Subsection 14.05.102.

Effective on: 6/12/2022

Community Garden means a private or public facility for the cultivation of fruit, flowers, vegetables, or ornamental plants by more than one person or family.

Effective on: 8/16/2021

Community Home for Persons with Disabilities means a community-based residential home containing not more than six disabled persons with two supervisory personnel which meets the requirements of the Community Homes for the Disabled Persons Location Act, Texas Human Resources Code Chapter 123, as amended.

Effective on: 8/16/2021

Community, Senior, or Youth Center means a public building to be used as a place of meeting, recreation, or social activity and not operated for profit.

Comprehensive Plan means a periodically updated series of documents that unifies all elements and aspects of city planning. This plan reflects the best judgment of the staff, Planning and Zoning Commission, and City Council and sets a policy for zoning and subdivision decisions. This plan indicates the general locations recommended for various land uses, transportation routes, public buildings, streets, parks, and other public and private developments and improvements.

Effective on: 6/12/2022

Council means members of the Borger City Council. See Subsection 14.05.101.

Effective on: 10/17/2021

Country Club (Private) with Golf Course means an area containing a golf course, and clubhouse and associated uses available only to private specific membership.

Effective on: 6/12/2022

Critical Root Zone means a circular region measured outward from a tree trunk representing the essential area of the roots that shall be maintained in order for the tree's survival. The critical root zone is one foot of radius from the center of the tree trunk for every inch of tree diameter at four feet above grade. For example, a tree that is 24 inches in diameter at four feet above grade would have a critical root zone with a radius of 24 feet.

Effective on: 6/12/2022

Curb Line means an imaginary line drawn along and parallel to the outermost part or back of the curb and gutter on either side of a public street; or, if there is no curb and gutter, along and parallel to the outermost portion of the paved street; or, if there is no paved street, along and parallel to the outermost edge of the traveled portion of the street.

Effective on: 5/17/2021

D

DA means the Downtown Area Zoning District.

Effective on: 6/12/2022

Day Care Use Category contains public and civic uses providing care, protection, and supervision for at least 17 children or adults on a regular basis away from their primary residence. Care is typically provided to a given individual for fewer than 18 hours each day, although the facility may be open 24 hours each day.

Uses in this use category include: adult day care center; child day care center; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; food preparation and dining facility; minor utilities; and recreation facility

Effective on: 6/12/2022

dBA means decibels.

Development means any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Effective on: 6/12/2022

Director means the Director of Planning and Development or a designee, or the individual designated by the City Manager to administer the regulations and provisions of this ULDO.

Effective on: 6/12/2022

Directory Sign means an outdoor sign listing and identifying the occupants within retail centers, industrial centers, office complexes, institutional campuses (for example, medical center, hospital, etc.), and other multi-tenant, mixed-use, or nonresidential sites.

District means a section of the City for which the regulations governing the area, height, or use of the land and buildings are uniform.

Effective on: 5/17/2021

Duplex means a type of building that is located on its own lot and is used by two families.

Effective on: 8/16/2021

Dwelling Unit means a building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters and includes facilities for food preparation and sleeping.

Effective on: 5/17/2021

Dwelling, Apartment means a room or suite of rooms in a building that is occupied as a home or residence of three or more families.

Effective on: 6/12/2022

Dwelling, Multiplex means a multi-family building type that is designed to resemble a large single-family home. Units may have either private or shared access and may be arranged in a variety of configurations, including back-to-back, side-to-side, or over-under.

Effective on: 8/16/2021

Dwelling, Single-Family Attached means a type of residential building that is located on its own lot, shares a common wall with another dwelling, and is used by a single-family.

Effective on: 8/16/2021

Dwelling, Single-Family Detached means a type of residential building that is located on its own lot, is not attached to any other dwelling, is used by a single family, and does not meet the definition of a qualified manufactured home.

Effective on: 6/12/2022

Dwelling, Two-Family means a detached building having separate accommodations for and occupied by not more than two families, or by two families and not more than four boarders and lodgers.

Effective on: 5/17/2021

E

Easement means a right held by the City or its franchised utility companies to be used for access, drainage or the placement of utilities such as water, gas, sewer, telephone, cable television and electrical lines or other facilities.

Effective on: 6/12/2022

Educational Facilities Use Category contains public and civic uses including schools at the elementary, middle, or high school level that provide basic academic education. This category also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree usually in a campus setting.

Uses in this use category include: college and university; school, public and private; school, vocational, and trade; and, any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: assembly hall; associated office and storage; athletic facilities; auditorium or theater; Before- and after-school daycare; concession; dormitory; food preparation and dining facility; laboratory; library; medical clinic; minor utilities; and recreation facility

Effective on: 6/12/2022

Eight Liner Machine means an electronic device, resembling a slot machine, on which a person wins by matching symbols in one of eight lines, three horizontal, three vertical, and two diagonal.

Effective on: 6/12/2022

Electrical Sign means a sign or sign structure in which electrical wiring, connections, or fixtures are used.

Effective on: 5/17/2021

EMC means electronic message center.

Engineer means a person duly authorized under the provisions of The Texas Engineering Practice Act, [V.T.C.A., Occupations Code, chapter 1001], as heretofore or hereafter amended, to practice the profession of engineering.

Effective on: 5/17/2021

Entertainment, Indoor Use Category means a category of commercial uses containing, varying in size, providing daily or regularly scheduled recreation-oriented activities in an indoor setting.

Uses in this use category include: archery / firearms range (indoor); axe throwing lounge; bar, tavern, and lounge; bingo hall; body art service; bowling center; brewpub; conference and convention center; dance club or dance hall; fitness gym; gymnastic, dance, or martial arts facility; microbrewery or micro-distillery; movie or other theater; pool hall; skateboard or trampoline park; skating rink; swimming pool (public); tennis or racquetball facility; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; associated retail sales related to the primary use; concession; food preparation and dining facility; minor utilities; and swimming pool, indoor.

Effective on: 6/12/2022

Entertainment, Outdoor Use Category means a category of commercial uses providing daily or regularly scheduled recreation-oriented activities in an outdoor setting.

Uses in this use category include: amphitheater; amusement park; campground; fairgrounds; farmers market (outdoor); golf course, golf driving range, or mini-golf course; marina; paintball facility; race track (vehicle); RV park; skateboard park; stadium, running track, or ball field; tennis and/or swim club; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; associated retail sales related to the primary use; concession; food preparation and dining area; minor utilities; and single attached dwelling unit for caretaker.

This use category does not include Swimming Pool (Public).

Effective on: 6/12/2022

Extraterritorial Jurisdiction (ETJ) means the contiguous unincorporated area not incorporated in any other city, within one mile of the corporate limits of the City of Borger.

Effective on: 5/17/2021

F

Facade means the entire building front including the parapet.

Effective on: 5/17/2021

Family means a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other determinable period.

Effective on: 6/12/2022

FAR means floor area ratio.

Farmers Market means an outdoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one or more producers where at least 75 percent of the displayed inventory of the products sold is farm products.

Feed Store means a business establishment that offers primarily feed, grain, hay, and supplies for animal husbandry activities. Inventory may be stored outside if adequately screened or shielded from view and does not pose a health hazard as a place for vermin and mosquitoes and complies with the requirements of the Fire Code.

Effective on: 6/12/2022

Flood Insurance Rate Map (FIRM) means the official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Effective on: 10/17/2021

Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, the water surface elevation of the base flood, as well as the flood boundary-floodway map.

Effective on: 6/12/2022

Flood or Flooding means the general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; or, (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Effective on: 6/12/2022

Floodplain or Flood Prone Area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Effective on: 5/17/2021

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Effective on: 5/17/2021

Floodway (Regulatory Floodway) means the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Effective on: 8/16/2021

Freestanding Sign means a sign supported upon the ground by poles or braces and not attached to any building.

Effective on: 5/17/2021

Frontage, Lot means the length of a lot adjacent to a street between two adjacent property lines of lots.

Effective on: 5/17/2021

Frontage, Street means the length of all property on one side of a street lying between two intersecting streets measured along the right-of-way line, or if the street is a dead-end or cul-de-sac, the length of all property abutting on one side between an intersecting street and the end of the dead-end street or cul-de-sac street.

Effective on: 6/12/2022

Frontage, Building means the length of an outside building wall along or on a public right-of-way.

Effective on: 5/17/2021

Ft. means feet.

Fuel Sales (Retail) means a place where vehicular fuel, stored only in underground tanks, is offered for sale to the public or where charging stations are made available for the charging of vehicles.

Effective on: 5/17/2021

Fuel Sales and Storage (Bulk) means a facility, including above-ground tanks, for the storage, handling, and selling of fuels and from which fuels are sold at wholesale or distributed to retail stations or for private use.

Effective on: 8/16/2021

Funeral Services means a business that provides ceremonies, processions, and memorial services held in connection with the burial or cremation of the dead, as well as memorial services held in connection with the death of any person.

Effective on: 8/16/2021

G

Game Room in accordance with TLCG 234.131, means a for-profit business located in a building or place that contains six or more amusement redemption machines or electronic, electromechanical, or mechanical contrivances that, for consideration, afford a player the opportunity to obtain a prize or thing of value, the award of which is determined solely or partially by chance, regardless of whether the contrivance is designed, made, or adopted solely for bona fide amusement purposes. Game rooms often feature eight liner machines, which have the appearance of electronic slot machines.

Effective on: 6/12/2022

Gas Well means any well drilled for the production of gas or classified as a gas well under the Texas Natural Resources Code

Effective on: 5/17/2021

Ghost Signs means a hand-painted advertising sign that has been preserved on an exterior building wall for an extended period of time.

Effective on: 10/17/2021

Government Facilities Use Category contains public and civic uses including offices, storage, maintenance, and other facilities for the operation of local, state, or federal government.

Uses in this use category include: publicly-owned and operated detention center, jail or prison, publicly-owned and operated; emergency services, police or fire station; library; post office; utility office; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated helicopter landing facility; associated storage; day care for children of employees; dormitory; fleet maintenance; food preparation and dining facility; fueling facility; medical clinic for employees or inmates; meeting space; minor utilities; and recreation facility

Effective on: 6/12/2022

Government Sign means any temporary or permanent sign erected and maintained by the city, county, state, or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property, or facility.

Effective on: 5/17/2021

GR means the General Residential zoning district.

Effective on: 8/16/2021

Greenhouse, Nursery means a principal or accessory use primarily engaged in the propagation (for personal use or for sale at retail or wholesale) of horticultural items, such as flowers, shrubs, and trees, intended for ornamental, food, or landscaping purposes.

Effective on: 8/16/2021

Groundcover means plants of species that will not generally reach a height of more than two feet, installed in such a manner as to form a continuous cover over the ground. Groundcover includes sod, ornamental grasses, shrubs, mulch, or perennial or seasonal plantings.

Effective on: 8/16/2021

Group Home means a residential dwelling occupied as a residence by persons who would otherwise not meet the definition of family.

Group Living Use Category means a category of uses containing uses with residential occupancy of a dwelling by a means other than found in household living typically providing communal kitchen/dining facilities.

Uses in this use category include: assisted living facility or nursing home; boarding house; community home for disabled persons; group home; and other uses that the Director of Planning and Development interprets to meet the characteristics of this use category.

Typical accessory uses include: associated office; facilities for treatment of sickness, injuries or surgical care; food preparation and dining facility; greenhouse or nursery (noncommercial); minor utilities; pool house; private community center; swimming pool; recreational facility; and other miscellaneous household amenities.

Effective on: 6/12/2022

H

Hanging Sign means a sign that is suspended over a walkway or a sidewalk, street, or other public right-of-way.

Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Effective on: 5/17/2021

Historic Structure means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior (Secretary) as meeting the requirements for individual listing on the National Register of Historic Places;

(b) Certified or preliminarily determined by the Secretary 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;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary; or,

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

  (1) By an approved state program as determined by the Secretary; or,

  (2) Directly by the Secretary in states without approved programs.

Effective on: 6/12/2022

Home Occupations means any occupation that is carried out within the home or within a structure that is an accessory to the home.

Effective on: 10/17/2021

Hotel or Motel means a building or group of buildings designed and occupied as a temporary habitation for individuals. To be classified as a hotel or motel, an establishment shall contain a minimum of six individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone, use and upkeep of furniture. This definition excludes establishments that meet the definition of Bed and Breakfast Inn.

Effective on: 6/12/2022

Household Living Use Category means a category of uses containing residential occupancy of a dwelling unit by a household on a month-to-month or longer basis in structures with self-contained dwelling units including kitchens.

Uses in this use category include: accessory dwelling unit; apartment; dwelling, single-family detached; dwelling, single-family attached; duplex; live-work unit; multiplex; manufactured home park; manufactured home; upper-story dwelling unit; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: adult or child care home; carriage house; day care, family; domestic storage; minor utilities; garage, attached or detached; home occupation; leasing office for manufactured home park or apartment complex; model home with sales office in model home; pool house; private community center; short-term rental, host occupied; swimming pool (private); and other miscellaneous household amenities.

Effective on: 6/12/2022

HUD means the United States Department of Housing and Urban Development.

I

IH means the Industrial - Heavy zoning district.

Effective on: 5/17/2021

IL means the Industrial - Light zoning district.

Effective on: 5/17/2021

Industrial, Heavy Use Category contains uses engaged in the manufacturing, assembly or processing of chemicals, animal products and metals, the activities of which are likely to have characteristics that discourage adjacency to residential uses. Factory production and industrial yards are located here. Sales to the general public are rare.

Uses in this use category include: asphalt or concrete batching plant; concrete products manufacture; salvage or scrap metal yard; any manufacturing, industrial or storage process not prohibited by law, railroad team track, freight depot and docks, heavy machinery sales and storage or repair (new or used); and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; associated retail sales related to the primary use; day care for children of employees; fleet maintenance; food preparation and dining facility; fueling facility; medical clinic for employees; meeting space; minor utilities; recreation facility; and single attached residential unit for caretaker

Effective on: 6/12/2022

Industrial, Light Use Category means a category of commercial uses containing uses engaged in the manufacturing, assembly or processing of industrial, business or consumer goods; usually from basic finished inputs such as metal, stone, glass, plastic, or rubber. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.

Uses in this use category include: bakery and confectionery commercial wholesale or bottling works, cabinet or upholstery shop, job printing, laundry plant (commercial), newspaper printing, plumbing, electrical, or heating and air conditioning shop, scientific and research laboratories, storage and repair of new or used furniture and/or appliances inside a building, welding or machine shop, light manufacturing processes, contractors shop and storage yard, milk depot, dairy or ice cream plant, heavy machinery sales and storage or repair (new or used); and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; associated retail sales related to the primary use; associated showroom; day care for children of employees; minor utilities; fleet maintenance; food preparation and dining facility; fueling facility; medical clinic for employees; meeting space; recreation facility; single attached residential unit for caretaker; and wholesale and/or retail sales.

Effective on: 6/12/2022

Institutions of Religious, Charitable, or Philanthropic Nature means institutions sponsored or operated by organizations established for religious or philanthropic purposes including orphans' homes, aged homes, training and educational facilities, meeting establishments, and places of residence.

Effective on: 5/17/2021

ITE means Institute of Traffic Engineers

K

Kennel means any premises on which four or more dogs, six months or older, are kept. This term includes privately-owned animal shelters.

Effective on: 6/12/2022

L

Library, Museum, and Gallery means an institution for the collection, display, and distribution of books, objects of art or science, and which is sponsored by a public or quasi-public agency, and which facilities are open to the general public.

Effective on: 5/17/2021

Live-Work Unit means a building or portion of a building that combines a dwelling unit with an integrated workspace that is principally used by one or more of the residents of the dwelling unit. The workspace is secondary or accessory to the primary residential use.

Effective on: 6/12/2022

Lot Lines means the lines designated on a plat as being the boundaries of a lot.

Effective on: 5/17/2021

Lot means the contiguous area of land under one ownership having access to a street, or other public access, either occupied or to be occupied, by a building or building group together with accessory buildings and used together with such yards and other open spaces as are required by this ULDO, which parcel of land is designated as a separate and distinct tract with boundaries and is identified by a tract, lot number, or symbol in a duly approved subdivision plat of record.

Effective on: 10/17/2021

Lot of Record means a lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk or a parcel of land, the deed for which is recorded in the office of the County Clerk prior to the adoption of this Chapter.

Effective on: 6/12/2022

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area 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 no elevation design requirement of 44 CFR 60.3 of the National Flood Insurance Program regulations.

Effective on: 5/17/2021

M

Main means a water or wastewater (sewer) line designed and installed to collect sewage from or distribute water to lateral or service lines.

Effective on: 5/17/2021

Manufactured Home means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, built on a permanent chassis, and designed to be used as a dwelling with permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as defined by 24 C.F.R. section 3282.8(g).

Effective on: 6/12/2022

Manufactured Home (Standalone) means a manufactured home that is not part of a manufactured home subdivision or a manufactured home park.

Effective on: 6/12/2022

Manufactured Home, Mobile Home, Portable Building, and Trailer Sales or Rental means a facility where manufactured homes, mobile homes, portable buildings, or trailers are offered for sale or rental.

Effective on: 8/16/2021

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Effective on: 5/17/2021

Marquee means a permanent canopy, awning, or roof-like structure of rigid materials supported by and extending from the facade of a building. A marquee is considered to be part of the building.

Effective on: 6/12/2022

Marquee Sign means any sign attached to or supported by a marquee structure.

Effective on: 5/17/2021

Max. means maximum.

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

Effective on: 5/17/2021

Medical Facilities Use Category means a category of uses containing public and civic uses providing medical or surgical care to patients. Some uses may offer overnight care.

Uses in this use category include: acupuncture clinic; blood or plasma center; chiropractor; drug, alcohol or psychiatric treatment center, out-patient; hospice center; hospital; medical or dental clinic; and other uses

Typical accessory uses include: associated helicopter landing facility; associated office and storage; associated retail sales area related to the primary use; classrooms; day care for children of employees or patients; dormitory; fleet maintenance; food preparation and dining facility; minor utilities; place of worship; pharmacy; and recreation facility.

This use category does not include veterinary clinic or veterinary hospital.

Effective on: 6/12/2022

Medical or Dental Clinic means a use where medical, dental, psychiatric, psychological, chiropractic, and/or and other outpatient services are performed.

Effective on: 8/16/2021

Menu Board Sign means a sign erected in conjunction with a use that incorporates a drive-through or drive-in generally used to provide service or product options and pricing for customers in a vehicle or on foot.

Micro-Manufacturing means the retail or business-to-business production of artisan goods that are produced in small quantities using small hand tools or light machinery including, but not limited to, 3-D printers or computer numerical control routers.

Effective on: 5/17/2021

Min. means minimum.

Mixed-Use means a structure or land use that has both residential and nonresidential elements in the same building or within the same development.

Effective on: 10/17/2021

Mobile Home means a structure that was constructed before June 15, 1976; transportable in one or more sections, and in the traveling mode, is eight body feet or more in width or 40 body feet or more in length; or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems.

Effective on: 6/12/2022

Monument Sign means a freestanding sign supported primarily by an internal structural framework or integrated into the landscaping or other solid structural features other than support poles.

MR means the Multi-family Zoning District.

Effective on: 6/12/2022

N

Nameplate means an accessory sign which in a residential area does not exceed two square feet in area on a single side and which is used only to identify the name and address of the owner or occupant of a premises, and which is not illuminated in a flashing or intermittent manner.

Effective on: 6/12/2022

New Construction means for the purposes 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.

Effective on: 6/12/2022

Non-Steel Storage Container means a portable or moveable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, valuables, or merchandise (typically known as PODS, MODS, etc.).

Effective on: 6/12/2022

Nonconforming Signs means signs legally existing on or before February 5, 2008, the adoption date of Ordinance O-001-08, *Signs*, but which do not conform to the provisions of this Article.

Effective on: 6/12/2022

Nonconforming Use means a building, structure or use of land lawfully occupied at the time of the effective date of this Article or amendments thereto, and which does not conform to the use regulations of the district in which itis situated.

Effective on: 6/12/2022

Nonresidential means a structure or use that has no residential element.

Effective on: 10/17/2021

Nursing Home means a home for the aged, chronically ill, or incurable persons who are unable to care for themselves and in which three or more persons not of the immediate family are kept or provided with food and shelter or care for compensation; but not including a hospital, medical clinic, or other similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Effective on: 8/16/2021

O

Occupancy means the portion of a building or premises owned, leased, rented, or otherwise occupied for a given use.

Effective on: 5/17/2021

Off-Premises Sign means a sign advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is located (for example, billboards or outdoor advertising).

Effective on: 5/17/2021

Office Use Category means a category of commercial uses containing activities conducted in an office setting and generally focusing on business, professional, or financial services.

Uses in this use category include: offices or agencies for services such as: accounting, advertising, architecture, bill collection, charitable organization, consulting, counseling, currency exchange (check cashing), data processing, design, engineering, investment or brokerage, law, real estate or insurance, sales, payday loans, temporary employment, or travel; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated storage; daycare for children of employees; medical clinic for employees; minor utilities; food preparation and dining facility for employees; recreation facility for employees; and private telecommunication or transmission tower.

Effective on: 6/12/2022

On-Premises Sign means a sign which pertains to the use of the premises on which it is located.

Effective on: 5/17/2021

Open Space means that portion of a development that is permeable and remains open and unobstructed from the ground to the sky. Open space specifically excludes parking areas, whether permeable or impermeable.

Effective on: 6/12/2022

Outdoor Storage means the storage of products or goods that have a large size, mass, or volume that occur on-site for more than 24 hours. Typical items include, but are not limited to, heavy equipment, freight or commercial motor vehicles, trailers, construction materials, and raw, processed, or packaged materials including any products on pallets, in shipping containers, or in crates.

Effective on: 6/12/2022

Outdoor Storage Yard means a place or a business that stores products or goods outdoors for themselves, other firms, or individual consumers.

Overnight Accommodations Use Category means a category of commercial uses containing uses with bedroom and bathroom units arranged for short-term stays of less than 30 days for rent or lease.

Uses in this use category include: bed and breakfast; hotel; motel; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; meeting space; minor utilities; recreational facility; restaurant; and swimming pool (public).

This use category does not include the short-term rental use.

Effective on: 6/12/2022

P

Parapet means the extension of a false front or wall above a roofline.

Effective on: 5/17/2021

Parks and Open Areas Use Category contains public and civic uses focusing on natural areas consisting mostly of vegetation, passive or active outdoor recreation areas, community gardens, and having few structures.

Uses in this use category include: cemetery or mausoleum; dog park, publicly-owned; park or playground; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; associated retail sales area related to the primary use; boat launch; concession; dining area; minor utilities; and recreation facility.

Effective on: 6/12/2022

Passenger Terminal Use Category contains public and civic or commercial facilities for the takeoff and landing of airplanes and helicopters, and terminals for taxi, rail, or bus service.

Uses in this use category include: airport, heliport or landing field; railroad or bus passenger station; transfer storage and baggage terminal; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; associated retail sales area related to the primary use; concession; fleet maintenance; freight handling area; fueling facility; and minor utilities.

Effective on: 6/12/2022

Payday Loan Business means an establishment that engages in the business of offering payday loans. A "payday loan" is a loan transaction where a post-dated check or other checks that the parties agree will be held for a period of time before presentment for payment or deposit is accepted as collateral for the loan.

Effective on: 6/12/2022

PI means the Public/Institutional Zoning District.

Effective on: 6/12/2022

Planning and Zoning Commission means the Planning and Zoning Commission. See Subsection 14.05.102.

Effective on: 6/12/2022

Portable Sign means any sign designed or constructed to be easily moved from one location to another and not permanently affixed to the ground or to a structure or building, including signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier, or other nonmotorized mobile structure. This definition includes portable signs with the wheels removed, trailer signs, and signs on benches.

Effective on: 6/12/2022

Projecting Sign means a sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

Effective on: 6/12/2022

Public Assembly Facility means an institution of religious or philanthropic nature. This use includes fraternal organizations, non-profit clubs and lodges, and places of worship. This use does not include residential buildings or conference and convention centers, which are in the Indoor Entertainment use category. In addition, this use does not include establishments that require a club membership solely for the purpose of purchasing alcoholic beverages, as articulated in Texas Alcoholic Beverage Code, Chapter 32. *Private Club Registration Permit*. Such use is considered a bar, tavern, or lounge for the purposes of this ULDO.

Effective on: 6/12/2022

Public Right-of-Way (ROW) means, in accordance with TLGC 284.002, the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the city has an interest. The term does not include private easements or the airwaves above a public right-of-way with regard to wireless telecommunications.

Effective on: 6/12/2022

Pylon or Pole Sign means a freestanding sign that is supported by a pole or otherwise affixed to the ground and is not attached to a building. A "pylon or pole sign" does not include a flag mounted on a flagpole.

Effective on: 6/12/2022

R

RE means the Rural and Estate zoning district.

Effective on: 5/17/2021

Recreational Vehicle means a vehicular portable structure, built on a single chassis, that is self-propelled or permanently towable behind an accessory vehicle and is not primarily designed for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes campers, motor homes, fifth wheels and travel trailers, but does not include manufactured homes.

Effective on: 6/12/2022

Recreational Vehicle Park means any site, lot, field, or tract of land upon which two or more occupied recreational vehicles are situated, either free of charge or for revenue purposes, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of such mobile home park.

Recycling Collection Facility means a facility designed to collect, sort and package by manual or mechanical processes, recyclable items for transport to a reprocessing plant.

Effective on: 8/16/2021

Repair-Oriented Use Category means a subset of uses in the retail repair, sales, and service category of uses that is primarily engaged in the provision of repair services to individuals and households rather than other businesses, but excluding vehicle and commercial repair services.

Repair-oriented examples:

Store offering repair of retail consumer goods excluding those repair services listed in the vehicle sales and service use type, and including, but not limited to: appliances, bicycles, clocks, electronics, furniture, jewelry, locks and keys, musical instruments, office equipment, shoes, and watches.

This definition also includes any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; concession; day care for children of employees; food preparation and dining area; minor utilities; and single attached dwelling unit for caretaker.

Effective on: 6/12/2022

Resource Extraction Use Category means the removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances, or organic substances, other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged.

Uses in this use category include: sand, gravel or stone extraction; petroleum well, line, or storage; petroleum products storage and wholesale; oil field equipment, service, sales and/or storage; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Effective on: 6/12/2022

Restaurant Use Category means a category of commercial uses containing establishments that prepare and sell food for on-premises or off-premises consumption. This use type may or may not include the accessory sale of alcohol for on-premises consumption. This use type may or may not also include the accessory sale of alcohol for off-premises consumption (such as Package Liquor Sales).

Uses in this use category include: Candy or ice cream shop; Catering establishment; Coffee shop; Food delivery; Restaurant, sit-down; Restaurant, drive-in or drive-through; and any other uses that the Director interprets to have the characteristics of this use category.

The restaurant use category does not include Bar or Tavern, Brewpub, or Microbrewery uses.

Typical accessory uses include: Associated office and storage; Drive-through facility; Minor utilities; Overnight animal boarding; Outdoor dining area; and Recreational facility.

Effective on: 8/16/2021

Roof Sign means any sign erected over or on the roof of a building (compare “wall sign”).

Effective on: 10/17/2021

Roofline means the top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

Effective on: 5/17/2021

S

Sales-Oriented Use Category means a subset of uses in the retail, repair, and sales category of uses that is engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Sales-oriented examples:

Selling, leasing or renting consumer, home, and business goods including, but not limited to: alcoholic beverages; animal feed; antiques; appliances; art; art supplies; automobile and motorcycle parts and accessories; baked goods (retail); bicycles; books; building supplies; cameras; carpet and floor coverings; clothing; collectibles; computers; convenience goods; crafts; electronic equipment; electronic and mixed media; fabric; flowers; furniture; garden supplies; gifts or novelties; groceries; hardware; home improvement supplies; household products; jewelry; luggage; medical supplies; musical instruments; office supplies; pawned items; pawnshop, pets, pet supplies; pharmaceuticals; photographic supplies; picture frames; plants; postal supplies (non-governmental); printed materials; produce; school or teacher supplies; second-hand goods indoors; seeds; souvenirs; shoes; sporting goods; stationery; tobacco, electronic cigarettes, and related products; and toys.

This definition also includes any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; concession; day care for children of employees; food preparation and dining area; minor utilities; and single attached dwelling unit for caretaker.

Effective on: 6/12/2022

SC means the Suburban Commercial Zoning District.

Effective on: 6/12/2022

School, Vocational and Trade means a facility where training is provided in a particular trade, craft, or skills.

Effective on: 8/16/2021

Service-Oriented Use Category means a subset of uses in the retail repair, and service category of uses that provides non-medical services that are generally needed on a recurring basis, and generally require one-to-one interaction between the proprietor or employee and the customer in order to provide the service.

Service-oriented examples:

animal grooming; barbershop or beauty, nail, skin care, or tanning salon; dry cleaning and pressing establishment; funeral home or mortuary; kennel; laundromat; massage establishment; music, art, or photographic studio or classroom; optician or optometrist; photocopy, blueprint, and quick-sign service; postal services (non-governmental); psychic or medium; tailor; taxidermist; and veterinarian (small animal).

This definition also includes any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; concession; day care for children of employees; food preparation and dining area; minor utilities; and single attached dwelling unit for caretaker.

Effective on: 6/12/2022

Self-Service Storage Facility means a building or group of buildings under common management and control that are used for the storage of personal property or records, where individual owners or tenants control individual storage spaces (previously defined as "Mini-Storage Facility")

Effective on: 8/16/2021

Self-Service Storage Use Category means a category of commercial uses containing facilities providing separate storage areas for personal or business use designed to allow private access by the tenant for storing or removing personal property.

Uses in this use category include: boat or recreational vehicle outdoor storage; self-service storage facility; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; minor utilities; moving vehicle rental; and single attached caretaker's quarters.

This definition does not include bulk storage or bulk storage of explosive or hazardous materials.

Effective on: 6/12/2022

Shipping or Cargo Container means generally, an all steel container with strength to withstand shipment, storage, and handling. Such containers include reusable steel boxes, freight containers and bulk shipping containers; originally a standardized reusable vessel that was designed for and used in the parking, shipping, movement, transportation or storage of freight, goods or commodities; generally capable of being mounted or moved on a rail car, truck trailer or loaded on a ship.

Effective on: 6/12/2022

Shopping Center means a building plot developed or ultimately to be developed with three or more stores, shops, or commercial enterprises, and which has shared parking facilities or spaces.

Effective on: 5/17/2021

Sign means any words, numbers, figures, devices, designs, trademarks, or other symbols visible from a public street, that attracts attention to or makes information known (such as an opinion, individual, firm, profession, business, commodity, or service). Signs include its structural supports designed for display.

Effective on: 6/12/2022

Sign Copy means the wording on a sign surface in either permanent or removable letter form.

Effective on: 5/17/2021

Sign Face means the area of a sign on which the copy is placed.

Effective on: 5/17/2021

Snipe Sign means a temporary sign or poster affixed to a tree, fence, pole, and the like.

Effective on: 5/17/2021

Social Service Use Category means a category of uses containing uses that primarily provide treatment of those with psychiatric, alcohol, or drug problems; transient housing related to social service programs; and housing for individuals legally confined.

Uses in this use category include: correctional facility; domestic abuse or transient shelter; drug, alcohol, or psychiatric treatment center, in-patient; group home for the physically disabled, mentally disabled, or emotionally disturbed that are not considered single-family residences (7 or more residents); halfway house; soup kitchen; transient lodging or shelter for the homeless; sober living home; sober living facility; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category..

This use category does not include nursing home or assisted living facility.

Typical accessory uses include: associated office and storage; classrooms; daycare for children of employees or clients; dormitory; food preparation and dining facility; library; meeting space; minor utilities; and recreation facility.

Effective on: 6/12/2022

Specified Anatomical Areas means less than completely and opaquely covered human genitals, pubic region, buttock; human genitals in a discernable erect state, even if completely and opaquely covered; or any combination of the aforementioned.

Effective on: 5/17/2021

Specified Sexual Activities means depiction of male genitals in a state of sexual stimulation or arousal; female genitals; acts of masturbation, sexual intercourse, oral copulation, sodomy, bestiality; touching of human genitals, pubic region, buttock, anus; or any combination of the aforementioned.

Effective on: 6/12/2022

Sq. Ft. means square feet.

Story means the height between the successive floors of a building or from the top floor to the roof. The standard height for a story is 11 feet, 6 inches.

Effective on: 6/12/2022

Street means the entire width between the boundary lines of every way, other than an alley, publicly maintained when any part of it is opened to the use of the public for vehicular traffic.

Effective on: 5/17/2021

Street, Arterial means a principal traffic artery, more or less continuous across the City, which connects remote parts of the City or areas adjacent thereto and acts as a principal connecting street with state and federal highway, and includes each street designated as a primary or secondary arterial street.

Effective on: 6/12/2022

Street, Collector means a street which carries traffic from local streets to arterial streets or highways, including the principal entrance streets of a residential development and streets for circulation in such a development.

Effective on: 6/12/2022

Street, Cul-De-Sac or Court means a dead-end street providing a turnaround for vehicles.

Effective on: 5/17/2021

Street, Dead-End means a street other than a cul-de-sac, with only one outlet.

Effective on: 5/17/2021

Street, Local means a street which is primarily to serve traffic within a neighborhood, and which may or may not traverse through several residential districts.

Effective on: 6/12/2022

Street, Marginal Access means a local street which is parallel and adjacent to an arterial street or highway, and which provides access to abutting property and protection from through traffic.

Effective on: 6/12/2022

Street, Width means the shortest horizontal distance between the lines which delineate the right-of-way of a street.

Effective on: 5/17/2021

Street Yard Tree means a tree planted between the principal building on a lot and the right-of-way.

Effective on: 10/17/2021

Structure see definition for Building.

Effective on: 10/17/2021

Studio (Arts, Crafts, or Recording) means a place designed to be used both as a dwelling place and a place of work by an artist, artisan, or craftsperson, including persons engaging in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

SU means the Semi-Urban Residential zoning district.

Effective on: 5/17/2021

Subdivider means any person or agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein, in any event, the term “subdivider” shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, of land sought to be subdivided.

Effective on: 6/12/2022

Subdivision Entry Sign means a freestanding or wall sign identifying a recognized subdivision, condominium complex, or residential development.

Effective on: 5/17/2021

Subdivision means a division of any tract of land situated within the corporate limits, or the ETJ in two or more parts.

Effective on: 5/17/2021

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure touts before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Effective on: 5/17/2021

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. This includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or,

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Effective on: 6/12/2022

Surveyor means a licensed state land surveyor, or a registered professional land surveyor as authorized by state statutes to practice the profession of surveying in Texas.

Effective on: 6/12/2022

T

TCEQ means the Texas Commission on Environmental Quality.

Temporary Sign means any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, plastic, metal, or other light materials, not to exceed six square feet in size and not intended for long-term use. A portable sign shall not be considered a temporary sign.

Effective on: 6/12/2022

Thoroughfare means same as street.

Effective on: 5/17/2021

TLGC means Texas Local Government Code.

Tobacco or Smoke Shop means an establishment dedicated to the retail sale of tobacco, tobacco products, or tobacco paraphernalia as its primary source of income. A grocery store or similar retail use that sells tobacco products or tobacco paraphernalia as an ancillary sale is not included in this definition.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Tobacco Paraphernalia means any equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances as defined in Texas Health and Safety Code. Items or devices classified as tobacco paraphernalia include, but are not limited to, the following: pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighters and matches are excluded from the definition of tobacco paraphernalia.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Tobacco Product means any product in leaf, flake, plug, liquid (such as e-cigarette liquid), or any other form, containing nicotine or tetrahydrocannabinol derived from the tobacco or hemp plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this UDC, this term excludes any product that has been specifically approved by the United States Food and Drug Administration for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

(Ord. # O-002-24, 02/20/2024)

Effective on: 3/12/2024

Topless Establishments means any business activity which offers the opportunity (whether as a single activity or in conjunction with any other business activity) to view male or female naked breasts or breasts that are partially clothed in a manner that leaves uncovered or visible through less than opaque clothing any portion of the breast below the areola, and where the genital areas and anus are covered by a G-string or other opaque covering.

Effective on: 6/12/2022

Tract means same as lot.

Effective on: 5/17/2021

Transportation Plan means the Master Street Development and Thoroughfare Plan for the City.

Effective on: 6/12/2022

U

ULDO means this Unified Land Use Code.

Effective on: 10/17/2021

Use means the purpose for which a building, lot, sign, or structure is intended, designed, occupied, or maintained.

Effective on: 5/17/2021

Utilities means a category of uses containing major or minor infrastructure that serves a site, a development, or the City at-large. Major utilities include public or private infrastructure serving the general community, that may or may not be maintained or regulated by a public or municipal entity and possibly having on-site personnel. Minor utilities include public or private infrastructure serving a limited area with no on-site personnel.

Uses in this use category include: electrical substation, electrical transmission line, gas transmission line and metering station, local utility distribution lines, commercial communications tower, sewage pumping station, sewage pumping station, sewage treatment plant, railroad tracks and right-of-way, telephone line and exchange, utility company shops and storage yards, water reservoir, pump station and well, or water treatment plant.

Typical accessory uses include: Associated office and storage; Fleet maintenance; Minor utilities; and Storage structures.

Effective on: 6/12/2022

Utilities, Major means public or private infrastructure serving the general community, that may or may not be maintained or regulated by a public or municipal entity, possibly having on-site personnel.

Uses in this category include: electrical substation; electric generation plant; solar panel array (large scale); telecommunication tower; water or wastewater treatment plant; and, any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Effective on: 6/12/2022

Utilities, Minor means public or private infrastructure serving a limited area with no on-site personnel.

Uses in this category include: collocated telecommunication antenna; public or municipally-owned utilities; solar panel array (small scale); stormwater retention or detention facility; telephone exchange; and, any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Effective on: 6/12/2022

V

Vehicle Sales and Service Use Category means a category of commercial uses containing establishments related to direct sales of and service to passenger vehicles, light, medium, and heavy trucks and equipment, and other motor vehicles such as motorcycles, boats, and recreational vehicles.

Uses in this use category include: car wash; fuel sales (retail); rental or sales of manufactured homes, mobile homes, portable buildings, or trailers; truck stop; vehicle repair; vehicle service; vehicle sales, rental, and leasing (including passenger vehicles, motorcycles, trucks, boats and recreational vehicles); and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; car wash; concession; food preparation and dining area; fueling facility; minor utilities; sale of auto parts; and, towing.

Effective on: 6/12/2022

Vehicle Sales, Rental, and Leasing means any premises on which three or more new or used cars, trailers, trucks, or other vehicles are offered for sale, rental, or lease during any calendar year.

Effective on: 6/12/2022

Vehicle Service and Repair means the replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work, minor painting, and upholstering service. The term is limited to passenger automobiles and trucks not in excess of 7,000 pounds gross weight.

Effective on: 5/17/2021

Vehicle Use Area means an unenclosed area used by three or more vehicles of any type, moving or at rest, including, but not limited to, parking lots, loading and unloading areas, stacking lanes, access and circulation drives, driveways, and parking aisles.

Effective on: 6/12/2022

Veterinary Clinic means an animal hospital or clinic that provides medical care for small animals or pets, including, but not limited to: dogs, cats, birds, and the like.

This definition does not include veterinary hospital use.

Effective on: 8/16/2021

Veterinary Hospital means an animal hospital or clinic that provides medical care for large or livestock animals, including, but not limited to: horses, cows, bison, deer, llamas, alpacas, sheep, goats, chickens, turkeys, ducks, and pigs.

This definition does not include the veterinary clinic use.

Effective on: 8/16/2021

Viewing Booth means an enclosure or partial enclosure which contains any electrical or mechanical device which displays or projects any film, videotape, or photographic reproduction into the viewing area of motion or still pictures characterized by exposure of specified anatomical areas, and which enclosure or partial enclosure is authorized for occupancy by International Building Code standards by no more than five (5) persons.

Effective on: 6/12/2022

W

Wall Sign means a sign attached parallel to and extending not more than 12 inches in front of the wall of a building. This definition includes painted, individual letter, and cabinet signs, and signs on a mansard.

Effective on: 5/17/2021

Warehousing and Storage Use Category contains industrial uses involved in the storage or movement of goods for themselves, other firms, or individual consumers. Goods are generally delivered to recipients with little on-site sales activity to customers.

Uses in this use category include: bulk storage, including cold storage plants, household moving and general freight storage, nonflammable liquids, and other retail and wholesale consumer goods sold in person or online; food processing, packing, and distribution; motor freight or truck terminal; outdoor storage yard; truck, tractor, trailer, or bus storage, parking yard, lot, or garage; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; day care for children of employees; fleet maintenance; food preparation and dining facility for employees; fueling facility; medical clinic for employees; meeting space; minor utilities; outdoor storage yard; recreation facility; and single attached residential unit for caretaker.

Effective on: 8/16/2021

Waste-Related Use Category contains industrial uses involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer with little on-site sales activity to customers.

Uses in this use category include: animal waste processing; composting facility; landfill; recycling facility; tire recycling or retreading; salvage or scrap metal yard; waste transfer facility; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; fleet maintenance; fueling facility; minor utilities; and repackaging and shipment of byproducts.

Effective on: 8/16/2021

Waste Transfer Facility means a facility for the temporary storage, transfer, and packing of solid waste from smaller collecting vehicles to larger transport vehicles.

Effective on: 8/16/2021

Water Surface Elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Effective on: 5/17/2021

Wholesale Trade Use Category means a category of commercial uses containing establishments involved in the sale, lease, or rent of products to industrial, institutional, or commercial enterprises only. The uses emphasize on-site sales or order-taking and often include display areas. The business may or may not be open to the general public. Products may be picked up on-site or delivered to the customer.

Uses in this use category include: fuel sales and storage (bulk); mail-order business; sale or rental of machinery, equipment, heavy equipment, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; wholesale or auction of food, clothing, auto parts, or hardware; and any other uses that the Director of Planning and Development interprets to have the characteristics of this use category.

Typical accessory uses include: associated office and storage; associated showroom; day care for children of employees; essential utilities; fleet maintenance; food preparation and dining facility; medical clinic for employees; meeting space; minor fabrication; product repair; recreation facility; repackaging of goods; single attached caretaker's quarters; and, warehouse.

Effective on: 8/16/2021

Window Sign means a sign installed inside a window and intended to be viewed from the outside. Such sign shall be made of wood, paper, paint, or vinyl and not illuminated.

Effective on: 5/17/2021

X

Xeriscape means landscaping and gardening in ways that reduce or eliminate the need for supplemental water from irrigation. Xeriscape species are those listed for Region 5 in the Texas A&M AgriLife Extension publication Xeriscape™: Landscape Water Conservation.

Effective on: 8/9/2022

Y

Yard, Front means an open, unoccupied space on a lot facing a street extended across the front of the lot between the side lot lines and from the main building to the front lot or street line with the minimum horizontal distance between the street line and the main building line as specified for the district in which it is located.

Effective on: 5/17/2021

Yard, Rear means an open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the building and the rear lot line as specified in the district in which the lot is situated.

Effective on: 5/17/2021

Yard, Side means an open, unoccupied space or spaces on one or two sides of a main building and on the same lot with the building, situated between the building and a sideline of the lot and extending through from the front yard to the rear yard. Any lot line not the rear line or a front line shall be deemed a sideline.

Effective on: 5/17/2021

Z

Effective on: 8/9/2022

Non-codified Ordinances

This section includes ordinances not directly affecting the text of the City Code from September 2020 - current.

Ordinance Number	Adopted Date	Description
O-007-20	9/15/2020	An Ordinance making appropriations for the support of the City of Borger for the Fiscal Year beginning October 1, 2020 and ending September 30, 2021; providing for the appropriation of an interest and sinking fund to pay interest and principal on the city's indebtedness; providing for the adoption of the annual budget of the City of Borger, Texas for the 2019-2020 Fiscal Year; providing that expenditures for said Fiscal Year shall be made in accordance with said budget; authorizing specific budget adjustment authority to the City Manager; providing for the ratification of budgeted appropriation transfers in the 2019-2020 Fiscal Year
O-008-20	9/15/2020	An Ordinance of the City Council of the City of Borger, Texas, fixing the ad valorem tax rate and providing for the levying of ad valorem taxes for the use and support of the municipal government of the City of Borger, Texas for the Fiscal Year beginning October 1, 2020 and ending September 30, 2021 at the rate of $0.837629 per one hundred dollars ($100.00), and for directing the assessment thereof; providing for a date on which such taxes become due and delinquent together with penalties and interest thereon
O-011-20	10/6/2020	An Ordinance of the City Council of the City of Borger, Texas, adopting a Comprehensive Plan for the City of Borger, Texas, pursuant to Chapter 213 of the Texas Local Government Code
O-012-20	10/20/2020	An Ordinance of the City Council of the City of Borger, Texas, granting to ONE Gas, Inc., acting by and through its Texas Gas Service Company division, and its successors and assigns, for a period of twenty (20) years from approval and acceptance of this ordinance, a non-exclusive franchise and right to enter the public ways to install, operate and maintain a distribution system within, along, across, over and under the public ways of the City of Borger, Hutchinson County, Texas for the transportation, distribution and/or sale of gas to customers and the public generally in the city
O-014-20	11/3/2020	An Ordinance of the City Council of the City of Borger, Texas amending Chapter 14, Zoning, Section 14.02.002, Zoning District Map of the City of Borger, Texas, by rezoning the following properties: Lot 1, Block 1, Mesquite Hills Unit Two from Estate Agriculture to Light Industrial
O-005-21	4/20/2021	An Ordinance of the City Council of the City of Borger, Texas, amending the city’s budget for the Fiscal Year beginning October 1, 2020 and ending September 30, 2021 as adopted by Ordinance O-008-20; providing for an increase of expected revenues, expenditures, and transfer of certain funds
O-006-21	5/4/2021	An Ordinance continuing and renewing Division 3, Sections 1.06.061-1.06-064, of the City of Borger Code of Ordinances (Standards of Care for Youth Programs) for the next annum
O-007-21	6/1/2021	An Ordinance of the City Council of the City of Borger, Texas, annexing the hereinafter described property to the City of Borger, extending the boundaries of said city so as to include said hereinafter described property within the city limits, granting to said property and to all future inhabitants of said property all the rights and privileges of other citizens and binding said future inhabitants by all of the acts and ordinances of said city, amending the official map and boundaries of the city, and approving a service plan for the annexed property
O-010-21	7/20/2021	An Ordinance of the City Council of the City of Borger, Texas amending Chapter 14, Zoning, Section 14.02.002, Zoning District Map of the City of Borger, Texas, by rezoning the following properties: Lot 1, Block 1, Tractor Supply Addition from Estate Agriculture to Commercial
O-011-21	9/7/2021	An Ordinance making appropriations for the support of the City of Borger for the Fiscal Year beginning October 1, 2021 and ending September 30, 2022; providing for the appropriation of an interest and sinking fund to pay interest and principal on the city's indebtedness; providing for the adoption of the annual budget of the City Of Borger, Texas for the 2022 Fiscal Year; providing that expenditures for said Fiscal Year shall be made in accordance with said budget; authorizing specific budget adjustment authority to the City Manager; providing for the ratification of budgeted appropriation transfers in the 2021 Fiscal Year
O-012-21	9/7/2021	An Ordinance of the City Council of the City of Borger, Texas, fixing the ad valorem tax rate and providing for the levying of ad valorem taxes for the use and support of the municipal government of the City of Borger, Texas for the Fiscal Year beginning October 1, 2021 and ending September 30, 2022 at the rate of $0.807105 per one hundred dollars ($100.00), and for directing the assessment thereof; providing for a date on which such taxes become due and delinquent together with penalties and interest thereon
O-017-21	12/7/2021	An Ordinance of the City Council of the City of Borger, Texas, amending the city’s budget for the Fiscal Year beginning October 1, 2021 and ending September 30, 2022 as adopted by ordinance O-011-21; providing for an increase of expected revenues, expenditures, and transfer of certain funds

Ordinance Number	Adopted Date	Description
O-001-22	2/15/2022	An Ordinance of the City Council of the City of Borger, Texas amending Chapter 14, Zoning, Section 14.02.002, Zoning District Map of the City of Borger, Texas, by rezoning the following properties: Block 1 and Block 2, Borger EDC Industrial Park Unit No. 1 Addition from Commercial to Light Industrial
O-003-22	4/19/2022	An Ordinance amending Chapter 1, General Provisions, Article 1.06, Parks and Recreation, continuing and renewing Division 5, Standards of Care for Youth Programs
O-004-22	4/19/2022	An Ordinance authorizing the issuance of "City of Borger, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2022"; providing for the payment of said certificates by the levy of an ad valorem tax upon all taxable property within the City and further securing said certificates by a lien on and pledge of the pledged revenues of the system; providing the terms and conditions of said certificates and resolving other matters incident and relating to the issuance, payment, security, sale, and delivery of said certificates, including the approval and distribution of an official statement pertaining thereto; authorizing the execution of a Paying Agent/Registrar Agreement and a purchase contract; complying with the requirements of the letter of representations previously executed with the Depository Trust Company; authorizing the execution of any necessary engagement agreement with the City's financial advisors; and providing an effective date
O-011-22	10/18/2022	An Ordinance affecting participation of city employees in the Texas Municipal Retirement System; granting the additional rights, credits and benefits authorized by Sections 852.205 of Title B. Government Code, as amended
O-012-22	12/20/2022	An Ordinance of the City Council of the City of Borger, Texas, providing for incorporation; annexing the hereinafter described property to the City of Borger, extending the boundaries of said city so as to include said hereinafter described property within the city limits, granting to said property and to all future inhabitants of said property all the rights and privileges of other citizens and binding said future inhabitants by all of the acts and ordinances of said city, amending the official map and boundaries of the city, and approving a service plan for the annexed property
O-013-22	1/3/2023	An Ordinance amending Chapter 8, Offenses and Nuisances, of the Code of Ordinances of the City of Borger, Texas continuing and renewing the curfew ordinance
O-001-23	1/17/2023	An Ordinance of the City Council of the City of Borger, Texas, amending the Comprehensive Plan for the City of Borger, Texas, by changing the Future Land Use Map pursuant to Chapter 213 of the Texas Local Government Code
O-002-23	2/7/2023	An Ordinance of the City Council of the City of Borger, Texas, amending the city's budget for the fiscal year beginning October 1, 2022 and ending September 30, 2023 as adopted by Ordinance O-009-22; providing for an increase of expected revenues, expenditures, and transfer of certain funds; providing that prior parts of Ordinance O-009-22 inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict
O-003-23	4/18/2023	An Ordinance amending Chapter 1, General Provisions, Article 1.06, Parks and Recreation, continuing and renewing Division 5, Standards of Care for Youth Programs
O-004-23	5/16/2023	An Ordinance of the City Council of the City of Borger, Texas, amending the City's budget for the fiscal year beginning October 1, 2022 and ending September 30, 2023 as adopted by Ordinance O-009-22; providing for an increase of expected revenues, expenditures, and transfer of certain funds; providing that prior parts of Ordinance O-009-22 inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict
O-006-23	9/5/2023	An Ordinance of the City Council of the City of Borger, Texas, fixing the ad valorem tax rate and providing for the levying of ad valorem taxes for the use and support of the municipal government of the City of Borger, Texas for the fiscal year beginning October 1, 2023 and ending September 30, 2024 at the rate of $0.647500 per one hundred dollars ($100.00), and for directing the assessment thereof; providing for a date on which such taxes become due and delinquent together with penalties and interest thereon
O-007-23	9/5/2023	An Ordinance making appropriations for the support of the City of Borger for the fiscal year beginning October 1, 2023 and ending September 30, 2024; providing for the appropriation of an interest and sinking fund to pay interest and principal on the City's indebtedness; approving the annual budget for the Borger economic development corporation for the fiscal year beginning October 1, 2023 and ending September 30, 2024; providing for the adoption of the annual budget of the City of Borger, Texas for the 2024 fiscal year; providing that //expenditures for said fiscal year shall be made in accordance with said budget; authorizing specific budget adjustment authority to the City Manager; providing for the ratification of budgeted appropriation transfers in the 2023 fiscal year

Ordinance Number	Adopted Date	Description
O-009-23	9/19/2023	An Ordinance amending the City of Borger Code of Ordinances, Chapter 13, Utilities, by continuing and renewing Article 13.07, Transportation User Fee
O-010-23	10/17/2023	An Ordinance of the City Council of the City of Borger, Texas, amending the City's budget for the fiscal year beginning October 1, 2022 and ending September 30, 2023 as adopted by Ordinance O-009-22; providing for an increase of expected revenues, expenditures, and transfer of certain funds; providing that prior parts of Ordinance O-009-22 inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict
O-011-23	11/21/2023	An Ordinance of the City Council of the City of Borger, Texas amending Chapter 14, Zoning, Section 14.02.002, Zoning District Map of the City of Borger, Texas, by rezoning the following properties: the south 40' of Lots 8 and 9, Block 28, Isom Addition from Suburban Urban to Corridor Mixed Use
O-012-23	11/21/2023	An Ordinance of the City Council of the City of Borger, Texas, amending the Comprehensive Plan for the City of Borger, Texas, by changing the Future Land Use Map pursuant to Chapter 213 of the Texas Local Government Code
O-013-23	11/21/2023	An Ordinance of the City Council of the City of Borger, Texas, amending Chapter 14, Zoning, Section 14.02.002, Zoning District Map of the City of Borger, Texas, by rezoning the following properties: Lots 9 – 14, Block 56, Original Townsite from Corridor Mixed Use to Light Industrial
O-001-24	1/16/2024	An Ordinance of the City Council of the City of Borger, Texas, establishing the value of the exemption from ad valorem taxes for a percentage of the appraised value of residential homesteads
O-003-24	5/7/2024	An Ordinance amending Chapter 1, General Provisions, Article 1.06, Parks and Recreation, continuing and renewing Division 5, Standards of Care for Youth Programs
O-004-24	8/20/2024	An Ordinance of the City Council of the City of Borger, Texas, amending the City's budget for the fiscal year beginning October 1, 2023 and ending September 30, 2024 as adopted by Ordinance O-007-23; providing for increases and decreases of expected revenues, expenditures, and transfer of certain funds; providing that prior parts of Ordinance O-007-23 inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict
O-005-24	9/3/2024	An Ordinance of the City Council of the City of Borger, Texas, fixing the ad valorem tax rate and providing for the levying of ad valorem taxes for the use and support of the municipal government of the City of Borger, Texas for the fiscal year beginning October 1, 2024 and ending September 30, 2025 at the rate of $0.656645 per one hundred dollars ($100.00), and for directing the assessment thereof; providing for a date on which such taxes become due and delinquent together with penalties and interest thereon
O-006-24	9/3/2024	An Ordinance making appropriations for the support of the City of Borger for the fiscal year beginning October 1, 2024 and ending September 30, 2025; providing for the appropriation of an interest and sinking fund to pay interest and principal on the City's indebtedness; approving the annual budget for the Borger economic development corporation for the fiscal year beginning October 1, 2024 and ending September 30, 2025; providing for the adoption of the annual budget of the City of Borger, Texas for the 2025 fiscal year; providing that expenditures for said fiscal year shall be made in accordance with said budget; authorizing specific budget adjustment authority to the City Manager; providing for the ratification of budgeted appropriation transfers in the 2024 fiscal year
O-009-24	9/17/2024	An Ordinance by the City Council of the City of Borger, Texas authorizing the issuance of "City of Borger, Texas Tax Notes, series 2024", levying an annual ad valorem tax, within the limitations prescribed by law, for the payment of the obligations; prescribing the form, terms, conditions, and resolving other matters incident and related to the issuance, sale, and delivery of the obligations, authorizing the execution of a paying agent/registrar agreement and sale documentation; complying with the letter of representations previously executed with the depository trust company; authorizing the execution of any necessary engagement agreement with the city's financial advisors; and providing an effective date
O-003-25	3/18/2025	An Ordinance of the City Council of the City of Borger, Texas amending Chapter 14, Zoning, Section 14.02.002, Zoning District Map of the City of Borger, Texas, by rezoning the following properties: the south 40' of Lots 8 and 9, Block 28, Isom Addition from Corridor Mixed Use to Suburban Urban

(Ord. # O-007-20, 09/15/2020; Ord. # O-008-20, 09/15/2020; Ord. # O-011-20, 10/06/2020; Ord. # O-012-20, 10/20/2020; Ord. # O-014-20, 11/03/2020; Ord. # O-005-21, 04/20/2021; Ord. # O-006-21, 05/04/2021; Ord. # O-007-21, 06/01/2021; Ord. # O-010-21, 07/20/2021; Ord. # O-011-21, 09/07/2021; Ord. # O-012-21, 09/07/2021; Ord. # O-017-21, 12/07/2021; Ord. # O-001-22, 02/15/2022; Ord. # O-003-22, 04/19/2022; Ord. # O-004-22, 04/19/2022; Ord. # O-011-22, 10/18/2022; Ord. # O-012-22, 12/20/2022; Ord. # O-013-22, 01/03/2023; Ord. # O-001-23, 01/17/2023; Ord. # O-002-23, 02/07/2023; Ord. # O-003-23, 04/18/2023; Ord. # O-004-23, 05/16/2023; Ord. # O-006-23, 09/05/2023; Ord. # O-007-23, 09/05/2023; Ord. # O-009-23, 09/19/2023; Ord. # O-010-23, 10/17/2023; Ord. # O-011-23, 11/21/2023; Ord. # O-012-23, 11/21/2023; Ord. # O-013-23, 11/21/2023; Ord. # O-001-24, 01/16/2024; Ord. # O-003-24, 05/07/2024; Ord. # O-004-24, 08/20/2024; Ord. # O-005-24, 09/03/2024; Ord. # O-006-24, 09/03/2024; Ord. # O-009-24, 09/17/2024; Ord. # O-003-25, 03/18/2025)

Effective on: 4/11/2025

Ordinance History Table

This is a chronological listing of the ordinances of Borger, TX from September 2020-current.

Ordinance	Section	Adoption Date	Sections in this Code
O-004-19	1	05/21/2019	5, Sec. 1.06.061 General Administration – Continued., 1.06.062, 1.06.063, 1.06.064
O-004-20	4	04/07/2020	3.06.001, 3.06.002
O-004-20	1	04/07/2020	3.02.001, 3.02.002, 3.02.003, 3.02.031, 3.02.032
O-004-20	2	04/07/2020	3.03.001, 3.03.002
O-004-20	3	04/07/2020	3.05.001, 3.05.002
O-004-20	5	04/07/2020	3.07.001, 3.07.002
O-004-20	6	04/07/2020	3.09.001, 3.09.002
O-004-20	7	04/07/2020	3.10.001, 3.10.002
O-007-20		09/15/2020	Non-codified Ordinances
O-008-20		09/15/2020	Non-codified Ordinances
O-010-20	1	09/15/2020	1.07.051, 1.07.055, 1.07.060, 1.07.082, 1.07.084, 1.07.094, 1.07.095
O-010-20	2	09/15/2020	1.07.111
O-009-20	2	09/15/2020	13.07
O-011-20		10/06/2020	Non-codified Ordinances
O-012-20		10/20/2020	Non-codified Ordinances
O-013-20	2	10/20/2020	1.08
O-014-20		11/03/2020	Non-codified Ordinances
O-001-21	1	01/05/2021	City Manager, Consideration, Governmental Entity, Hotel, Occupancy, Occupant, Person, State, 11.04.002, 11.04.003, 11.04.004, 11.04.005, 11.04.006, 11.04.007, 11.04.008
O-001-21(2)	1	01/05/2021	12.08.002
O-002-21	1	01/05/2021	11.05, City Manager, Consideration, Governmental Entity, Hotel, Occupancy, Occupant, Person, State, 11.05.002, 11.05.003, 11.05.004, 11.05.005, 11.05.006, 11.05.007, 11.05.008
O-004-21	1	04/06/2021	5.02, 5.02.001, 5.02.002, 5.02.003, 5.02.004, 5.02.005, 5.02.006, 5.02.007, 5.02.008, 5.02.009, 5.02.010
O-004-21	2	04/06/2021	5.04.001, 5.04.002
O-005-21	2	04/20/2021	Non-codified Ordinances
O-006-21	2	05/04/2021	Non-codified Ordinances
O-007-21	2, 3	06/01/2021	Non-codified Ordinances
O-008-21	1	06/01/2021	4, 1.06.041, 1.06.042, 1.06.043, 1.06.044, 1.06.045
O-010-21	1	07/20/2021	Non-codified Ordinances
O-011-21	1	09/07/2021	Non-codified Ordinances
O-012-21	1	09/07/2021	Non-codified Ordinances
O-013-21	1	09/07/2021	1.07.034, 1.07.051, 1.07.052, 1.07.053, 1.07.081, 1.07.095
O-014-21	1	09/21/2021	9.01.001
O-015-21	1	09/21/2021	4.05.002

Ordinance	Section	Adoption Date	Sections in this Code
O-016-21	1	10/19/2021	4.06.001, Canvasser, Commerce, Commercial traveler, Itinerant vendor, Local youth organization, Non-profit organization, Peddler, solicitor and itinerant vendor, Person, Solicit funds or solicitation of funds, Temporary business, Transient business, 4.06.002, 4.06.003, 4.06.004, 4.06.005, 4.06.006, 4.06.007, 4.06.008, 4.06.009, 4.06.010, 4.06.011, 4.06.012, 4.06.013, 4.06.014, 4.06.015, 4.06.016, 4.06.017, 4.06.018, 4.06.019, 4.06.020, 4.06.021, 4.06.022, Secs. 4.06.023-4.06.096 Reserved, 4.10, 4.10.001, Administrator, Certified food protection manager (CFPM), City, Commercially manufactured, Commissary, Community-based event, Community market/farmer's market, Cottage food production operation, Department of State Health Services (DSHS), Fixed commercial location, Food establishment or establishment, Food handler, Heavy food preparation, Light food preparation, Mobile food unit (MFU), Mobile food unit classes based on type of menu served, No food preparation, Non-profit organization, Non-temperature control for safety (non-TCS) food or beverage, Perishable food, Permit or health permit, Person, Pushcart, Regulatory authority, Texas Food Establishment Rules (TFER), Time/temperature control for safety (TCS) foods or beverage, Vendor/supplier, Wholesome, 4.10.002, 4.10.003, 4.10.004, 4.10.005, 4.10.006, 4.10.007, 4.10.008, 4.10.009, 4.10.010, 4.10.011, 4.10.012, 4.10.013
O-017-21		12/07/2021	Non-codified Ordinances
O-001-22		02/15/2022	Non-codified Ordinances
O-002-22		04/05/2022	6, The Dome, 1.06.072, 1.06.073, 1.06.074, 1.06.075, 1.06.076, 1.06.077, 1.06.078, 1.07.042, 4.02.007
O-003-22	2	04/19/2022	Non-codified Ordinances
O-004-22		04/19/2022	Non-codified Ordinances
O-005-22	1	06/21/2022	4.02.007, 4.11, Street closing event, 4.11.02, 4.11.03, 4.11.04, 4.11.05, 4.11.06, 4.11.07, Alcoholic beverage, Downtown Borger Area, Open container, Possession, Right-of-way, Sidewalk area, 8.05.002, 8.05.003, 8.05.004, 8.05.005
O-006-22	2	07/19/2022	2., 3.13, 3.14, 10, CHAPTER 14 ZONING [REPEALED], 14
O-010-22	1	09/20/2022	1.07.056, 1.07.071, 1.07.081
O-011-22	1	10/18/2022	Non-codified Ordinances
O-012-22		12/20/2022	Non-codified Ordinances
O-013-22	2	01/03/2023	Non-codified Ordinances
O-001-23	4	01/17/2023	Non-codified Ordinances
O-002-23	2	02/07/2023	Non-codified Ordinances
O-003-23	2	04/18/2023	Non-codified Ordinances
O-004-23	2	05/16/2023	Non-codified Ordinances
O-005-23	1	06/06/2023	4.12, 4.12.01, 4.12.02, 4.12.03, 4.12.04, 4.12.05, 4.12.06, 4.12.07, 4.12.08, 4.12.09, 4.12.10, 4.12.11
O-006-23		09/05/2023	Non-codified Ordinances
O-007-23		09/05/2023	Non-codified Ordinances
O-008-23	1	09/19/2023	1.07.001, 1.07.011, 1.07.012, 1.07.021, 1.07.081, 1.07.083, 1.07.094, 1.07.095, 1.07.111
O-009-23	2	09/19/2023	Non-codified Ordinances
O-010-23	2	10/17/2023	Non-codified Ordinances
O-011-23	1	11/21/2023	Non-codified Ordinances
O-012-23	4	11/21/2023	Non-codified Ordinances
O-013-23	1	11/21/2023	Non-codified Ordinances
O-001-24	1	01/16/2024	Non-codified Ordinances
O-002-24	1	02/20/2024	14.01.203, 14.01.301, 14.01.303, 14.01.305, 14.01.308, 14.02.401, 14.02.403, 14.02.502, 14.02.504, Tobacco or Smoke Shop, Tobacco Paraphernalia, Tobacco Product
O-003-24	2	05/07/2024	Non-codified Ordinances
O-004-24		08/20/2024	Non-codified Ordinances

Ordinance	Section	Adoption Date	Sections in this Code
O-005-24		09/03/2024	Non-codified Ordinances
O-006-24		09/03/2024	Non-codified Ordinances
O-007-24		09/17/2024	1.07.001, 1.07.021, 1.07.042, 1.07.044, 1.07.071, 1.07.081, 1.07.083, 1.07.092, 1.07.095
O-008-24		09/17/2024	1.06.072, 1.06.073, 1.06.075, 1.06.076, 3.06.002, 4.02.007
O-009-24		09/17/2024	Non-codified Ordinances
O-001-25		02/18/2025	1, 1.03.001, 1.03.002, 1.03.003, 1.03.005, 1.03.006, Secs. 1.03.007-1.03.020 Reserved, 2, 1.03.021, 1.03.022, 1.03.023
O-002-25	1	03/18/2025	14.07.200, 14.07.500
O-003-25	1	03/18/2025	Non-codified Ordinances
O-004-25	1	04/15/2025	Taxicab, 4.07.002, 4.07.031, 4.07.032, 4.07.033, 4.07.034, 4.07.035, 4.07.036, 4.07.037, 4.07.061, 4.07.062, 4.07.063, 4.07.064, 4.07.065, 4.07.066, 4.07.091, 4.07.092, 4.07.094, 4.07.095, 4.07.096, 4.07.097, 4.07.131, 4.07.132, 4.07.133, 4.07.136, 4.07.171, 4.07.172, 4.07.173, 4.07.174