CODE OF ORDINANCES

CITY OF

CENTER, TEXAS

Published by Order of the City Council

Adopted: Nov. 10, 2003
Effective: Nov. 10, 2003

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municode

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ORDINANCE NO. 2003-15

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF CENTER TEXAS; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE C1TY OF CENTER, TEXAS:

Section 1. The Code entitled "Code of Ordinances, City of Center, Texas," published by Municipal Code Corporation, consisting of chapters 1 through 94, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or beforeJuly 28,2003, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding $2,000.00 for violations regarding fire safety, zoning and public health, including dumping of refuse, and not exceeding $500.00 tor all other violations.. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance, In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the city council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after July 28, 2003, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective November 10, 2003.

Passed and adopted by the City Council of the City of Center, Texas this 10th day of November, 2003.

By:

/s/ _____

Mayor Pro-Tem, Frances Oates

Approved as to Form and Legality:

/s/ _____

City Attorney, Grover Russell

ATTEST:

/s/ _____

City Secretary, Terre Noble

OFFICIALS

of the

CITY OF

CENTER, TEXAS

AT THE TIME OF THIS RECODIFICATION

John D. Windham
Mayor

Frances Oates
David Chadwick
James W. (Jim) Forbes
Gretchen McNealy
Chuck Lunsford
Rubye L. Biggers
City Council

Chad D. Nehring
City Manager

Grover Russell, Jr.
City Attorney

Terre J. Noble
City Secretary

PREFACE

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

Source materials used in the preparation of the Code were the 1978 Code, as supplemented through January 27, 1978, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1978 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of

the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

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Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Alyce A. Whitson, Senior Code Attorney, and William B. Eddy, Editor, of the Municipal Code

Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Chad Nearing, City Manager, Grover Russell, Jr., City Attorney, Terre J. Noble, City Secretary, and the other members of the city staff, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

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From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

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CD90:35	OC	CDi:25, CDi:26	3
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CD94:3, CD94:4	OC	CDi:31, CDi:32	3
CD94:5, CD94:6	OC	CDi:33, CDi:34	4
CD94:7, CD94:8	OC	CDi:35, CDi:36	4
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SUPPLEMENT HISTORY TABLE

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

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

Ord. No.	Date Adopted	Include/Omit
Supp. No. 2		
2008-3	5-12-2008	Omit
2008-4	7-14-2008	Omit
2008-5	9- 8-2008	Include
2008-6	8-25-2008	Include
2008-7	9-22-2008	Omit
2008-8	9-22-2008	Omit
2008-9	9-22-2008	Omit
2008-10	9-22-2008	Omit
2008-12	11-24-2008	Omit
2009-1	1-26-2009	Omit
2009-2	2- 9-2009	Omit
2009-3	2-23-2009	Omit
2009-4	2-23-2009	Include
2009-5	4-13-2009	Omit
2009-6	4-27-2009	Omit
2009-7	9-14-2009	Omit
2009-8	9-14-2009	Omit
2009-9	9-14-2009	Omit
2009-10	9-28-2009	Omit
2009-11	9-28-2009	Omit
2009-12	9-28-2009	Omit
2009-13	9-28-2009	Omit
2009-14	9-28-2009	Omit
2009-15	10-12-2009	Include
2009-16	10-12-2009	Include
2009-17	10-26-2009	Omit
2009-18	11- 9-2009	Include
2009-19	11- 9-2009	Include

Ord. No.	Date Adopted	Include/Omit
2009-20	11-23-2009	Include
2009-21	11-23-2009	Include
2010-1	1-11-2010	Include
2010-2	1-11-2010	Include
2010-3	1-11-2010	Omit
2010-4	1-25-2010	Include
2010-5	3-22-2010	Omit
2010-6	4-12-2010	Omit
2010-7	5-24-2010	Include
2010-8	6-28-2010	Omit
2010-9	7-12-2010	Omit
2010-10	7-12-2010	Include
2010-11	7-23-2010	Omit
2010-14	9-13-2010	Omit
2010-15	9-27-2010	Omit
2010-17	12-27-2010	Omit
2010-18	12-27-2010	Omit
2011-1	1-10-2011	Omit
2011-2	1-24-2011	Omit
2011-3	2-14-2011	Omit
2011-4	3-14-2011	Omit
2011-5	4-11-2011	Omit
2011-6	4-25-2011	Omit
2011-7	4-25-2011	Omit
2011-8	4-25-2011	Include
2011-9	5-23-2011	Omit
2011-10	5-23-2011	Omit
2011-11	8-22-2011	Omit
2011-12	8-22-2011	Include
2011-13	9-26-2011	Omit
2011-14	9-26-2011	Omit
2011-15	9-26-2011	Omit
2011-16	9-26-2011	Omit
2011-17	9-26-2011	Omit
2011-18	10-24-2011	Omit
2011-19	10-24-2011	Omit
2011-20	12-12-2011	Omit
Supp. No. 3		
2012-1	1- 9-2012	Omit
2012-2	2-13-2012	Omit
2012-4	3-26-2012	Omit
2012-5	4- 9-2012	Omit
2012-6	1- 9-2012	Omit
2012-7	6-11-2012	Omit
2012-8	6-11-2012	Omit
2012-10	8-27-2012	Omit

SUPPLEMENT HISTORY TABLE

Ord. No.	Date Adopted	Include/Omit
2012-11	8-27-2012	Include
2012-12	9-10-2012	Omit
2012-13	9-10-2012	Omit
2012-14	9-10-2012	Omit
2012-15	9-24-2012	Omit
2012-16	9-24-2012	Omit
2012-17	10-22-2012	Omit
2013-1	1-14-2013	Include
2013-2	1-14-2013	Omit
2013-3	9-11-2012	Omit
2013-4	4-22-2013	Omit
2013-5	7- 8-2013	Omit
2013-6	6-10-2013	Omit
2013-7	6- 8-2013	Include
2013-8	7-22-2013	Omit
2013-10	9-23-2013	Omit
2013-11	9-23-2013	Omit
2013-12	9-23-2013	Omit
2013-13	9-23-2013	Omit
2013-14	10-14-2013	Omit
2013-15	12- 9-2013	Omit
2013-16	12- 9-2013	Omit
2013-17	12- 9-2013	Omit
2013-18	12- 9-2013	Omit
2014-1	1-13-2014	Omit
2014-2	1-27-2014	Omit
2014-3	1-27-2014	Omit
2014-4	3-24-2014	Omit
2014-5	6-23-2014	Include
2014-06	8-25-2014	Omit
2014-7	9-22-2014	Omit
2014-8	9-22-2014	Omit
2014-9	9-22-2014	Omit
2014-10	9-22-2014	Omit
2014-11	9-22-2014	Include
2014-12	10-13-2014	Omit
2014-13	10-13-2014	Omit
2014-14	10-13-2014	Include
2014-15	11-10-2014	Include
2014-16	12- 8-2014	Omit
2015-1	1-12-2015	Omit
2015-02	7-27-2015	Omit
2015-03	7-27-2015	Omit
2015-04	8-11-2015	Include
2015-5	9-14-2015	Omit
2015-6	9-14-2015	Omit

Ord. No.	Date Adopted	Include/Omit
2015-7	9-14-2015	Omit
2015-8	9- 9-2015	Omit
2015-09	9-28-2015	Omit
2015-11	9-28-2015	Include
2015-12	9-28-2015	Include
2015-13	11- 9-2015	Omit
2015-14	12-14-2015	Omit
2016-1	1-11-2016	Include
2016-2	1-11-2016	Omit
2016-3	1-25-2016	Omit
2016-5	6-13-2016	Include
2016-6	8-22-2016	Omit
2016-7	9-12-2016	Omit
2016-8	9-26-2016	Omit
2016-9	9-26-2016	Omit
2016-10	9-26-2016	Omit
Supp. No. 4		
2017-1	1- 9-2017	Omit
2017-2	1-23-2017	Include
2017-03	2- 3-2017	Omit
2017-04	5-22-2017	Include
2017-5	8-14-2017	Include
2017-6	8-28-2017	Omit
2017-07	8-28-2017	Include
2017-08	8-28-2017	Include
2017-09	9-25-2017	Omit
2017-10	9-25-2017	Omit
2017-11	9-25-2017	Omit
2017-12	9-25-2017	Omit
2017-13	9-25-2017	Include
2017-14	12-11-2017	Include
2018-1	1- 8-2018	Omit
2018-02	5-14-2018	Include
2018-3	7-23-2018	Include
2018-04	8-27-2018	Omit
2018-05	9-24-2018	Omit
2018-06	9-24-2018	Omit
2018-07	9-24-2018	Omit
2018-08	9-24-2018	Omit
2019-01	1-14-2019	Omit
2019-02	1-14-2019	Omit
2019-03	1-28-2019	Omit
2019-04	1-28-2019	Include
2019-05	3-25-2019	Omit
2019-06	6-10-2019	Omit
2019-07	6-10-2019	Omit

SUPPLEMENT HISTORY TABLE

Ord. No.	Date Adopted	Include/Omit
2019-08	6-24-2019	Omit
2019-09	6-24-2019	Omit
2019-10	7-22-2019	Include
2019-11	8-26-2019	Omit
2019-12	9- 9-2019	Omit
2019-13	9-23-2019	Omit
2019-14	9-23-2019	Omit
2019-15	9-23-2019	Omit
2019-16	9-23-2019	Omit
2019-17	11-25-2019	Omit

PART I

CHARTER*

Article I. Incorporation and Corporate Name, Boundaries, and Form of Government

Sec. 1. Incorporation and Corporate Name.
Sec. 2. Boundaries.
Sec. 3. Form of Government.

Article II. Powers of the City

Article III. Nominations and Elections

Sec. 1. City elections.
Sec. 2. Filing for office.
Sec. 3. Official Ballots.
Sec. 4. Canvassing and Election Results: Mayor, and District Positions for District Numbers 1, 2, 3, & 4.
Sec. 5. Canvassing and Election Results: At-Large Position (2).
Sec. 6. Laws Governing City Elections.
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Article IV. City Council

Sec. 1. General Powers and Duties.
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Sec. 7. Mayor and Mayor Pro-Tem.
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Sec. 13. Emergency Ordinances.
Sec. 14. Authentication and Recording, Codification.
Sec. 15. Bonds for City Employees.

***Editor's note**—The charter is set out as passed and approved by the voters at an election held on April 7, 1984, and approved and ratified by the City Council on April 9, 1984. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions for clarity are indicated by brackets

State law reference—Home rule, V.T.C.A., Local Government Code § 5.004.

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Sec. 2. Powers and Duties of the City Manager.
Sec. 3. Administrative Departments.
Sec. 4. Directors of Departments.
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Sec. 5. Emergency Appropriations.
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Sec. 7. Budget Amendments.
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Sec. 6. Extensions.
Sec. 7. Accounts of Municipally Owned Public Service Company.
Sec. 8. Regulation of Franchise Rates.
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Article IX. Initiative, Referendum and Recall

Sec. 1. Power of Initiative.
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Sec. 3. Power of Recall.

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

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

Alcoholic beverages are as defined by V.T.C.A., Alcoholic Beverage Code § 1.04.

Container means the can, bottle or carton in which an alcoholic beverage is placed for sale.
(Ord. No. 78-13, § 3, 6-26-1978)

Cross reference—Definitions generally, § 1-2.

Sec. 6-2. Possession, consumption in public places.

(a) The carrying on or possession of alcoholic beverages on properties owned by the city is hereby expressly prohibited.

(b) Such properties include, but are not limited to, the Community Park, the Mini Park, Perry Sampson Park, and the American Legion Park.
(Ord. No. 78-13, § 1, 6-26-1978; Ord. No. 78-14, §§ 1, 2, 6-12-1978; Ord. No. 87-10, 5-11-1987)

Cross reference—Streets, sidewalks and other public places, ch. 78.

State law reference—Order for prohibition of consumption, V.T.C.A., Alcoholic Beverage Code § 109.35.

Sec. 6-3. Exhibiting alcoholic beverages, discarding containers in public places.

It shall be unlawful for any person to exhibit alcoholic beverages or alcoholic beverage containers; discard alcoholic beverage containers on any public street, public park, public parking area or private parking area open to the public within the city; and any and all such acts are hereby declared to be unlawful and are hereby declared to be public nuisances.
(Ord. No. 78-13, § 2, 6-26-1978)

Cross reference—Streets, sidewalks and other public places, ch. 78.

Sec. 6-4. Sales near church, school, hospital.

(a) It shall be unlawful for any dealer in alcoholic beverages to sell alcoholic beverages within 300 feet of any church, public or private school, or public hospital.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and 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. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections. For any license covering a premises where minors are prohibited from entering the premises under V.T.C.A., Alcoholic Beverage Code § 109.53, the measurement of the distance between the premises and a public school shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

(c) Every applicant for an original alcoholic beverage license for a location with a door by which the public may enter the place of business of the applicant that is within 1,000 feet of the nearest property line of a public or private school, measured along street lines and directly across intersections, must give written notice of the application to officials of the public or private school before filing the application with the state alcoholic beverage commission. A copy of the notice must be submitted to the commission with the application. This subsection does not apply to a license covering a premises where minors are prohibited from entering the premises under V.T.C.A., Alcoholic Beverage Code § 109.53.

(d) As to any dealer who held a license on September 1, 1983, in a location where a regulation under this section was in effect on that date, for purposes of subsection (a) of this section but not subsection (c) of this section, the measurement of the distance between the place of business of the dealer and a public or private school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. This subsection applies only as long as the place of business is continuously in operation from that date, whether or not under the same license.

(e) The city council may also allow variances to subsection (a) of this section if the city council determines that enforcement of subsection (a) of this section 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 the city council after consideration of the health, safety, and welfare of the public and the equities of the situation, determines it is in the best interest of the community.
(Code 1978, §§ 3-11, 3-12)

State law reference—Authority to adopt, V.T.C.A., Alcoholic Beverage Code § 109.33.

Secs. 6-5—6-30. Reserved.

ARTICLE II. LICENSE AND PERMIT*

Sec. 6-31. Required.

It shall be unlawful for any person to sell any alcoholic beverage within the corporate limits of the city without first having applied for and secured a permit from the city.
(Code 1978, § 3-1)

Sec. 6-32. Application.

Any person desiring to sell any alcoholic beverages within the corporate limits of the city shall apply for a permit with the city secretary upon receiving a license or permit from the state and paying the required fee for a city permit, the city secretary shall issue a city permit. Such permit must be renewed every two years.
(Code 1978, § 3-2; Ord. No. 2009-15, § 1, 10-12-2009)

*__State law reference__—Authority to levy, V.T.C.A., Alcoholic Beverage Code §§ 11.38, 61.36.

Sec. 6-33. Fees.

(a) Before any license required by this article shall be issued, the fee prescribed in subsection (b) of this section shall be paid to the city secretary at his office in the city hall.

(b) Fees required for a city permit required by this article shall be one-half the fee for the state permit or license.

(c) The permit required by this article shall permit only the sale of the alcoholic beverages named therein and contained within the original unbroken package or container which are not to be consumed on the premises where sold.
(Code 1978, § 3-5; Ord. No. 2009-15, § 2, 10-12-2009)

Sec. 6-34. Granting.

The permit required by this article shall be obtained from the city secretary and shall be granted after the payment of the fee prescribed in the section 6-33 and proof that all pertinent provisions of the V.T.C.A., Alcoholic Beverage Code have been complied with.
(Code 1978, § 3-3)

Sec. 6-35. Term.

The term of the permit required by this article shall be for two years, and no permit shall be granted for a longer period of time.
(Code 1978, § 3-4; Ord. No. 2009-15, § 3, 10-12-2009)

Sec. 6-36. Posting.

A permit issued pursuant to this article shall be posted in a conspicuous place on the premises of the permittee where his business is conducted.
(Code 1978, § 3-6)

Sec. 6-37. Separate permit for each location.

No permittee shall carry on such business at more than one place under the same permit, but a separate permit must be obtained pursuant to this article for each place of business conducted for the purpose of selling alcoholic beverages.
(Code 1978, § 3-7)

Sec. 6-38. Record.

The city secretary shall keep a permanent record of all permits issued pursuant to the terms of this article.
(Code 1978, § 3-8)

Section 3. Official Ballots.

A. *Names on Ballot.* The full names of all candidates nominated for office, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.

B. *Order of Listing.* The order on the ballot of the names of the candidates shall be determined by lot in a drawing to be held under the supervision of the City Secretary.

C. *Absentee Ballots.* Procedures for voting by absentee ballot shall be consistent with current edition of Texas Election Laws.

D. *Ballots for Ordinances, Bond Issues, and Charter Amendments.* An ordinance, bond issue or Charter amendment, to be voted on by the City, shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement, approved by majority of the whole Council, describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (bond issue) (amendment) be adopted?" Immediately below or to the left of such question shall appear, in the following order, the words "Yes" and "No," each with a square in which the voter may cast his vote by marking a cross (X).

E. *Write-in Votes.* Procedures for write-in votes shall be consistent with current edition of Texas Election Laws.

State law references—Early voting, V.T.C.A., Election Code § 81.001 et seq.; form of ballot, V.T.C.A., Election Code § 52.061 et seq.

Section 4. Canvassing and Election Results: Mayor, and District Positions for District Numbers 1, 2, 3, & 4.

The following provisions set forth in this section shall apply with regard to elections to fill the offices of Mayor, Councilman from District No. 1, Councilman from District No. 2, Councilman from District No. 3 and Councilman from District No. 4:

A. *Conducting and Canvassing Elections.* The election judges and other necessary election officials for conducting all the elections shall conduct the elections, determine, record and report the results as provided by the Texas Election Laws. Within five (5) days or as soon as practical after an election, the Council shall meet, open the returns, canvass and officially declare the result of the election as to candidates and questions, and the Mayor shall issue certificates of election to candidates elected as hereinbefore provided.

B. *Majority.* A majority vote for an elective office is that number of votes which is greater than the number of votes cast for all the other candidates for the same office combined, including votes cast for write-in candidates. Any candidate for these elective offices who received a majority vote shall be declared elected. If none of the candidates for an elective position receives a majority vote, none of such candidates shall be elected.

C. *Run-off election.* In the event no candidate for these elective offices receives a majority of the votes cast for that position in a regular or special election, a run-off election shall be held between the two candidates receiving the greatest number of votes. Such run-off election shall be held within thirty (30) days following the preceding regular or special election.

D. *Notification and taking office.* It shall be the duty of the City Secretary to notify all persons elected. A candidate who is elected in the regular City election or special election shall take office and enter upon his duties after qualifying by taking and subscribing to his oath of office at the next regular Council meeting after closing of the polls.

Section 5. Canvassing and Election Results: At-Large Position (2).

The following provisions set forth in this section shall apply with regard to elections to fill the offices of the two Councilmen-at-large.

A. *Conducting and Canvassing Elections.* The election judges and other necessary election officials for conducting all the elections shall conduct the elections, determine, record and report the results as provided by the Texas Election Laws. Within five (5) days or as soon as practical after an election, the Council shall meet, open the returns, canvass and officially declare the results of the election as to candidates and questions, and the Mayor shall issue certificates of election to candidates elected as hereinbefore provided.

B. *Plurality.* A plurality vote for these elective offices is that number of votes cast for one candidate which is greater than the number of votes cast for any other single candidate for the same office. The two (2) candidates receiving the greatest number of votes shall be declared elected to the two (2) At-Large positions. These positions shall be filled on the same election year, and shall not be elected by Place or District.

C. *Run-Off Election.* In the event no candidate for these elective offices receives a plurality of the votes cast for that position in a regular or special election, resulting in a tie, a run-off election shall be held between the candidates receiving the greatest number of votes. Such run-off election shall be held within thirty (30) days following the preceding regular or special election.

D. *Notification and taking office.* It shall be the duty of the City Secretary to notify all persons elected. A candidate who is elected in the regular City election or special election shall take office and enter upon his duties after qualifying by taking and subscribing to his oath of office at the next regular Council meeting after closing of the polls.

Section 6. Laws Governing City Elections.

As to matters not otherwise specifically provided for herein, all City elections shall be governed by the laws of the State of Texas concerning municipal and general elections.

Section 7. Oath of Office.

Every officer of the City, whether elected or appointed, before entering upon the duties of office, shall take and subscribe to the appropriate oath or affirmation to be filed and kept in the office of the City Secretary:

A. *For Elected Officers.* "I, _____, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of _____ of the City of Center, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States of America and of this State and the Charter and ordinances of this City. I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment, as a reward for the giving or withholding of a vote at the election at which I was elected. So help me God."

B. *For Appointed Officers.* "I, _____, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of _____ of the City of Center, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States of America and of this State and the Charter and ordinances of this City. I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So help me God."

ARTICLE IV. CITY COUNCIL

Section 1. General Powers and Duties.

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

State law reference—Powers of city council, V.T.C.A., Local Government Code § 51.001 et seq.

Section 2. Composition.

The Council shall consist of a Mayor, who may reside in any portion of the City; two (2) Councilmen At-Large, each of whom may reside in any portion of the City; a Councilman from District No. 1; a Councilman from District No. 2; a Councilman from District No. 3; and a Councilman from District No. 4, each of whom must be a resident of the District which he represents at the time of his election. District boundaries shall be established by ordinance and shall be reviewed every ten (10) years for possible revision according to the most recent census data as it becomes available.

Section 3. Term of office.

The Mayor and Council members shall be elected in the manner provided in Article III of this Charter to serve for two year terms. The first general election after the adoption of this Charter shall be conducted according to the provisions outlined in Article X, Section 5.

On each even-year election, the two (2) At-Large Councilmen and the Councilmen from District No. 2 and District No. 4 shall be elected. On each odd-numbered year, the Mayor and the Councilmen from District No. 1 and District No. 3 shall be elected.

Section 4. Qualifications.

In addition to any other qualifications prescribed by law, the Mayor and each Council member shall meet the conditions of Article III of this Charter while in office, and shall reside within the City while in office.

State law reference—Eligibility for Public Office, V.T.C.A., Election Code § 141.001 et seq.

Section 5. Judge of Elections and Qualifications.

The Council shall be the final judge of all elections and qualifications of its members and any other elected officials of the City.

Section 6. Expense Reimbursement.

Members of the Council shall receive per diem for each month they serve on the Council as established by ordinance. The Council shall, as well, be entitled to reimbursement for all other expenses incurred in the performance of their official duties upon approval of the Mayor.

Section 7. Mayor and Mayor Pro Tem.

The Mayor shall be the official head of the City government. He shall be the Chairman, and shall preside at all meetings of the Council. The Mayor may vote on every proposition before the Council, but shall have no power of veto. He shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts, and bonds. He shall appoint special committees as he deems advisable and as instructed by the Council. He shall perform such other duties consistent with this Charter as may be imposed upon him by the Council.

The Mayor pro tem shall be a Council member elected by the Council at the first regular Council meeting following each regular City election. The Mayor pro tem shall act as Mayor during the unavailability of the Mayor, with the approval of the Mayor or a majority of the Council members.

Section 8. Vacancies, Forfeiture, Filling of Vacancies.

A. *Vacancies.* The office of a Councilman or office of the Mayor shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.

B. *Forfeiture of Office.* A Councilman or the Mayor shall forfeit his office if he:

1. Lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law;
2. Violates any express prohibition of this Charter;
3. Is convicted of a crime involving moral turpitude; or
4. Fails to attend three (3) consecutive regular Council meetings without being excused by the Council.

C. *Filling of Vacancies.* When any vacancy develops on the Council for any reason, a special election shall be called by the Council within thirty (30) days following the occurrence of the vacancy to fill the vacancy in the same manner as described herein for regular elections; however, if such vacancy occurs within one hundred twenty (120) days of a regular election, then no special election shall be called and the remaining Council members shall appoint a qualified person to fill the vacancy until the regular election.

Notwithstanding the requirement in Section 11 that a quorum of the Council consists of four (4) members, if at any time the membership of the Council is reduced to less than four (4), the remaining members may by majority action appoint additional members to raise the membership to four (4). These appointees shall serve until the positions can be filled at the next regular or special City election.

Section 9. Prohibitions.

A. *Holding Other Office.* Except where authorized by law, no Mayor or Councilman shall hold any other City office or City employment during his term as Mayor or Councilman, and no former Mayor or Councilman shall hold any compensated appointive City office or City employment until one, [sic] year after the expiration of his term as Mayor or Councilman.

B. *Appointments and Removals.* Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the City manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

C. *Interference with Administration.* The Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 10. Meetings of the Council.

The Council shall hold at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix, by ordinance, the days and time of the regular meetings. All meetings of the Council shall be held at the Center City Hall, and all meetings shall be open to the public;

however, the Council may recess to an executive session for any purpose outlined in applicable State laws. Special meetings of the Council shall be held on the call of the Mayor or of four (4) or more Council members, and, whenever practical, upon no less than twelve (12) hours notice to each member. Emergency meetings can be called with as few as two (2) hours notice.

Section 11. Rules of Procedure and Quorum Requirements.

The Council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration. The Council shall provide for minutes to be taken and recorded of all meetings, and such minutes shall be a public record. Voting, except on procedural motions, shall be by roll call and each member's vote shall be recorded in the minutes. Four (4) Council members shall constitute a quorum for the purpose of transaction of business and no action of the Council, except as provided in Section 8 of this Article, shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the Council.

Section 12. Ordinances in General.

All ordinances shall be adopted by a majority vote of the Council, except as otherwise provided in this Charter. Any ordinance (or its caption) which deals with budget and/or taxes, franchises, public service companies or the setting of their rates, or which provides a penalty for its violation, must be published one (1) time in the newspaper. The enacting clause for all ordinances shall be: "Be it Ordained by the City Council of the City of Center, Texas."

Section 13. Emergency Ordinances.

To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public service company for its services. Neither shall they authorize the borrowing of money except as provided elsewhere in this Charter. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. Such emergency clause shall require the affirmative vote of five (5) members of the Council.

Section 14. Authentication and Recording, Codification.

A. *Authentication and Recording.* The City Secretary shall authenticate by his signature and record in full in a properly indexed book kept for the purpose, all ordinances and resolutions adopted by the Council. All ordinances shall be numbered numerically in the order in which adopted. This record shall be open for public inspection.

B. *Codification.* The Center City Code shall be reviewed and revised at least every five (5) years. The Council shall repeal or revise any ordinances as may be obsolete or in conflict with this Charter.

Section 15. Bonds for City Employees.

The Council shall require bonds of all municipal officers and employees who receive or pay out any monies of the City. The amount of such bonds shall be determined by the Council and the cost thereof shall be borne by the City.

ARTICLE V. ADMINISTRATIVE ORGANIZATION

Section 1. Appointment, Term, and Compensation of City Manager.

A. *Appointment.* The Council shall appoint a City Manager who shall be the administrative and executive officer of the City. He shall be chosen by the Council solely on the basis of his training, experience and ability. He need not, when appointed, be a resident of the City; however, upon acceptance he shall establish his residence within the City.

B. *Term.* The City Manager shall not be appointed for a definite term but may be removed at the discretion of the Council, by vote of the majority of the entire Council. The action of the Council in suspending or removing the City Manager shall be final.

C. *Compensation.* The City Manager shall receive such compensation as may be fixed by the Council.

Section 2. Powers and Duties of the City Manager.

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

A. *Appointment and Removal of Employees.* He shall appoint and remove any officer or employee of the City except those officers and employees whose appointment or election is otherwise provided for by law or this Charter.

B. *Preparation of Budget.* He shall prepare the budget annually, submit it to the Council and be responsible for its administration after its adoption.

C. *Information for Council.* He shall keep the Council informed of the financial condition of the City and make recommendations on current and future needs of the City as may seem desirable.

D. *Other Responsibilities.* He shall perform such other duties as may be prescribed by this Charter or required of him by the Council which are not inconsistent with the provisions of the Charter.

Section 3. Administrative Departments.

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

Section 4. Directors of Departments.

At the head of each department, there shall be a director who shall be appointed, and who may be removed, by the City Manager. Such directors shall have supervision and control over their respective departments. Two (2) or more departments may be headed by the same individual, and the City Manager may head one (1) or more departments.

Section 5. City Attorney.

The Council shall appoint an attorney, or attorneys, licensed to practice law in the State of Texas, to serve as legal advisor to the City and to all officers and departments of the City. He shall represent the City or be responsible for the representation of the City in all cases. He shall either draft, approve, or file his written legal objections to every ordinance adopted by the Council and he shall pass upon all documents, contracts, and legal instruments in which the City may have an interest.

Section 6. City Secretary.

The City Manager shall appoint the City Secretary and such Assistant City Secretaries as may be necessary and advisable. The duties of the City Secretary, or an Assistant City Secretary, shall include, but not be limited to, the following:

A. *Notice of Meetings.* He shall give notice of Council meetings.

B. *Records.* He shall keep the Minutes of the proceedings of such meetings.

C. *Authenticate Documents.* He shall authenticate by his signature and record all ordinances and resolutions.

D. *Other Duties.* He shall perform such other duties as the City Manager shall assign and those elsewhere provided for in this Charter.

Section 7. Municipal Court.

A. *Powers and Duties.* There shall be a Municipal Court of the City which shall have jurisdictions, powers and duties as are prescribed by the laws of the State of Texas.

B. *Judge of the Court.* The Judge of the Municipal Court shall be appointed and removed by the Council and shall receive compensation as may be fixed by the Council.

C. *Clerk of the Court.* The City Secretary or an Assistant City Secretary may be ex officio clerk of the Municipal Court.

D. *Appointment of Relief Judges.* The Council may also appoint one or more relief judges to act for the regular judge when the regular judge is unable to act for any reason.

State law reference—Municipal court, Vernon's Ann. Civ. St. art. 1194 et seq.

Section 8. Volunteer Organizations.

The City may allow volunteer organizations to serve to accomplish the purposes of the City. These organizations shall work under the authority of the department most appropriate to their function as assigned by the City Manager.

Authority to act in the name of the City and to use City equipment and appropriations shall be outlined in a contract between the City and the volunteer organization.

The City shall reserve the right to limit the number and/or scope of volunteer organizations as the City deems necessary.

ARTICLE VI. TAX ADMINISTRATION*

Section 1. Levy of Taxes.

The Council shall have the power to levy such taxes and to grant such exemptions not prohibited by the laws of the State of Texas.

Section 2. Collection of Delinquent Taxes.

The Council shall have the power to provide for the collection of delinquent taxes in any manner not inconsistent with the laws of the State of Texas.

Section 3. Payment of Taxes.

Neither the Council nor any other official of the City shall extend the time for payment of taxes nor remit, discount or compromise any tax legally due the City, nor waive the penalty and interest that may be due thereon to any persons, firms, or corporations owing taxes to the City for such year or years; provided, however, that this provision shall not prevent the compromise of any tax suit, or the correction of any errors in assessment or preparation of a tax statement. Such compromise or correction of errors shall first have the approval of the Council by majority vote of all Councilmen qualified and serving.

Section 4. Tax Collector. Janie Graves

There shall be a tax collector responsible for the collection of taxes levied by the City. This person or designated entity shall be bonded.

***State law reference**—Power of city council to levy taxes, Vernon's Ann. Civ. St. art. 1031 et seq.

ARTICLE VII. FINANCIAL ADMINISTRATION

Section 1. Fiscal Year.

The fiscal year shall begin on October 1 each year and end on the following September 30. The fiscal year may be changed by the Council by ordinance, provided that no change shall be effective until six (6) months after final passage of such ordinance, and that no more than one (1) change in the fiscal year shall be made in any period of three (3) calendar years. All funds collected by the City during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year, except as provided in this Charter. Any revenues uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next fiscal year.

Section 2. Budget.

The Department Heads of the City shall prepare annual departmental budget requests for the ensuing fiscal year as directed by the City Manager and submit said requests to him for his review. It shall be the duty of the City Manager to submit a balanced annual budget not later than forty-five (45) days prior to the end of the current fiscal year to the Council for review, consideration and revision, if desired. The Council shall call a public hearing on the budget in accordance with the State Laws.

The budget shall be finally adopted not later than three (3) calendar days prior to the end of the fiscal year by the favorable votes of at least a majority of all members of the Council. Should the Council take no final action on or prior to such day on a proposed budget which has been timely and duly submitted by the City Manager, the budget, as submitted, shall be deemed to have been adopted by the Council. In the event the City Manager fails to timely submit a proposed budget as provided herein, the Council may cause the same to be prepared by someone else and may consider and adopt the same.

Section 3. Disposition of Funds.

All checks, vouchers or warrants for the withdrawal of money from the City depositories shall have affixed thereto the legal signatures of both the Mayor or Mayor pro tem and the City Manager or the City Secretary.

Section 4. Purchasing.

All purchases made and contracts executed by the City shall be made in accordance with the requirements of the Constitution and Statutes of the State of Texas and such other rules as the City may deem necessary.

State law reference—Competition bidding for contracts for public works, Vernon's Ann. Civ. St. art. 2368a, § 2.

Section 5. Emergency Appropriations.

At any time in the fiscal year the Council, by the favorable votes of at least a majority of all members of the entire Council, may make emergency appropriations for other than regular or recurring budget requirements to meet a pressing need for public expenditures in order to protect the public health, safety or welfare.

Section 6. Independent Audit.

At, or within thirty (30) days of, the close of each fiscal year, and at such other times as it may be deemed necessary, the Council shall cause an independent audit to be made of all accounts of the City by a certified public accountant, and each member of the Council may receive a copy. The certified public accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be reported in writing to the Council as soon as reasonably possible, which report shall be a public record.

Section 7. Budget Amendments.

During the fiscal year the Council shall have the power to transfer funds allocated by the budget from one activity, function or department, to another activity, function or department, or to re-estimate revenues and expenditures.

Section 8. Borrowing.

The Council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.

Section 9. General Obligation Bonds.

The City shall have the power to borrow money on the credit of the City and to issue its general obligations for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding obligations of the City previously issued. All such obligations shall be issued in conformity with the laws of the State of Texas.

State law reference—Bonds generally, Vernon's Ann. Civ. St. art. 796 et seq.

Section 10. Revenue Bonds.

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending, or repairing of public municipal facilities, recreational public municipal facilities, or any other self-liquidating municipal facilities not prohibited by the Constitution and laws of the State of Texas, and to issue revenue obligations to evidence the revenue or property pledged. With respect to obligations payable solely from the revenue or property

pledged, the holders thereof shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such obligations shall be issued in conformity with the laws of the State of Texas.

State law reference—Bonds generally, Vernon's Ann. Civ. St. art. 796 et seq.

Section 11. Bonds: Incontestable.

All obligations of the City having been issued and having been delivered to the purchaser thereof, shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding obligations previously issued shall, and after said exchange, be incontestable.

Section 12. Depository.

The Council shall designate a bank as its official depository and the depository bank shall invest to cause funds of the City, under the direction of the City Manager, to be invested in a manner that will produce income to the City. The Council shall review the terms and conditions of the City depository every two (2) years. The Council may solicit applications for a depository, as it deems necessary, in accordance with applicable State laws.

ARTICLE VIII. FRANCHISES AND PUBLIC SERVICE COMPANIES*

Section 1. Powers of the City.

In addition to the City's power to buy, own, construct, maintain, and operate utilities and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the City shall have further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

Section 2. Franchise: Power of the Council.

A. *Requirement for Franchise and Power to Grant.* The Council shall have the power by ordinance to grant, renew and extend any franchise to any person, company, corporation or other entity furnishing, supplying and/or selling any type of service or product ordinarily required or used by the public generally, which person, company, corporation or entity uses public streets, alleys and/or rights of way within the City for the purpose of locating or maintaining overhead or underground lines, pipelines, cables, or other conduits for the purpose of transmitting and/or distributing its service and/or product. Any such person, company, corporation or entity shall be required to have a franchise from the City in order to so use the public streets, alleys and rights of way. No franchise shall be granted for an indeterminate term, and no franchise shall be granted for a term of more than twenty-five (25) years from the date of grant, renewal or extension.

*__State law reference__—Franchises, Vernon's Ann. Civ. St. art. 1181 et seq.

B. *Ordinance Granting Franchise.* Every ordinance granting, renewing, extending, or amending a public service company franchise shall be presented at three (3) regular consecutive meetings of the Council, and shall not be finally acted upon until twenty-eight (28) days after the first presentation thereof. Within seven (7) days following the first presentation of the ordinance, the full text of the ordinance shall be published once each week for three (3) consecutive weeks in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

C. *Grant Not to be Exclusive.* No grant or franchise to construct, maintain or operate a public service company and no renewal or extension of such grant shall be exclusive.

D. *Transfer of Franchise.* No public service company franchise shall be transferable except with the approval of the Council as expressed by ordinance. The term "transferable," as used herein, shall not be construed in such manner as to prevent the franchise holder from pledging said franchise as security for a valid debt or mortgage.

Section 3. Franchise Value Not to be Allowed.

In fixing reasonable rates and charges for public service companies within the City and in determining the just compensation to be paid by the City for public service company property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the City under this Article.

Section 4. Right of Regulations.

All grants, renewals, extensions or amendments to public service company franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

A. *Repeal of Franchise.* To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure to otherwise comply with the terms of the franchise, such power to be exercised only after due notice and hearing;

B. *Require Highest Quality Service.* To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of service to the public;

C. *Establish Standards of Service.* To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;

D. *Prescribe Accounting Procedures.* To prescribe the form of accounts kept by each such public service company. If the franchise or ordinance does not prescribe the form of accounts kept by such public service company, then such accounts shall be kept in accordance with the system of accounts for said public service company prescribed by the appropriate State and/or Federal regulatory agencies;

E. *Audit Records and Reports.* To examine and audit the accounts and other records of any such public service company at any time and to require annual and other reports, including reports on local operations by each public service company;

F. *Protect the Public.* To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public;

G. *Follow Appropriate Procedural Rules.* To ensure that procedural rules and regulations dealing with public service companies conform to the requirements of the appropriate State regulatory agencies.

Section 5. Consent of Certain Property Owners Not Required.

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

Section 6. Extensions.

All extensions of a public service company's services within the City limits shall become a part of the aggregate property of the public service company, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. In case of an extension of a public service company operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Section 7. Accounts of Municipally Owned Public Service Company.

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

Section 8. Regulation of Franchise Rates.

The Council shall have full power after notice and hearing to regulate by ordinance the rates, charges and fares of any franchise holder operating in the City. Any franchise holder requesting an increase in its rates, charges, or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its investments and the amount or character of its expenses and revenues. No franchise holder shall institute any

legal action to contest any rate, charge, or fare fixed by the Council until such franchise holder has filed a motion for rehearing with the Council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the Council, and until the Council shall have acted upon such motion. To the extent that the application of this Section is in conflict with the Public Utility Regulatory Act of Texas or any other State statute as applied to any franchise holder, then to the extent of such conflict, the matter of regulation of such franchise holder's rates shall be governed by said Public Utility Regulatory Act or other State statute.

Section 9. Franchise Records.

Within six (6) months after this Charter takes effect, every public service company and every owner of a public service company franchise shall file with the City certified copies of all franchises owned or claimed, or under which such public service company is operated. The City shall compile and maintain a public record of public service company franchises.

Section 10. Other Conditions.

All franchises heretofore granted are recognized as contracts between the City and the grantee, and the contractural [contractual] rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of eminent domain in the acquisition of any public service company property is in all things reserved, and except the general power of the City heretofore existing and herein provided for to regulate the rates and services of a public service company, which shall include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of service to the public. Every public service company franchise hereafter granted shall be held subject to all the terms and conditions contained in the various Sections of this Article whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas.

ARTICLE IX. INITIATIVE, REFERENDUM AND RECALL

Section 1. Power of Initiative.

The qualified and registered voters shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as Initiative. Such ordinances may be passed by the Council without change, or submitted to the voters at an election called for that purpose.

Section 2. Power of Referendum.

The qualified and registered voters shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as Referendum. The qualified and registered voters of the City shall have power to require reconsideration by the Council of any adopted ordinance, and if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes, or to bonds issued pursuant to the authority of an election or elections heretofore held, or as to any subject of municipal legislation which has been established by the courts of this State not to be subject to the power of Referendum.

Section 3. Power of Recall.

The Mayor or any member of the Council, whether elected or appointed, may be removed from office by Recall.

Section 4. Frequency of Elections for Initiated or Referred Ordinances.

Special elections for Initiated or Referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an Initiated ordinance which has been defeated, or on the same subject as a Referred ordinance which has been approved at any election, may be proposed by the voters within one (1) year from the date of such election.

Section 5. Commencement of Proceedings: Petitioners' Committee and Affidavit.

Any five (5) qualified and registered voters may commence Initiative or Referendum proceedings by filing with the City Secretary an affidavit stating they will constitute the Petitioners' Committee and shall become circulators of the petition, and will be responsible for filing it in proper form, stating their names and addresses, and specifying the addresses to which all notices to the Committee are to be sent, and setting out in full the proposed Initiative ordinances or citing the ordinance sought to be reconsidered.

Immediately after the affidavit of the Petitioners' Committee is filed, the City Secretary shall issue the appropriate petition blanks to the Petitioners' Committee.

Section 6. Petitions.

A. *Number of Signatures.* Initiative and Referendum petitions must be signed by qualified and registered voters of the City equal in number to at least twenty-five (25%) percent of the number of votes cast in the last regular municipal election of the City, or two hundred (200), whichever is greater.

B. *Form and Content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by his place of residence by street and number or other description sufficient to identify the place. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

Section 7. Affidavit of Circulator.

When filed, each paper of a petition shall have attached to it an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, that the signatures were affixed in his presence, that he believes then to be the genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

Section 8. Time for Filing Initiative or Referendum Petitions.

Initiative or Referendum petitions must be filed within thirty (30) days after issuance by the City Secretary of the appropriate blanks for initiating adoption of an ordinance or for reconsideration of any ordinance adopted by the Council.

Section 9. Filing, Examination and Certification of Petitions.

Petitions for Initiative and Referendum shall be filed with the City Secretary. Within twenty (20) days after a petition is filed, the City Secretary shall examine such petition and determine its sufficiency, and shall certify the result of such examination to the Council at its next regular meeting. If such petition is insufficient, the City Secretary shall notify the Petitioners' Committee of his findings by certified mail, return receipt requested, to the addresses of the circulators shown on the petition.

Section 10. Amendment of Petitions.

An Initiative or Referendum petition may be amended at any time within ten (10) days after the notification of insufficiency has been sent by the City Secretary, by filing a supplementary petition upon additional papers being signed and filed as provided in the case of an original petition. The City Secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition, and, if the petition is still insufficient, the City Secretary shall file his certificate to that effect in his office and notify the Petitioners' Committee of his findings by certified mail, return receipt requested, to the address of the circulators shown on the petition. No further action shall be had on such insufficient petition. The finding of insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Section 11. Consideration by Council of Initiative or Referendum Petitions.

Whenever the Council receives a certified Initiative or Referendum petition from the City Secretary, it shall consider such petition at the next regular meeting. A proposed Initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed

ordinance. The Council shall take final action on such ordinance not later than sixty (60) days after the date on which it was submitted to the Council by the City Secretary. A Referred ordinance shall be reconsidered by the Council and its final vote upon such consideration shall be upon the question "Shall the ordinance specified in the Referendum petition be repealed?"

Section 12. Submission to Voters of Initiative or Referred Petitions.

If the Council shall fail to pass an ordinance proposed by Initiative petition in the exact form proposed, or it fails to repeal a Referred ordinance, the Initiated or Referred ordinance shall be submitted to the voters not less than thirty (30) days nor more than ninety (90) days from the date the Council takes its final vote thereon, or upon the next official election date, as authorized by State Law, should an official election date not fall within the designated time specified.

Section 13. Form of Ballots.

The ballots used when voting upon such Initiated and Referred ordinances shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

"FOR THE ORDINANCE" and

"AGAINST THE ORDINANCE."

Section 14. Results of Election.

A. *Implementation.* If a majority of the registered electors voting on a proposed Initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in the same manner as ordinances of the same kind adopted by the Council.

B. *Conflicting Ordinances.* If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes shall prevail.

C. *Repeal or Amendment of an Initiated Ordinance.* An ordinance adopted by Initiative may be repealed or amended at any time after the expiration of two (2) years by a vote of five (5) or more of the Council members qualified and serving.

D. *Referendum.* If a majority of the registered electors voting on a Referred ordinance vote for the ordinance, it shall be considered in effect and the petition shall become void.

E. *Adoption of an Ordinance Repealed by Referendum.* An ordinance repealed by Referendum may be reenacted at any time after the expiration of two (2) years by a vote of five (5) or more of the Council members qualified and serving.

Section 15. Publication of Ordinances.

Initiative and Referendum ordinances adopted or approved by the electors shall be published in the official newspaper of the City within thirty (30) days after certification of the election.

Section 16. Recall Procedure.

The qualified and registered voters shall have the power to recall any elected or appointed member of the Council, and may exercise such power by filing with the City Secretary a petition which shall be signed and verified by the same number of signers with the same qualifications and in the same manner required in this Charter for an Initiative petition. If the petition is certified by the City Secretary to be sufficient, the Council shall order and hold an election to determine whether such officer shall be recalled.

Section 17. Results of Recall Election.

If the majority of the legal votes cast at a Recall election be for the recall of the officer named on the ballot, the Council shall immediately declare his office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. An officer thus removed shall not be eligable [eligible] to hold office again in the City within a period of four (4) years from the date of his recall.

Section 18. Limitation of Recall.

No Recall petition shall be filed against an officer within six (6) months after he takes office, and no officer shall be subjected to more than one (1) Recall election during a term of office.

Section 19. Failure of Council to Call an Election for Initiative, Referendum or Recall.

Should the Council fail or refuse to order any of the elections as provided for in this Article, when all the requirements for such elections have been complied with, the petitioners may thereafter petition any District Judge having jurisdiction over Shelby County for appropriate legal remedies to enforce this provision.

ARTICLE X. GENERAL PROVISIONS

Section 1. Submission of Charter to Electors and Election for Adoption.

The Charter Commission for the City finds that it is impracticable to segregate each topic to permit a "yes-no" vote on same and that the Charter is constructed for it to work and function in its entirety. For this reason, the Charter Commission directs that the Charter be voted upon as a whole and that it be submitted to the voters of the City at an election to be held in accordance with terms and provisions of the applicable laws of the State of Texas. Within five (5) days after such election, the Council shall meet to canvass the returns of the election and if a majority of the voters vote in favor of the adoption of this Charter, it shall then and there become effective as the Charter of the City of Center, Texas.

Section 2. Effect of Charter on Existing Law.

All ordinances, resolutions, rules and regulations in force within the City on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered,

amended or repealed by the Council. All taxes, assessments, liens, encumbrances or demands, of or against the City, fixed or established before such date, shall be valid when properly fixed or established under the law in force at the time or under the law upon the adoption of this Charter.

Section 3. Budget.

The last currently adopted budget for the City immediately prior to the adoption of this Charter shall be and become the budget for the same fiscal year under the terms and provisions of this Charter and shall be in force as such.

Section 4. Separability Clause.

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

Section 5. Interim Municipal Government.

Upon the adoption of this Charter, those persons holding effective offices shall continue to serve until an election can be held at the earliest time following approval of the division of the City into districts as provided in Article IV, Section 3 of this Charter, and upon approval by the appropriate officials as may be required by law. At that time, the Council shall determine the most expedient method of electing the Council members under the provisions of this Charter.

During such interim, persons who, on the date this Charter is adopted, are employed or filling appointive positions with the City which are retained under this Charter, may continue to fill those positions for the term for which they were employed or appointed.

All rights, claims, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on, or dealt with by the City department, office or agency appropriate under this Charter.

Section 6. Amending the Charter.

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 13 of Title 28 of the Revised Civil Statutes of Texas, 1982, as now or hereafter amended.

State law reference—Charter amendments, Vernon's Ann. Civ. St. art. 1170.

Section 7. Personal Financial Interests.

The Mayor, Council members and other officers and employees of the City shall not be interested either directly or indirectly in the profits or emoluments of any contract, job, work or service for the City, nor shall any of them be interested either directly or indirectly in the profits or emoluments of any sale to the City of any supplies, equipment, material or articles

purchased, nor shall any of them be the owner of stock to exceed five (5%) percent of total shares issued in any public service company operating under franchise or license of the City.

Any contract in which any officer or employee of the City has an interest or shall acquire an interest in said profits or emoluments may be declared void by the Council. Any violations of this section may, upon determination by the Council (in the case of a Council member or appointive office violation) or City Manager (in the case of a regular employee) that the violation occurred with the knowledge of the affected officer or employee, result in the forfeiture of office, position or job.

Section 8. Nepotism.

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

Section 9. Unauthorized Gifts.

No employee of the City nor any member of the Council shall ever accept any free service, or anything of value, directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the general public, and any employee of the City who shall violate this Section shall forfeit such employment and any member of the Council who shall violate this Section shall, ipso facto, forfeit his position as a member of the Council.

Section 10. Public Records.

All public records of every office, department or agency of the City shall be open to inspection by any citizen at all reasonable times. Public records, as used in this Section, do not include any personnel records, police record, litigation data or other matters, the confidentiality of which has been established by law. Nothing in this Section shall preclude the City from charging a reasonable fee for furnishing copies of such public records.

Section 11. Official Newspaper.

The Council shall contract annually with, and by resolution designate, a public newspaper of general circulation in the City as official organ thereof, to continue as such until another is designated, and shall cause to be published therein all ordinances, notices and other matters required by this Charter, by the ordinances of the City, or by the Constitution and/or laws of the State of Texas to be published.

Section 12. Notice of Claim.

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or

claiming such damages shall, within sixty (60) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City Manager a written statement under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the conditions causing same, with a detailed statement of each item of damages and the amount thereof, and if it be for personal injuries, giving a list of any witnesses known by affiant to have seen the accident.

Section 13. Assignment, Execution and Garnishment.

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City in the hands of any person, firm or corporation shall not be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Section 14. Security or Bond Not Required.

It shall not be necessary in any action, suit or proceedings, in which the City shall be a party, for any bond, undertaking or security to be executed in behalf of the City, but all actions, suits, and proceedings shall be conducted in the same manner as if such bond, undertaking, or security had been given. The City shall have all remedies of appeal provided by law to all courts without bond or security of any kind. For the purposes of all such actions, suits, proceedings and appeals, the City shall be liable in the same manner and to the same extent as if the bond, undertaking or security had been executed and given.

Section 15. Streets, Parks, Cemeteries and Public Grounds.

The Council shall provide by ordinance for the control and improvement of all public streets, alleys, sidewalks, parks, cemeteries, public buildings and public grounds, and shall cause the same to be kept in repair and free from nuisance.

Section 16. Public Meetings.

All meetings of any elected or appointed bodies of the City shall be held in compliance with the Open Meetings Act, Vernon's Ann. Civ. St. art. 6252-17, as now or hereafter amended.

Section 17. Gender Terms.

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

CHARTER COMPARATIVE TABLE

ORDINANCES

This table shows the location of the sections of the basic Charter and any amendments thereto.

Ordinance Number	Adoption Date	Election Date	Section this Charter
Ord. of	4- 7-1984	4- 9-1984	Arts. I—X

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.
Sec. 1-2. Definitions and rules of construction.
Sec. 1-3. Catchlines of sections.
Sec. 1-4. History notes.
Sec. 1-5. Cross references and state law references.
Sec. 1-6. References to Code.
Sec. 1-7. Certain ordinances not affected by Code.
Sec. 1-8. Code does not affect prior offenses, rights, etc.
Sec. 1-9. Provisions considered as continuation of existing ordinances.
Sec. 1-10. Effect of repeal of an ordinance.
Sec. 1-11. Effect of new ordinances; amendatory language.
Sec. 1-12. Amendments or additions to Code.
Sec. 1-13. Supplementation of Code.
Sec. 1-14. Penalty for altering or tampering with Code.
Sec. 1-15. Severability.
Sec. 1-16. Burden proof of exceptions.
Sec. 1-17. General penalty for violations of Code; continuing violations.

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

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Center, Texas," and may be so cited. Such Code may also be cited as the "Center Code."
(Ord. No. 78-1, § 1, 1-24-1978)

Charter reference—Codification, art. IV, § 14B.

State law reference—Authority of city to adopt code, V.T.C.A., Local Government Code § 53.001 et seq.

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

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

City. The term "city," when used in this Code or in other ordinances of the city, shall mean the City of Center, Texas, unless a contrary intention plainly appears.

Charter. The term "Charter" shall mean and refer to the Charter of the City of Center, Texas as printed in Part I of this volume.

Code. The term "Code" shall mean the "Code of Ordinances, City of Center, Texas," as designated in section 1-1.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

State law reference—Similar provisions, Tx. Rules of Civ. P. Rule 4, V.T.C.A., Government Code § 311.014.

Council, city council. The terms "council" and "city council" shall mean the city council of the City of Center, Texas.

County. The term "county" shall mean Shelby County, Texas.

Delegation of authority. Whenever a provision appears requiring a city officer or employee to do some act or make certain inspections it is to be construed to authorize the head of the department to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designates otherwise.

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

Highway. The term "highway" shall mean 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.

In the city. The term "in the city" shall mean and include all territory over which the city now has or shall acquire jurisdiction for the exercise of its police, regulatory and other powers.

State law reference—Extraterritorial jurisdiction of city, V.T.C.A., Local Government Code § 42.021.

May. The term "may" shall be construed as being permissive.

Month. The term "month" shall mean a calendar month.

Must. The term "must" shall be construed as being mandatory.

Number. Words used in the singular number in this Code or in other ordinances of the city include the plural, and the plural the singular, except where a contrary intention plainly appears.

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

Officers, boards, etc. Whenever reference is made to any officer, board or commission, such reference shall be construed as if followed by the terms "of the City of Center." Reference to any specific officer shall also be deemed to include his duly authorized assistants and representatives.

Official time standard. Whenever certain hours are named in this Code, they shall mean Central Standard Time or Central Daylight Saving Time, as may be officially in current use in the state.

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

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

Person. The term "person," when used in this Code or in other ordinances of the city, includes natural persons, corporations (private and public), partnerships, unincorporated organizations, trusts, estates, government agencies, and other legal entities, except when a contrary intention plainly appears.

Personal property. The term "personal property" shall mean every species of property, except real property as defined in this section.

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

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

Public place. The term "public place" shall mean any public street, alley, square, highway, grounds, house or premises; or any hotel, restaurant, boardinghouse, grocery, saloon, garden, workshop or other place, or part of the same, to which people usually resort, or have a right to resort for business or pleasure.

Real property. The term "real property" shall mean lands, tenements and hereditaments.

Roadway. The term "roadway" shall mean that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall. The term "shall" shall be construed as being mandatory.

Sidewalk. The term "sidewalk" shall mean any portion of the street between the curb or the lateral line of the roadway and the adjacent property line intended for the use of pedestrians.

Signature, subscription. The terms "signature" and "subscription" shall mean a mark when a person cannot write.

State. The terms "the state" and "this state" shall mean the State of Texas.

Statutory references. Reference to the statutes of the State of Texas means the statutes as they are now or as they may be amended to be.

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

V.T.C.A. The abbreviation "V.T.C.A." shall mean Vernon's Texas Codes Annotated, as amended.

Vernon's Ann. Civ. St. The abbreviation "Vernon's Ann. Civ. St." shall mean Vernon's Annotated Civil Statutes, as amended.

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

Year. The term "year" shall mean a calendar year.

(b) The provisions of Titles 1, 2 and 3 of the Penal Code shall apply in the interpretation of all penal provisions of this Code to the extent that the of the Penal Code mandates that they shall apply.

(Code 1978, § 11-4)

Charter reference—Gender terms, art. X, § 17.

State law references—Similar definitions, V.T.C.A., Government Code § 311.001 et seq.; application of Titles 1, 2 and 3 of Penal Code, V.T.C.A., Penal Code § 1.03.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be

titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.
(Ord. No. 78-1, §§ 5, 6, 1-24-1978)

Sec. 1-4. History notes.

The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.
(Ord. No. 78-1, §§ 5, 6, 1-24-1978)

Sec. 1-5. Cross references and state law references.

Cross references and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.
(Ord. No. 78-1, §§ 5, 6, 1-24-1978)

Sec. 1-6. References to Code.

All references to chapters, articles, or sections are to the chapters, articles, and sections of this Code unless otherwise specified.
(Ord. No. 78-1, §§ 5, 6, 1-24-1978)

Sec. 1-7. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

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

(2) Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget;

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

(4) Any ordinance creating or relating to specific sewer and paving districts and other specific local improvement districts;

(5) Any ordinance creating and regulating specific loading zones;

(6) Any ordinance regulating speed or parking on designated segments of specific streets and other public ways;

(7) Any ordinance designating segments of specific streets and other public ways as one-way streets;

(8) Any ordinance providing for or regulating traffic devices, signs, or signals at specific places on specific streets;

(9) Any ordinance detailing the city's participation in the Texas Municipal Retirement System or the Federal Social Security System;

(10) Any ordinances appointing city officers;

(11) Any ordinance designating or otherwise related to city depositories;

(12) Any ordinance granting any franchise, permit or other right;

(13) Any ordinance approving, prescribing or otherwise related to rates to be charged by utility companies;

(14) Any ordinance approving, authorizing or otherwise related to any contract or agreement;

(15) Any ordinance accepting, dedicating, improving, vacating or otherwise related to any specific street or easement;

(16) Any zoning ordinance, including ordinances zoning or rezoning specific property;

(17) Any ordinance approving or accepting any plat of a subdivision or dedication deeds;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.
(Ord. No. 78-1, § 4, 1-24-1978)

Sec. 1-8. Code does not affect prior offenses, rights, etc.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.
(Ord. No. 78-1, § 3, 1-24-1978)

Sec. 1-9. Provisions considered as continuation of existing ordinances.

The provisions appearing in this and the following chapters and sections, so far as they are the same as those of ordinances existing at the time of the adoption of the "Code of Ordinances, City of Center, Texas," shall be considered as a continuation thereof and not as new enactments.

Sec. 1-10. Effect of repeal of an ordinance.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed.
(Ord. No. 78-1, § 3, 1-24-1978)

Sec. 1-11. Effect of new ordinances; amendatory language.

All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from his Code by omission from affected reprinted pages. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code of Ordinances and subsequent ordinance numbered or omitted are readopted as a new code of ordinances by the city council.

Sec. 1-12. Amendments or additions to Code.

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

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

(c) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

State law reference—Adoption of municipal ordinances, V.T.C.A., Local Government Code § 52.001 et seq.

Sec. 1-13. Supplementation of Code.

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

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the 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 sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

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

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____," inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and

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

(Ord. No. 78-1, § 9, 1-24-1978)

Sec. 1-14. Penalty for altering or tampering with Code.

Any person who alters, changes or amends this Code except in the manner prescribed by this chapter, or who alters or tampers with this Code in any manner so as to cause the ordinances of the city to be misrepresented thereby, upon conviction, shall be fined as provided in section 1-17.

(Ord. No. 78-1, § 10, 1-24-1978)

Sec. 1-15. Severability.

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 judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the city council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1978, § 11-11)

Sec. 1-16. Burden proof of exceptions.

In any prosecution for the violation of any provision of this Code, it shall not be necessary for the complaint to negate or for the state to prove any exception contained in this Code concerning any prohibited act; provided, that any such exception made therein may be urged as a defense by the person charged by such complaint.

State law reference—Proof of exception, V.T.C.A., Penal Code § 2.02.

Sec. 1-17. General penalty for violations of Code; continuing violations.

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 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 $2,000.00 for violations of ordinances that govern fire safety, zoning and public health including dumping of refuse and not exceeding $500.00 for all other violations; 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.

State law references—Authorized punishment for ordinance violations, V.T.C.A., Local Government Code § 54.001 et seq.; authority to adopt penalties for violations of Code, V.T.C.A., Local Government Code § 54.001 et seq.

Chapter 2

ADMINISTRATION*

Article I. In General

Secs. 2-1—2-30. Reserved.

Article II. City Council

Sec. 2-31. Meetings.
Sec. 2-32. Single member districts.
Secs. 2-33—2-60. Reserved.

Article III. City Manager

Sec. 2-61. Absence or disability of city manager.
Secs. 2-62—2-90. Reserved.

Article IV. Public Records

Division 1. Generally

Secs. 2-91—2-110. Reserved.

Division 2. Records Management

Sec. 2-111. Definitions.
Sec. 2-112. Municipal records declared public property.
Sec. 2-113. Policy.
Sec. 2-114. Designation of records management officer.
Sec. 2-115. Establishment of records management committee; duties.
Sec. 2-116. Records management plan to be developed; approval of plan; authority of plan.
Sec. 2-117. Duties of records management officer.
Sec. 2-118. Duties and responsibilities of department heads.
Sec. 2-119. Destruction of records under schedule.

***Charter references**—Form of government, art. I, § 3; nominations and elections, art. III; administrative organization, art. V; financial administration, art. VII; initiative, referendum and recall, art. IX; nepotism, art. X, § 8; public meetings, art. X, § 16.

Cross references—Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness saved from repeal, § 1-7(1); any ordinance appointing city officers saved from repeal, § 1-7(10); joint airport zoning board, § 18-31 et seq.; civil emergencies, ch. 26; administration and enforcement personnel for junked and abandoned vehicle provisions, § 30-181; fire marshal, § 34-31 et seq.; administration of flood hazard reduction provisions, § 38-61 et seq.; human relations, ch. 42; fair housing administrator, § 42-38; law enforcement, ch. 46; taxation, ch. 82; administration and enforcement of traffic and vehicles, § 86-31 et seq.; utilities, ch. 90.

Sec. 2-120. Destruction of unscheduled records.
Sec. 2-121. Records center.
Secs. 2-122—2-150. Reserved.

Article V. Fees and Funds

Division 1. Generally

Secs. 2-151—2-170. Reserved.

Division 2. Funds

Sec. 2-171. Municipal court technology fund.
Sec. 2-172. Municipal court building security fund created.
Sec. 2-173. [Animal welfare trust fund created.]
Sec. 2-174. [Solid waste fund re-established.]
Sec. 2-175. [Recreation fund created.]
Sec. 2-176. [Technology fund established.]

ARTICLE I. IN GENERAL

Secs. 2-1—2-30. Reserved.

ARTICLE II. CITY COUNCIL*

Sec. 2-31. Meetings.

The city council shall hold a regular meeting at 5:00 p.m. on the second and fourth Mondays of every month unless otherwise provided by the city council. Meetings will be held in the council chambers of city hall.

(Code 1978, § 1-21; Ord. No. 94-1, 1-10-1994; Ord. No. 2006-10, 5-22-2006)

Charter reference—Meetings of the council, art. IV, § 10.

Sec. 2-32. Single member districts.

(a) The boundaries encompassing single member district 1 of the city council shall be described as follows:

Beginning at the far southeastern corner of the boundary of the city limits of the City of Center;

Thence northeasterly along the boundary of the city limits to the intersection of the city boundary and Martin Luther King Drive (formerly Neuville Street) hereafter referred to as MLK;

Thence in a northwesterly direction along MLK to the intersection of the Santa Fe Railroad track and MLK;

Thence from the intersection of MLK and said railroad tract in a northwesterly direction along said railroad track to the intersection of said railroad track right-of-way and Center Street;

Thence in a southerly direction along Center Street to the intersection of Center Street and Shelbyville Street;

Thence in a westerly direction along Shelbyville Street to the intersection of Shelbyville Street and Pine Street;

Thence in a southerly direction along Pine Street to the intersection of Pine Street and Terry Street;

Thence in a westerly direction along Terry Street to the intersection of Terry Street and San Augustine Street;

Thence in a southerly direction on San Augustine Street to the intersection of San Augustine Street and Highway 96;

***Charter references**—City Council, art. IV; personal financial interests, art. X, § 7.

State law references—Council meetings, V.T.C.A., Local Government Code § 25.001 et seq.; meetings to be open to the public, V.T.C.A., Local Government Code § 551.001 et seq.

Thence in a southerly direction along Highway 96 to the intersection of Highway 96 and the southern boundary line of the city limits;

Thence in an easterly direction and following the boundary of the city limits to point of beginning.

(b) The boundaries encompassing single member district 2 of the city council shall be described as follows:

Beginning at the intersection of Shelbyville Street and the Santa Fe Railroad track;

Thence in a northwesterly direction along the Santa Fe Railroad track to the intersection of said railroad track and Cotton Ford Road;

Thence south along Cotton Ford Road to the intersection of the Cotton Ford Road and Logansport Street;

Thence north 45 degrees west 900 feet;

Thence north 5 degrees west for a distance of 1,800 feet to the Santa Fe Railroad track;

Thence in a northwesterly direction along the Santa Fe Railroad track to the intersection of said railroad track and the northern boundary of the city limits;

Thence in a southeasterly direction along the northern boundary of the city limits to the far northeast corner of said city limits;

Thence in a southerly direction along the eastern boundary of the city limits to a point where said boundary intersects MLK;

Thence in a northwesterly direction along MLK to a point where MLK intersects with Shelbyville Street;

Thence from the intersection of Shelbyville Street and MLK to the point of beginning.

(c) The boundaries encompassing single member district 3 of the city council shall be described as follows:

Beginning at the southern intersection of Highway 96 and the boundary of the city limits;

Thence in a northwesterly direction along Highway 96 to the intersection of Highway 96 and San Augustine Street;

Thence in a northerly direction along San Augustine Street to the intersection of San Augustine Street and Terry Street;

Thence in an easterly direction along Terry Street to the intersection of Terry Street and Pine Street;

Thence in a northerly direction along Pine Street to the intersection of Pine Street and Shelbyville Street;

Thence in an easterly direction along Shelbyville Street to the intersection of Shelbyville Street and Center Street;

Thence in a northerly direction along Center Street to the intersection of Center Street and the Santa Fe Railroad track right-of-way;

Thence in a northwesterly direction along the Santa Fe Railroad track to a point where said railroad track intersects the Cotton Ford Road;

Thence in a southerly direction from the intersection of Cotton Ford Road and the Santa Fe Railroad track to the intersection of Logansport Street and Cotton Ford Road;

Thence north 45 degrees west 900 feet;

Thence north 5 degrees west 1,800 feet to the Santa Fe Railroad track;

Thence in a northwesterly direction along the said railroad track to a point where said railroad track intersects with the northern boundary of the city limits;

Thence in a northwesterly direction along the northern boundary of the city limits to a point where said city limits intersects with Henrietta Road;

Thence in a southerly direction along Henrietta Road to the intersection of Henrietta Road and Tenaha Street;

Thence in a southeasterly direction along Tenaha Street to the intersection of Tenaha Street and Nacogdoches Street;

Thence in a southwesterly direction along Nacogdoches Street to the intersection of said Nacogdoches Street and the southwestern boundary of the city limits:

Thence beginning in a southwesterly direction and following the southern boundary of the city limits to the point of beginning at the intersection of the southern boundary of the city limits and Highway 96.

(d) The boundaries encompassing single member district 4 of the city council shall be described as follows:

Beginning at the intersection of Nacogdoches Street and the southwestern boundary of the city limits;

Thence in a northeasterly direction along Nacogdoches Street to the intersection of Nacogdoches Street and Tenaha Street;

Thence in a northwesterly direction along Tenaha Street to the intersection of Tenaha Street and Henrietta Road;

Thence in a northerly direction along Henrietta Road to the intersection of Henrietta Road and the northern boundary of the city limits;

Thence in a northwesterly direction along the northern boundary line of the city limits to the far northwestern corner of the city limits;

Thence beginning in a southerly direction along the western boundary of the city limits and continuing along said western boundary and the southern boundary of the city limits to a place of beginning at the intersection of Nacogdoches Street and the southwestern boundary of the city limits.

(Ord. No. 85-1, §§ 1—4, 2-11-1985; Ord. No. 93-6, §§ 1—4, 3-8-1993)

Charter reference—Establish and review of single member districts, art. IV, § 2.

Secs. 2-33—2-60. Reserved.

ARTICLE III. CITY MANAGER*

Sec. 2-61. Absence or disability of city manager.

During a prolonged absence or disability of the city manager, the city council may designate some properly qualified person to perform the duties of the office.

(Code 1978, § 1-34)

Secs. 2-62—2-90. Reserved.

ARTICLE IV. PUBLIC RECORDS†

DIVISION 1. GENERALLY

Secs. 2-91—2-110. Reserved.

DIVISION 2. RECORDS MANAGEMENT‡

Sec. 2-111. 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:

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

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

***Charter references**—Appointment, term and compensation of city manager, art. V, § 1; powers and duties of the city manager, art. V, § 2.

†**State law reference**—Public records, V.T.C.A., Government Code § 552.001 et seq., V.T.C.A., Local Government Code § 191.001 et seq.

‡**State law reference**—Records management, V.T.C.A., Local Government Code § 203.001 et seq.

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

Record means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, 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, including an ordinance, or in the transaction of public business. The term "record" 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;

(6) Copies of documents in any media furnished to members of the public to which they are entitled under V.T.C.A., Local Government Code § 552.001 et seq. or other state law; or

(7) Any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by V.T.C.A., Local Government Code § 2009.054(c), associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

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

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

Records management committee means the committee established in section 2-115.

Records management officer means the person designated in section 2-114.

Records management plan means the plan developed under section 2-116.

Retention period means the minimum time that must pass after the creation, recording or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

(Ord. No. 90-11, §§ I, II, 11-26-1990)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, V.T.C.A., Local Government Code § 201.003.

Sec. 2-112. Municipal records declared public property.

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

(Ord. No. 90-11, § III, 11-26-1990)

State law reference—Similar provisions, V.T.C.A., Local Government Code § 201.005(b).

Sec. 2-113. Policy.

It is hereby declared to be the policy of the city to provide for efficient, economical and effective controls over the creation, distribution, organization, maintenance, use and disposition of all municipal records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Texas Local Government Records Act, V.T.C.A., Local Government Code § 201.001 et seq. and accepted records management practice.

(Ord. No. 90-11, § IV, 11-26-1990)

Sec. 2-114. Designation of records management officer.

The city secretary, and the successive holders of such office, shall serve as records management officer for the city. As provided by state law, each successive holder of the office shall file his name with the director and librarian of the state library within 30 days of the initial designation or of taking up the office, as applicable.

(Ord. No. 90-11, § V, 11-26-1990)

State law references—Delivery of records to successor, V.T.C.A., Local Government Code § 201.006; designation of records management officers, V.T.C.A., Local Government Code § 203.025.

Sec. 2-115. Establishment of records management committee; duties.

(a) A records management committee, consisting of the following, is hereby established: City manager, city attorney, control clerks, assistant city secretary, director of purchasing/personnel, director of public works, director of solid waste, chief of police, assistant police chief.

(b) The records management committee shall:

(1) Assist the records management officer in the development of policies and procedures governing the records management program;

(2) Review the performance of the program on a regular basis and propose changes and improvements if needed;

(3) Review and approve records control schedules submitted by the records management officer;

(4) Give final approval to the destruction of records in accordance with approved records control schedules; and

(5) Actively support and promote the records management program throughout the city.
(Ord. No. 90-11, § VI, 11-26-1990)

Sec. 2-116. Records management plan to be developed; approval of plan; authority of plan.

(a) The records management officer and the records management committee shall develop a records management plan for the city for submission to the city council. The records management 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 records management plan must be designed to enable the records management officer to carry out his duties prescribed by state law and this division effectively.

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

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

(d) State law relating to the duties, other responsibilities or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this division and the records management plan adopted under this division, and may not be used by the department head as a basis for refusal to participate in the records management program of the city.
(Ord. No. 90-11, § VII, 11-26-1990)

State law reference—Records management program, V.T.C.A., Local Government Code § 203.026.

Sec. 2-117. Duties of records management officer.

In addition to other duties assigned in V.T.C.A., Local Government Code § 203.023 and 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) Provide records management advice and assistance to all city departments.

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

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

(10) Instruct personnel in policies and procedures of the records management plan and their duties in the records management program.

(11) Direct personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this division.

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

(13) Maintain records on the volume of records destroyed under approved records control schedules, and the estimated cost and space savings as the result of such disposal or disposition.

(14) Report annually to the city council on the implementation of the records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under subsection (13) of this section.

(15) Bring to the attention of the city council noncompliance by department heads or other personnel with the policies and procedures of the records management program or the Local Government Records Act V.T.C.A., Government Code § 552.001 et seq.

(Ord. No. 90-11, § VIII, 11-26-1990)

State law reference—Duties of records management officer, V.T.C.A., Local Government Code § 203.023.

Sec. 2-118. 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 established policies and procedures 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 staff are responsible.

(3) Maintain the records in his care and carry out their preservation, 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.

(Ord. No. 90-11, § IX, 11-26-1990)

Sec. 2-119. Destruction of records under schedule.

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 committee that the record be retained for an additional period.

(Ord. No. 90-11, § X, 11-26-1990)

Sec. 2-120. Destruction of unscheduled records.

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

(Ord. No. 90-11, § XI, 11-26-1990)

Sec. 2-121. Records center.

A records center, developed pursuant to the plan required by section 2-116, shall be under the direct control and supervision of the records management officer. Policies and procedures regulating the operation and use of the records center shall be contained in the records management plan developed under section 2-116.

(Ord. No. 90-11, § XII, 11-26-1990)

Secs. 2-122—2-150. Reserved.

ARTICLE V. FEES AND FUNDS

DIVISION 1. GENERALLY

Secs. 2-151—2-170. Reserved.

DIVISION 2. FUNDS

Sec. 2-171. Municipal court technology fund.

(a) *Establishment.* There is hereby created and established a municipal court technology fund pursuant to Vernon's Ann. C.C.P. art. 102.0172. The municipal court technology fund may be maintained in an interest bearing account and may be maintained in the general revenue account.

(b) *Establishment of amount of the fee and assessment and collection.* The fee shall be in the amount of $4.00. 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 deferred adjudication community supervision; or

(3) The court defers final disposition of the person's case.

The fee shall be collected on conviction of offense committed on or after the effective date of the ordinance from which this section is derived. The clerk of the court shall collect the fee and pay the fee to the finance officer of the city, who shall deposit the fee into the municipal court technology fund.

(c) *Designated use of fund and administration.* The municipal court technology fund shall be used only to finance the purchase of technological enhancements for the municipal court of the city, 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.

The municipal court technology fund shall be administered by or under the direction of the city council.
(Ord. No. 2002-5, §§ 1—3, 3-25-2002)

State law reference—Authority to adopt, Vernon's Ann. C.C.P. art. 102.0172.

Sec. 2-172. Municipal court building security fund created.

(a) There is hereby created a municipal court building security fund to be administered by the city finance officer.

(b) There is hereby imposed on each defendant found guilty in center municipal court of a misdemeanor for an offense committed after the date this ordinance becomes effective a xc security fee of $3.00 for each separate conviction.

(c) The municipal court clerk shall collect the security fee and remit such funds to the finance officer who shall deposit such money into and administer such money in the municipal court building security fund and shall allow such funds to be used only to finance the purchase of security services for the Center Municipal Court as provided in Vernon's Ann. C.C.P. Article 102.017 (d).

(d) For the purpose of this section a person is considered convicted if:

(1) A sentence is imposed on the person;

(2) The person is placed on community supervision including deferred adjudication community supervision; or

(3) The court defers final disposition of the person's case.
(Ord. No. 2005-21, §§ 2—5, 12-12-2005)

Sec. 2-173. [Animal welfare trust fund created.]

(a) *Establishment of fund.*

(1) The city hereby accepts the dedication of funds for specific purposes related to animal welfare and creates a specific trust fund established as the Animal Welfare Trust of the City of Center.

(2) This fund shall be maintained in interest-bearing accounts within the general trust fund.

(b) *Designated uses of fund.* The animal welfare fund shall be used only for expenditures approved by the city council as meeting one or more of the following purposes:

(1) Physical renovation of current animal housing facilities including "Pat Tucker" in the name meeting State of Texas regulatory standards;

(2) Physical construction of a new facility including "Pat Tucker" in the name meeting State of Texas regulatory standards;

(3) Offset of expenses to reduce fees of a spay/neuter program;

(4) Offset of expenses to reduce fees of an animal adoption program;

(5) Offset of expenses to reduce fees for the relinquishment of unwanted or found animals.

(Ord. No. 2014-14, §§ 1, 2, 10-13-2014)

Editor's note—Ord. No. 2014-14, §§ 1, 2, adopted Oct. 13, 2014, did not specify manner of inclusion; hence, codification as § 2-173 was at the discretion of the editor.

Sec. 2-174. [Solid waste fund re-established.]

(a) *Establishment of fund.*

(1) The city hereby re-establishes the solid waste fund for specific costs associated with collecting solid waste revenues and making expenses against the solid waste contract, recycling or other expenses.

(2) The fund will be part of pooled cash and shall be separate from all other funds and be designated the solid waste fund.

(b) *Designated uses of fund.* The solid waste fund shall be used only for expenditures approved by the city council as meeting one or more of the following purposes:

(1) Payment of charges on the solid waste contract;

(2) Any other charges deemed appropriate by the city council designated in the budget.

(c) *Budget.* The city authorizes an amendment to the FY 2016 budget by:

(1) Reducing general fund revenues and expenditures; and

(2) Accounting for these revenues and expenditures in the new solid waste fund;

(3) Adopting the listed budget amendments as identified in "Exhibit A."

(Ord. No. 2015-11, §§ 1—3, 9-28-2015)

Editor's note—Ord. No. 2015-11, §§ 1—3, adopted Sept. 28, 2015, did not specify manner of inclusion; hence, codification as § 2-174 was at the discretion of the editor. "Exhibit A," as referenced above, has not been set out, but may be found in the office of the city.

Sec. 2-175. [Recreation fund created.]

(a) *Establishment of fund.*

(1) The city hereby creates the recreation fund for specific costs associated with collecting recreation program revenues and making expenses against the program or other expenses.

(2) The fund will be part of pooled cash and shall be separate from all other funds and be designated the recreation fund.

(b) *Designated uses of fund.* The recreation fund shall be used only for expenditures approved by the city council associated with the recreation program.

(Ord. No. 2016-5, §§ 1, 2, 6-13-2016)

Editor's note—Ord. No. 2016-5, §§ 1, 2, adopted June 13, 2016, did not specify manner of inclusion; hence, codification as § 2-175 was at the discretion of the editor.

Sec. 2-176. [Technology fund established.]

(a) *Establishment of fund.*

(1) The city hereby creates the technology fund for specific costs associated with collecting technology program revenues and making expenses against the program or other expenses.

(2) The fund will be part of pooled cash and shall be separate from all other funds and be designated the technology fund.

(b) *Designated uses of fund.* The technology fund shall be used only for expenditures approved by the city council associated with the technology program.

(Ord. No. 2017-5, §§ 1, 2, 8-14-2017)

Editor's note—Ord. No. 2017-5, §§ 1, 2, adopted Aug. 14, 2017, did not specify manner of inclusion; hence, codification as § 2-176 was at the discretion of the editor.

Chapters 3—5

RESERVED

Chapter 6

ALCOHOLIC BEVERAGES*

Article I. In General

Sec. 6-1. Definitions.
Sec. 6-2. Possession, consumption in public places.
Sec. 6-3. Exhibiting alcoholic beverages, discarding containers in public places.
Sec. 6-4. Sales near church, school, hospital.
Secs. 6-5—6-30. Reserved.

Article II. License and Permit

Sec. 6-31. Required.
Sec. 6-32. Application.
Sec. 6-33. Fees.
Sec. 6-34. Granting.
Sec. 6-35. Term.
Sec. 6-36. Posting.
Sec. 6-37. Separate permit for each location.
Sec. 6-38. Record.

***Cross references**—Alcoholic beverages, narcotics, other illegal substances at airport, § 18-113; alcoholic beverages in parks, § 58-44; alcoholic beverages at Lake Pinkston Mann-Pinkston Reservoir, § 58-202; operating boat while under influence, § 58-272.

State law reference—Alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 1.01 et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

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

Alcoholic beverages are as defined by V.T.C.A., Alcoholic Beverage Code § 1.04.

Container means the can, bottle or carton in which an alcoholic beverage is placed for sale.
(Ord. No. 78-13, § 3, 6-26-1978)

Cross reference—Definitions generally, § 1-2.

Sec. 6-2. Possession, consumption in public places.

(a) The carrying on or possession of alcoholic beverages on properties owned by the city is hereby expressly prohibited.

(b) Such properties include, but are not limited to, the Community Park, the Mini Park, Perry Sampson Park, and the American Legion Park.
(Ord. No. 78-13, § 1, 6-26-1978; Ord. No. 78-14, §§ 1, 2, 6-12-1978; Ord. No. 87-10, 5-11-1987)

Cross reference—Streets, sidewalks and other public places, ch. 78.

State law reference—Order for prohibition of consumption, V.T.C.A., Alcoholic Beverage Code § 109.35.

Sec. 6-3. Exhibiting alcoholic beverages, discarding containers in public places.

It shall be unlawful for any person to exhibit alcoholic beverages or alcoholic beverage containers; discard alcoholic beverage containers on any public street, public park, public parking area or private parking area open to the public within the city; and any and all such acts are hereby declared to be unlawful and are hereby declared to be public nuisances.
(Ord. No. 78-13, § 2, 6-26-1978)

Cross reference—Streets, sidewalks and other public places, ch. 78.

Sec. 6-4. Sales near church, school, hospital.

(a) It shall be unlawful for any dealer in alcoholic beverages to sell alcoholic beverages within 300 feet of any church, public or private school, or public hospital.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and 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. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections. For any license covering a premises where minors are prohibited from entering the premises under V.T.C.A., Alcoholic Beverage Code § 109.53, the measurement of the distance between the premises and a public school shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

(c) Every applicant for an original alcoholic beverage license for a location with a door by which the public may enter the place of business of the applicant that is within 1,000 feet of the nearest property line of a public or private school, measured along street lines and directly across intersections, must give written notice of the application to officials of the public or private school before filing the application with the state alcoholic beverage commission. A copy of the notice must be submitted to the commission with the application. This subsection does not apply to a license covering a premises where minors are prohibited from entering the premises under V.T.C.A., Alcoholic Beverage Code § 109.53.

(d) As to any dealer who held a license on September 1, 1983, in a location where a regulation under this section was in effect on that date, for purposes of subsection (a) of this section but not subsection (c) of this section, the measurement of the distance between the place of business of the dealer and a public or private school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. This subsection applies only as long as the place of business is continuously in operation from that date, whether or not under the same license.

(e) The city council may also allow variances to subsection (a) of this section if the city council determines that enforcement of subsection (a) of this section 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 the city council after consideration of the health, safety, and welfare of the public and the equities of the situation, determines it is in the best interest of the community.
(Code 1978, §§ 3-11, 3-12)

State law reference—Authority to adopt, V.T.C.A., Alcoholic Beverage Code § 109.33.

Secs. 6-5—6-30. Reserved.

ARTICLE II. LICENSE AND PERMIT*

Sec. 6-31. Required.

It shall be unlawful for any person to sell any alcoholic beverage within the corporate limits of the city without first having applied for and secured a permit from the city.
(Code 1978, § 3-1)

Sec. 6-32. Application.

Any person desiring to sell any alcoholic beverage within the corporate limits of the city shall apply for a permit with the city secretary upon receiving a license or permit from the state and paying the required fee for a city permit, the city secretary shall issue a city permit. Such permit must be renewed annually.
(Code 1978, § 3-2)

***State law reference**—Authority to levy, V.T.C.A., Alcoholic Beverage Code §§ 11.38, 61.36.

Sec. 6-33. Fees.

(a) Before any license required by this article shall be issued, the fee prescribed in subsection (b) of this section shall be paid to the city secretary at his office in the city hall.

(b) Annual fees required for a city permit required by this article shall be one-half the fee for the state permit or license.

(c) The permit required by this article shall permit only the sale of the alcoholic beverages named therein and contained within the original unbroken package or container which are not to be consumed on the premises where sold.
(Code 1978, § 3-5)

Sec. 6-34. Granting.

The permit required by this article shall be obtained from the city secretary and shall be granted after the payment of the fee prescribed in the section 6-33 and proof that all pertinent provisions of the V.T.C.A., Alcoholic Beverage Code have been complied with.
(Code 1978, § 3-3)

Sec. 6-35. Term.

The term of the permit required by this article shall be for one year, and no permit shall be granted for a longer period of time.
(Code 1978, § 3-4)

Sec. 6-36. Posting.

A permit issued pursuant to this article shall be posted in a conspicuous place on the premises of the permittee where his business is conducted.
(Code 1978, § 3-6)

Sec. 6-37. Separate permit for each location.

No permittee shall carry on such business at more than one place under the same permit, but a separate permit must be obtained pursuant to this article for each place of business conducted for the purpose of selling alcoholic beverages.
(Code 1978, § 3-7)

Sec. 6-38. Record.

The city secretary shall keep a permanent record of all permits issued pursuant to the terms of this article.
(Code 1978, § 3-8)

Chapters 7—9

RESERVED

Chapter 10

AMUSEMENTS AND ENTERTAINMENT*

Article I. In General

Secs. 10-1—10-30. Reserved.

Article II. Carnivals, Rodeos, Skating Rinks

Division 1. Generally

Sec. 10-31. Exceptions to article.
Sec. 10-32. Operation prohibited after expiration, revocation of permit.
Secs. 10-33—10-50. Reserved.

Division 2. Permit

Sec. 10-51. Required.
Sec. 10-52. Application.
Sec. 10-53. Fee.
Sec. 10-54. Issuance.
Secs. 10-55—10-80. Reserved.

Article III. Vehicle Tracks

Sec. 10-81. Location restricted.
Sec. 10-82. Violation of section 10-81 declared public nuisance.

***State law references**—Authority to regulate the location and control the conduct of theaters and all places of public amusement, V.T.C.A., Local Government Code § 215.074; authority to license any lawful business, occupation or calling that is susceptible to police power, V.T.C.A., Local Government Code § 215.075.

ARTICLE I. IN GENERAL

Secs. 10-1—10-30. Reserved.

ARTICLE II. CARNIVALS, RODEOS, SKATING RINKS

DIVISION 1. GENERALLY

Sec. 10-31. Exceptions to article.

This article shall not apply to events, street fairs, shows or the like composed entirely of local people banded together for purely civic or charitable purposes and without personal profit to themselves individually. Neither shall the provisions of this article apply to any organization duly incorporated under the laws of the state, composed of local stockholders holding a nonprofit charter, for the purpose of holding intermittent events, whose business is advancement of better living conditions, better agriculture, more and better livestock, more efficient farm and home equipment in the county, and advancement of the city industrially, commercially and financially.
(Code 1978, § 6-19)

Sec. 10-32. Operation prohibited after expiration, revocation of permit.

It shall be unlawful for any carnival, rodeo show, or skating rink to operate in whole or in part after its permit expires or after its permit is revoked for cause.
(Code 1978, § 6-18)

Secs. 10-33—10-50. Reserved.

DIVISION 2. PERMIT

Sec. 10-51. Required.

(a) It shall be unlawful for any person to give, conduct, operate, locate, exhibit or maintain any carnival, rodeo show or skating rink within the city unless a permit to hold such a carnival, rodeo show, or skating rink is first obtained from the city as provided in this article.

(b) Subsection (a) of this section applies to all carnivals, rodeo shows and skating rinks held in or exhibited upon the streets or under any tent, or in any hall or building within the city limits of the city. Each person aiding or abetting the holder of such carnival, rodeo show or skating rink shall be equally guilty of a violation of this article when the carnival, rodeo show or skating rink attempts to show or operate without a permit.
(Code 1978, §§ 6-11, 6-12)

Sec. 10-52. Application.

All applications for the permit required by this article shall be made to the city at least 24 hours in advance of the proposed opening date or time of the carnival, rodeo show or skating rink. The application shall state the type of operation; whether it will be in a tent, building or open arena; number of people to be employed; proposing opening date; period of time of operation and the hours and days of the week it will be open to the public.
(Code 1978, § 6-13)

Sec. 10-53. Fee.

The fee for any permit issued shall be $75.00 which fee shall cover the cost of a permit for one year or any portion thereof.
(Code 1978, § 6-15)

Sec. 10-54. Issuance.

If in the opinion of the city secretary the proposed carnival, rodeo show or skating rink appears to be composed of lawful amusements or is a lawful enterprise, he shall issue a permit upon the payment of the fee required by this article.
(Code 1978, § 6-14)

Secs. 10-55—10-80. Reserved.

ARTICLE III. VEHICLE TRACKS

Sec. 10-81. Location restricted.

No person shall engage in the business of operating, causing to be operated, or assisting in the operation, of any go-cart track, midget auto track, stock car track, motorcycle track, auto track or any other track or area where people either pay admission to witness the operation of any type of vehicle powered by an internal combustion engine or where people pay to operate any type of vehicle powered by an internal combustion engine or any similar amusements, businesses or occupations within 2,000 feet of any church, hospital, school or other charitable or religious institution or any residence within the corporate limits of the city.
(Code 1978, § 6-41)

Sec. 10-82. Violation of section 10-81 declared public nuisance.

The operation of any business or the doing of any acts prohibited by section 10-81 is hereby declared to be a public nuisance, and such nuisances are liable to be abated.
(Code 1978, § 6-42)

Chapters 11—13

RESERVED

Chapter 14

ANIMALS*

Article I. In General

Sec. 14-1. Definitions.
Sec. 14-2. Care and control of animals and premises.
Sec. 14-3. Conditions constituting public nuisance.
Sec. 14-4. Defense to prosecution.
Sec. 14-5. Penalty for violations.
Secs. 14-6—14-30. Reserved.

Article II. Dogs and Cats

Sec. 14-31. Authority to capture stray, sick, injured dogs and cats.
Sec. 14-32. Adoption of dangerous dog act.
Sec. 14-33. Adoption of rabies control act.
Secs. 14-34—14-60. Reserved.

Article III. Livestock

Sec. 14-61. Definitions.
Sec. 14-62. Livestock prohibited within city.
Sec. 14-63. No exceptions for keeping of pigs, hogs or swine.
Sec. 14-64. Exceptions to prosecution under section 14-62.
Sec. 14-65. Area requirements and density limitations for livestock.
Sec. 14-66. Minimum distances from dwellings and places of business.
Sec. 14-67. Specific requirements for maintenance of animal enclosures and pens.
Sec. 14-68. Creation and maintenance of public health nuisance.
Sec. 14-69. Rabies vaccines required of some livestock.
Sec. 14-70. Notice of violation.
Secs. 14-71—14-90. Reserved.

Article IV. Slaughter of Domestic or Game Animals

Sec. 14-91. Definitions.
Sec. 14-92. Applicability.
Sec. 14-93. Prohibited; exceptions.
Sec. 14-94. Violation; penalty.

*__Cross references__—Environment, ch. 30; animals in parks, § 58-45; hunting and fishing regulations, § 58-231 et seq.; keeping animals and fowl at docks, § 58-323.

ARTICLE I. IN GENERAL

Sec. 14-1. Definitions.

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

Animal means any domestic or wild animal inclusive of livestock.

Owner means any person owning, keeping or harboring one or more animals. An animal shall be deemed to be kept or harbored if it is fed, sheltered, or permitted to remain on a person's property or property under the control of the person for 14 or more days. If the owner of the animal is a minor, the parent or guardian of that minor shall be responsible for compliance with provisions of this chapter.

Running at large means any livestock not under direct physical control of its owner or keeper loose on the streets, sidewalks or other public or private places. It shall be assumed that any livestock found running at large was permitted to do so by the owner.
(Ord. No. 98-4, § 2, 5-26-1998)

Cross reference—Definitions generally, § 1-2.

Sec. 14-2. Care and control of animals and premises.

No owner shall fail to exercise proper care and control of his animals and the premises where the animals are kept. Failure to exercise proper care and control of such animals and the premises constitutes these animals as a public nuisance as defined in section 14-3.
(Ord. No. 98-4, § 3, 5-26-1998)

Sec. 14-3. Conditions constituting public nuisance.

The following conditions, situations and/or occurrences are hereby declared to be a public nuisance and the failure of the owner to exercise proper care and control of his animal or the premises where the animals are kept has resulted in violation of this chapter:

(1) Any animal which turns over garbage containers or scatters garbage or which otherwise damages private or public property.

(2) Any livestock found to be running at large.

(3) Any animal which barks, howls or yelps in excessive, continuous or untimely fashion.

(4) Any building, room cage yard, run or other place or facility where animals are kept or harbored which is not maintained in a clean or sanitary condition so as to prevent obnoxious odors, the attraction, breeding or potential breeding of flies, rodents or other vermin or the creation of any other public nuisances.

(Ord. No. 98-4, § 4, 5-26-1998)

Cross reference—Nuisances, § 30-31 et seq.

Sec. 14-4. Defense to prosecution.

It is a defense to prosecution for violation of this chapter that:

(1) A person is not considered the owner if they were feeding an animal for the purpose of gaining control of an animal (example: baiting a live-trap) in order to remove the animal from the property they own or occupy to return the animal to its rightful owner, or to turnover the care and control of the animal to the city.

(2) A person is not considered the owner if they do not feed, shelter, or give express permission to an owner of an animal for the animal to remain on their property.

(3) A person is not considered the owner if an animal that does not have a known owner is on their property so long as that person does not feed, shelter, or encourage or makes arrangements for others to feed or shelter the animals on their property.

(Code 1978, §§ 4-11—4-13; Ord. No. 98-4, § 5, 5-26-1998)

Sec. 14-5. Penalty for violations.

The person violating a provision of this chapter shall upon conviction be punishable by a fine of not less than $50.00 and not more than $200.00 for their first conviction and not less than $200.00 and not more than $500.00 for each additional conviction.

(Ord. No. 98-4, § 6, 5-26-1998)

Secs. 14-6—14-30. Reserved.

ARTICLE II. DOGS AND CATS

Sec. 14-31. Authority to capture stray, sick, injured dogs and cats.

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It shall be the duty of the animal control officer to capture stray, sick or injured dogs or cats in accordance with the animal control procedures adopted by the city.

(Code 1978, § 6-1)

Sec. 14-32. Adoption of dangerous dog act.

The city hereby adopts the provisions of the dangerous dog act, V.T.C.A., Health and Safety Code § 822.001 et seq. which are state law and are deemed enforceable by the city by the adoption of this section.

(Ord. No. 98-4, § 1, 5-26-1998)

Sec. 14-33. Adoption of rabies control act.

(a) The city hereby adopts the provisions of the rabies control act, V.T.C.A., Health and Safety Code § 826.001 et seq. and the rules of the state board of health in connection with V.T.C.A., Health and Safety Code § 826.001 et seq.

(b) The chief of police is hereby designated as the officer to function as rabies control authority in regard to the rabies control act, V.T.C.A., Health and Safety Code § 826.001 et seq.
(Code 1978, § 4-1; Ord. No. 87-9, §§ 1, 2, 4-27-1987)

State law reference—Rabies Control Act, V.T.C.A., Health and Safety Code § 826.001 et seq.

Secs. 14-34—14-60. Reserved.

ARTICLE III. LIVESTOCK*

Sec. 14-61. Definitions.

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

Enclosure or *pen* means any stable, stall, shed, yard, hutch or similar structures or areas used for the keeping of any livestock or other animal.

Livestock means any horse, mule, cattle, sheep, goat, guinea pig, rabbit, chicken, turkey, or other fowl or any similar animals. The term "livestock shall be further defined by the following subcategories:

(1) *Large livestock* means any horse, mule, cattle, donkey or other bovine or equine animals of similar size, breeds and species generally over 3.5 feet high at the shoulders.

(2) *Small livestock* means any sheep, goats, lambs, miniature horses, or similar animals, breeds and species generally less than 3.5 feet high at the shoulders.

(3) *Poultry* means, chickens, roosters, turkeys, ducks, geese, dove, quail or any other fowl kept for show or commercial purposes.

(4) *Caged or hutch animals* means any small animal of the size of a rabbit or smaller, including but not limited to guinea pigs, or other rodents.

(Ord. No. 2002-7, § 2, 6-10-2002)

Cross reference—Definitions generally, § 1-2.

Sec. 14-62. Livestock prohibited within city.

It shall be unlawful, except as provided otherwise in this article, for any person to keep, possess, maintain or permit the keeping on any premises owned by him or under his control, any livestock within the city limits.
(Ord. No. 2002-7, § 1, 6-10-2002)

*__State law reference__—Estrays, V.T.C.A., Agriculture Code § 142.001 et seq.

Sec. 14-63. No exceptions for keeping of pigs, hogs or swine.

There shall be no exception to this article for the keeping of any pig, hog or swine on any premises within the city limits.
(Ord. No. 2002-7, § 3, 6-10-2002)

Sec. 14-64. Exceptions to prosecution under section 14-62.

The following exceptions shall be affirmative defenses to prosecution under section 14-62:

(1) Bona fide zoos, stock shows, fairs, animal judging and shows, and circuses.

(2) Bona fide public or private school projects, when conducted upon school property and under faculty supervision.

(3) Facilities owned and used by a licensed veterinarian in conjunction with his practice of veterinary medicine.

(4) Livestock transported and temporarily stored at industrial facilities for the purpose of slaughter and processing as a food product.

(5) The nesting or roosting of any wild animals or migratory fowl on any premises, not being raised for show, sale or personal gain by any person or business.

(6) Livestock kept in compliance with the following requirements and limitations:

a. Section 14-65 relating to area requirements and density limitations for housing of livestock.

b. Section 14-66 relating to distances from dwellings and structures on adjoining properties;

c. Section 14-67 relating to maintenance of animal enclosures, pens and facilities;

d. Section 14-68 relating to conditions deemed public health nuisances;

e. All other ordinances or laws of the state relating to the keeping of livestock, health and safety regulations, and public nuisances.

(Ord. No. 2002-7, § 4, 6-10-2002)

Sec. 14-65. Area requirements and density limitations for livestock.

The keeping of any livestock by exemption granted in section 14-64 is prohibited unless the following area and density requirements are abided by at all times:

(1) The minimum requirements for large livestock animals to be kept shall be:

a. Bovine animals may be kept for personal use (not for commercial purposes) on tracts of land not less than one acre;

b. Large livestock, other than bovine animals, may be kept for personal use (not for commercial purposes) on tracts of land not less than one-half acre;

c. Large livestock shall be provided with a minimum enclosure and pen space equal to:

1. Twenty thousand square feet for each bovine animal.

2. Ten thousand square feet for each other large livestock animal.

(2) The minimum requirements for small livestock animals to be kept shall be:

a. A minimum enclosure and pen space equal to 350 square feet per animal;

b. No more than three animals on any tract less than one-half acre;

c. No more than ten animals on a tract less than one acre.

(3) The minimum requirements for poultry animals to be kept shall be:

a. A minimum enclosure of 100 square feet;

b. A minimum coup or enclosed housing with a minimum of four square feet of floor space per grown fowl.

(4) The minimum requirements for caged/hutch animals to be kept shall be:

a. Any hutch shall provide a minimum area of five square feet of floor space for each grown rabbit and self-cleaning type with floors of one-half inch or larger hardware cloth;

b. Any other animal shall be provided for in the same manner unless housed and kept caged internal to the owner's dwelling or other enclosed structure.

(5) The minimum density requirements shall not apply when the tract of land is greater than ten acres, but compliance with sections 14-66, 14-67 and 14-68 and all other ordinances of the city or laws of the state relating to the keeping of livestock, health and safety regulations, and public nuisances shall still be required.

(Ord. No. 2002-7, § 5, 6-10-2002)

Sec. 14-66. Minimum distances from dwellings and places of business.

(a) The keeping of livestock by exemption granted in section 14-64 is prohibited unless the enclosure, pens, stalls, or other related facilities for the keeping of animals shall be so located such that the livestock cannot come within:

(1) One hundred fifty feet of any dwelling, church, school, hospital or business building owned, used or maintained by any person other than the keeper of the livestock; and

(2) Five hundred feet of any commercial food service establishment, regardless of ownership or occupancy of such establishment.

(b) Variance to the 150-foot distance requirement may be granted by the city manager upon the submittal of the following:

(1) Written request for the variance by the property owner on which the livestock will be kept;

(2) Written consent from all property owners having a dwelling, business or other occupied structure within the 150-foot minimum required distance stating an acceptable distance requirement.

(c) Such variance shall never be granted for a distance of less than 50 feet.

(d) No variance shall be granted for less than the 500-foot minimum distance between the livestock enclosure and any commercial food service establishment.
(Ord. No. 2002-7, § 6, 6-10-2002)

Sec. 14-67. Specific requirements for maintenance of animal enclosures and pens.

(a) Enclosures for animals shall be cleaned daily, including the removal of manure and wastes.

(b) Manure and wastes shall be properly disposed of by means other than the sewer, sanitation or drainage facilities of the city.

(c) Fencing and perimeter obstructions shall be properly maintained and repaired to prevent animals from escaping the designated enclosure or pen area.
(Ord. No. 2002-7, § 7, 6-10-2002)

Sec. 14-68. Creation and maintenance of public health nuisance.

It shall be unlawful and constitute the creation and maintenance of a public health nuisance, for any person owning or having charge of any animal enclosure or pen, in which any livestock is kept, or any place within the city in which manure or liquid waste of such animal shall collect or accumulate, to allow such enclosure, pen or area to:

(1) Be kept in other than a clean and sanitary condition;

(2) Remain in a condition which would constitute a breeding place for flies, mosquitoes, or other insects;

(3) Emit odors or noise offensive to persons of ordinary sensibilities in the residing vicinity;

(4) Remain in a condition which would constitute a nesting place or harborage for vermin or rodents;

(5) Accumulate ponded water or other liquids, manure, garbage, refuse, any obnoxious or putrescible material or any other objectionable matter.
(Ord. No. 2002-7, § 8, 6-10-2002)

Sec. 14-69. Rabies vaccines required of some livestock.

Any caged or hutch animals, housed or kept within the city limits and subject to the development of rabies, shall be provided with valid vaccinations against rabies by a veterinarian.
(Ord. No. 2002-7, § 9, 6-10-2002)

Sec. 14-70. Notice of violation.

Notice of violation of any section of this article shall be issued in writing and delivered personally to the alleged violator, by certified mail to the legal address of the property owner according to the records of the county appraisal district, or by posting notice at the site of violation in clear view. No person shall be found guilty of a violation of any section of this article until the eighth day following delivery of the written notice of violation.
(Ord. No. 2002-7, § 10, 6-10-2002)

Secs. 14-71—14-90. Reserved.

ARTICLE IV. SLAUGHTER OF DOMESTIC OR GAME ANIMALS

Sec. 14-91. Definitions.

For purposes of this article, the following definitions shall be used:

Animal, game means any wild animal the hunting of which requires a license/permit issued by the state. Any other animal for which a permit or license is not necessary to hunt or trap, is not deemed to meet this definition for purposes of this article.

Butchering means the act of removing and dissecting the edible components from the carcass of any animal.

Carcass means the remainder of the animal remaining after butchering, including the skin or hide, as undesirable or unintended for human consumption or use.

Dressing or field dressing means the act of removing the vital organs, entrails and blood of an animal.

Skinning means the act of removing the hide and skin of an animal in preparation of butchering.

Slaughter means the act of killing, dressing, and/or butchering an animal.
(Ord. No. 2008-5, § 1, 9-8-2008)

Sec. 14-92. Applicability.

This article applies only to individuals, businesses and locations that are not federally or state inspected and licensed food processing or slaughter facilities.
(Ord. No. 2008-5, § 2, 9-8-2008)

Sec. 14-93. Prohibited; exceptions.

No person shall slaughter, or suffer another person to slaughter, or maintain any property for the purpose of slaughtering, any animal except [if the animal]:

(1) Is a game animal, as defined herein, and meets all the following requirements:

a. The animal is already field dressed.

b. The animal is being skinned and butchered at the primary residence of the licensed hunter.

c. The activity is generally obscured from view from any public street and adjacent properties.

d. The removal and disposal of the carcass and any waste shall be immediately removed from the premises and shall not be placed with household garbage.

(2) Is at a location zoned as agricultural district on the city's official zoning map and conforms to all the following:

a. One thousand feet from any other residence, business, school, church, or inhabited building.

b. Must be effectively screened from public view and adjacent properties.

c. All liquid waste generated from slaughter shall be discharged into a sanitary sewer or approved septic system.

d. All solid waste, carcasses, or parts thereof shall be immediately removed and shall not be placed with household garbage.

(Ord. No. 2008-5, § 3, 9-8-2008)

Sec. 14-94. Violation; penalty.

The person violating a provision of the article shall upon conviction be punishable by a fine of not less than $50.00 and not more than $200.00 for their first conviction and not less than $200.00 and not more than $500.00 for each additional conviction.
(Ord. No. 2008-5, § 5, 9-8-2008)

Chapters 15—17

RESERVED

Chapter 18

AVIATION*

Article I. In General

Secs. 18-1—18-30. Reserved.

Article II. Joint Airport Zoning Board

Sec. 18-31. Creation, powers and duties.
Sec. 18-32. Members, chair.
Secs. 18-33—18-60. Reserved.

Article III. Center Municipal Airport

Sec. 18-61. Definitions.
Sec. 18-62. Airport manager in charge of operation.
Sec. 18-63. Authority of airport manager to close or restrict airport.
Sec. 18-64. Rules governing parking of aircraft, servicing equipment, etc.
Sec. 18-65. Discrimination.
Sec. 18-66. Written contracts with fixed base operators.
Secs. 18-67—18-100. Reserved.

Article IV. Use of Airport

Division 1. Generally

Sec. 18-101. Access from private property.
Sec. 18-102. Public use of ramp and apron areas.
Sec. 18-103. Use of roads, walks, ramps, taxiways, runways.
Sec. 18-104. Conduct of business.
Sec. 18-105. Recreational activities.
Sec. 18-106. Advertisements.
Sec. 18-107. Base radios.
Sec. 18-108. Privately owned structures.
Sec. 18-109. Permits and licenses.
Sec. 18-110. Aircraft maintenance.
Sec. 18-111. Unauthorized vehicles.
Sec. 18-112. Litter, garbage, etc.
Sec. 18-113. Alcoholic beverages, narcotics, other illegal substances.
Sec. 18-114. Interfering with use of airport.
Sec. 18-115. Airport manager authorized to move aircraft, etc.
Secs. 18-116—18-140. Reserved.

***Cross reference**—Streets, sidewalks and other public places, ch. 78.

State law references—Joint operations, V.T.C.A., Transportation Code § 22.071 et seq.; airport zoning regulations, V.T.C.A., Local Government Code § 241.001 et seq.

Division 2. Motor Vehicles

Sec. 18-141. Operation generally.
Sec. 18-142. Storage in hangars.
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Division 3. Fire Hazards

Sec. 18-171. Cleaning aircraft.
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Sec. 18-174. Storage of inflammable materials, liquids, etc.
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Sec. 18-176. Fire extinguishers.
Secs. 18-177—18-200. Reserved.

Division 4. Aircraft Operation

Sec. 18-201. Federal Aviation Administration, state aeronautics commission rules adopted by reference.
Sec. 18-202. Required traffic patterns.
Sec. 18-203. Acrobatics prohibited.
Sec. 18-204. Taxiing into and out of hangars.
Sec. 18-205. Parking of aircraft.
Sec. 18-206. Securing of unattended aircraft.
Secs. 18-207—18-230. Reserved.

Division 5. Aircraft Fueling and Defueling

Sec. 18-231. Prohibited while engine running.
Sec. 18-232. Smoking.
Sec. 18-233. Operating electrical switches.
Sec. 18-234. Fire extinguishers.
Sec. 18-235. Grounding devices.
Secs. 18-236—18-250. Reserved.

Division 6. Special Operations Policy

Sec. 18-251. Adoption; scope.
Sec. 18-252. Application for operation.
Sec. 18-253. Obtaining permit.
Sec. 18-254. Special operations area.
Sec. 18-255. Airport terminal building.
Sec. 18-256. Safe conduct.
Sec. 18-257. Hazardous materials.
Sec. 18-258. "CTAF" monitoring.
Sec. 18-259. Report property damage.
Sec. 18-260. Fuel flowage fee.
Sec. 18-261. Proof of liability insurance.

ARTICLE I. IN GENERAL

Secs. 18-1—18-30. Reserved.

ARTICLE II. JOINT AIRPORT ZONING BOARD*

Sec. 18-31. Creation, powers and duties.

There is hereby created a joint airport zoning board, to be known as the Center-Shelby County Joint Airport Zoning Board, which shall have the powers and exercise the duties set forth in V.T.C.A., Local Government Code §§ 241.002, 241.003, 241.011—241.014
(Ord. No. 82-8, § 1, 10-11-1982)

Sec. 18-32. Members, chair.

The Center-Shelby County Joint Airport Zoning Board shall be composed of five members, two to be appointed by the city council and two members to be appointed by the commissioner's court of the county. The fifth member shall be elected by a majority of the members so appointed and such fifth member shall serve as chair of the Center-Shelby County Joint Airport Zoning Board.
(Ord. No. 82-8, § 2, 10-11-1982)

State law reference—Similar provisions, V.T.C.A., Local Government Code § 214.014(c).

Secs. 18-33—18-60. Reserved.

ARTICLE III. CENTER MUNICIPAL AIRPORT†

Sec. 18-61. Definitions.

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

Airport means the Center Municipal Airport, including all land and improvements owned, controlled, or operated and maintained by the city in connection with its operation of the airport.

Airport manager means the person in charge of the airport for the city, his assistant or duly authorized representative.

***Cross reference**—Administration, ch. 2.

State law reference—Joint airport zoning board, V.T.C.A., Local Government Code § 241.014.

†**State law references**—Municipal Airports Act, V.T.C.A., Transportation Code § 22.001 et seq.; Airport Zoning Act, V.T.C.A., Local Government Code § 241.001 et seq.

Authorized vehicles means city-owned vehicle; vehicles driven by city employees; authorized contractors and their employees engaged in the construction, maintenance or operation of the airport; state and federal vehicles; emergency vehicles; airport service vehicles and any vehicle authorized by the airport manager.

Fixed base operator means the person duly authorized by contract with the city to conduct commercial activities at the airport.

Landing area means the area of land, the runways and taxiways made available temporarily or permanently at the airport to the public for taxiing, landing and taking off of aircraft.

Person means any individual, firm, partnership, corporation, company, association, joint stock association, or body political, and includes any trustee, receiver, assignee or similar representative thereof.

Ramp and apron area means the areas adjacent to the passenger loading gates at the terminal buildings or adjacent to hangars or similar structures designated and made available temporarily or permanently to the public for the loading or unloading of passengers and cargo to and from aircraft and for access to and egress from loading gates, hangars or similar structures at the airport.

Unauthorized person means any person who has not been expressly given permission by either the police or fire department personnel or the airport manager.

Vehicle means the same as in Vernon's Ann. Civ. St. art. 6701d known as the Uniform Act Regulating Traffic on Highways.

(Code 1978, §§ 2-1, 2-3; Ord. No. 81-2, art. I, § 1, 2-23-1981; Ord. No. 81-11, art. I, § 1, 11-9-1981; Ord. No. 83-9, art. I, § 1, 8-8-1983)

Cross reference—Definitions generally, § 1-2.

Sec. 18-62. Airport manager in charge of operation.

The airport manager shall be the city's duly authorized representative, in charge of the airport operation and answerable to the city manager.

(Ord. No. 81-2, art. III, § 1, 2-23-1981; Ord. No. 81-11, art. III, § 1, 11-9-1981; Ord. No. 83-9, art. III, § 1, 8-8-1983)

Sec. 18-63. Authority of airport manager to close or restrict airport.

The airport manager is hereby authorized to close or restrict all or any portion of the airport to such use as he may deem advisable in the interest of public safety.

(Ord. No. 81-2, art. III, § 14, 2-23-1981; Ord. No. 81-11, art. III, § 14, 11-9-1981; Ord. No. 83-9, art. III, § 14, 8-8-1983)

Sec. 18-64. Rules governing parking of aircraft, servicing equipment, etc.

(a) *Authority of airport manager to prescribe.* In addition to the rules set forth in this chapter the airport manager is hereby authorized and empowered to prescribe and promulgate such rules and issue such orders as he may deem necessary to govern the place, manner and time of operating, stopping, standing and parking of aircraft motor vehicles and aircraft servicing equipment or other contrivances on the airport.

(b) *Violation declared unlawful.* It shall be unlawful for any person to operate, stop, stand or park any aircraft, motor vehicle, or aircraft servicing equipment or other contrivance on the airport in violation of any rules or order issued or any notice or sign posted by the airport manager pursuant to authority granted to him by the city council in this chapter or otherwise.
(Ord. No. 81-2, art. III, §§ 13, 15, 2-23-1981; Ord. No. 81-11, art. III, §§ 13, 15, 11-9-1981; Ord. No. 83-9, art. III, §§ 13, 15, 8-8-1983)

Sec. 18-65. Discrimination.

All persons, in exercising any of the rights or privileges granted in this chapter, shall not, on the grounds of race, color or national origin, discriminate or permit discrimination against any person or group of persons in any manner, especially as prohibited by Part 21 of the Regulations of the Secretary of Transportation.
(Ord. No. 83-9, art. III, § 19, 8-8-1983)

Sec. 18-66. Written contracts with fixed base operators.

The city may enter into written contracts establishing fixed base operators at the airport in accordance with the minimum standards for fixed base operators adopted by the city council.
(Ord. No. 81-2, art. III, § 2, 2-23-1981; Ord. No. 81-11, art. III, § 2, 11-9-1981; Ord. No. 83-9, art. III, § 2, 8-8-1983)

Secs. 18-67—18-100. Reserved.

ARTICLE IV. USE OF AIRPORT

DIVISION 1. GENERALLY

Sec. 18-101. Access from private property.

No aircraft or other vehicle may have access to airport property from any adjacent private property.
(Ord. No. 81-11, art. VI, § 7, 11-9-1981)

Sec. 18-102. Public use of ramp and apron areas.

No person shall enter upon the ramp and apron areas of the airport except:

(1) City employees, emergency and rescue personnel or other authorized persons engaged in the construction, maintenance or operations of the airport;

(2) Tenant aircraft owners or operators and other facility lessees, their clients and customers;

(3) Transient aircraft owners or operators and passengers, and persons assisting in the loading and unloading of invalid passengers, baggage or cargo;

(4) Persons engaged in the maintenance and repairs of aircraft and equipment as approved in writing by the airport manager and authorized by the aircraft owners or operators.

(Ord. No. 81-2, art. III, § 3, 2-23-1981; Ord. No. 81-11, art. III, § 3, 11-9-1981; Ord. No. 83-9, art. III, § 3, 8-8-1983)

Sec. 18-103. Use of roads, walks, ramps, taxiways, runways.

No person shall occupy the roads, walks, ramps, taxiways or runways of the airport in such a manner as to obstruct their proper use.

(Ord. No. 81-2, art. III, § 4, 2-23-1981; Ord. No. 81-11, art. III, § 4, 11-9-1981; Ord. No. 83-9, art. III, § 4, 8-8-1983)

Sec. 18-104. Conduct of business.

No person except a fixed base operator shall use the airport or any of its facilities for revenue producing or commercial activities unless such person is approved by the city council after meeting the same requirements for a fixed base operator and providing such proof as the council may require to establish the need.

(Ord. No. 81-2, art. III, § 5, 2-23-1981; Ord. No. 81-11, art. III, § 5, 11-9-1981; Ord. No. 83-9, art. III, § 5, 8-8-1983)

Sec. 18-105. Recreational activities.

Nonaviation sporting events, exhibitions, displays, overnight camping or other recreational activities are prohibited at the airport unless approved by the airport manager in writing.

(Ord. No. 81-2, art. III, § 6, 2-23-1981; Ord. No. 81-11, art. III, § 6, 11-9-1981; Ord. No. 83-9, art. III, § 6, 8-8-1983)

Sec. 18-106. Advertisements.

Unless approved by the airport manager in writing, no person shall post, distribute or display signs, advertisements, handbills, circulars, printed or written matter at the airport unless authorized by written contract with the city or other specific city council authority.

(Ord. No. 81-2, art. III, § 7, 2-23-1981; Ord. No. 81-11, art. III, § 7, 11-9-1981; Ord. No. 83-9, art. III, § 7, 8-8-1983)

Sec. 18-107. Base radios.

No person except the airport manager shall install and/or operate any base radio unit at the airport.
(Ord. No. 81-2, art. III, § 8, 2-23-1981; Ord. No. 81-11, art. III, § 8, 11-9-1981; Ord. No. 83-9, art. III, § 8, 8-8-1983)

Sec. 18-108. Privately owned structures.

Hangars and other types of buildings may be located at the airport only with the approval of the city through a separate written lease agreement. Such agreement shall be valid only if signed by the owner of the hangar buildings and by the city manager.
(Ord. No. 81-2, art. III, § 9, 2-23-1981; Ord. No. 81-11, art. III, § 9, 11-9-1981; Ord. No. 83-9, art. III, § 9, 8-8-1983)

Sec. 18-109. Permits and licenses.

No person shall utilize the airport in any manner unless such person possesses such permits and licenses as may be needed to conform to local, state and federal requirements.
(Ord. No. 81-2, art. III, § 10, 2-23-1981; Ord. No. 81-11, art. III, § 10, 11-9-1981; Ord. No. 83-9, art. III, § 10, 8-8-1983)

Sec. 18-110. Aircraft maintenance.

All maintenance performed at the airport shall be done in accordance with other provisions of this chapter. No person shall perform maintenance work on an aircraft on the apron area of the airport unless authorized in writing by the airport manager. This requirement will also apply to an emergency.
(Ord. No. 81-2, art. III, § 11, 2-23-1981; Ord. No. 81-11, art. III, § 11, 11-9-1981; Ord. No. 83-9, art. III, § 11, 8-8-1983)

Sec. 18-111. Unauthorized vehicles.

Except for those defined authorized vehicles, no vehicle, including bicycles, motor scooters, motorcycles, etc., shall enter the ramp and apron areas except to load or unload invalid passengers, baggage or cargo then to be immediately removed. In no instance will any vehicle be parked overnight except in those public parking areas designated by the airport authority.
(Code 1978, § 2-4; Ord. No. 81-2, art. III, § 12, 2-23-1981; Ord. No. 81-11, art. III, § 12, 11-9-1981; Ord. No. 83-9, art. III, § 12, 8-8-1983)

Sec. 18-112. Litter, garbage, etc.

No person shall deposit or leave any debris, litter, garbage, paper or any type of waste on airport property.
(Ord. No. 81-2, art. III, § 16, 2-23-1981; Ord. No. 81-11, art. III, § 16, 11-9-1981; Ord. No. 83-9, art. III, § 16, 8-8-1983)

Cross reference—Solid waste, ch. 74.

Sec. 18-113. Alcoholic beverages, narcotics, other illegal substances.

Consumption or possession of alcoholic beverages, narcotics, drugs or other illegal substances at the airport are expressly forbidden and any person under the influence of any of the foregoing is forbidden to enter the airport.

(Ord. No. 81-2, art. III, § 17, 2-23-1981; Ord. No. 83-9, art. III, § 17, 8-8-1983)

Cross reference—Alcoholic beverages, ch. 6.

Sec. 18-114. Interfering with use of airport.

Notwithstanding any other provision of this chapter, no use may be made of any airport grounds in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between the airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(Ord. No. 83-9, art. III, § 18, 8-8-1983)

Sec. 18-115. Airport manager authorized to move aircraft, etc.

Should the owner or operator of any aircraft, motor vehicle, or other contrivance left on airport property in violation of any city ordinance or any airport field rule fail or refuse to move the aircraft, motor vehicle, or other contrivance promptly, the airport manager may move or cause to be moved such aircraft, motor vehicle or other contrivance to some other location at the airport at the owner's expense and without liability for damage which may result in the course of such moving.

(Ord. No. 81-2, art. VI, § 5, 2-23-1981; Ord. No. 81-11, art. VI, § 5, 11-9-1981; Ord. No. 83-9, art. VI, § 5, 8-8-1983)

Secs. 18-116—18-140. Reserved.

DIVISION 2. MOTOR VEHICLES*

Sec. 18-141. Operation generally.

No person shall operate a motor vehicle of any kind on the airport in a reckless manner or in excess of speed limits established by the city council or prescribed by the airport manager, and except in cases of emergency involving danger to life or property, motor vehicles shall be operated on the airport in accordance with the rules prescribed by the city council or airport manager.

(Ord. No. 81-2, art. IV, § 1, 2-23-1981; Ord. No. 81-11, art. IV, § 1, 11-9-1981; Ord. No. 83-9, art. IV, § 1, 8-8-1983)

*__Cross reference__—Traffic and vehicles, ch. 86.

Sec. 18-142. Storage in hangars.

No person shall park or store any motor vehicle in any enclosed aircraft hangar without written approval from the airport manager.
(Ord. No. 81-2, art. IV, § 3, 2-23-1981; Ord. No. 81-11, art. IV, § 3, 11-9-1981; Ord. No. 83-9, art. IV, § 3, 8-8-1983)

Sec. 18-143. Speed limits in restricted areas.

It shall be unlawful for any person to operate a motor vehicle in excess of 15 miles per hour on any ramp or apron area or in excess of 30 miles per hour on any perimeter or service road.
(Ord. No. 81-2, art. IV, § 4, 2-23-1981; Ord. No. 81-11, art. IV, § 4, 11-9-1981; Ord. No. 83-9, art. IV, § 4, 8-8-1983)

Sec. 18-144. Vehicles for hire.

No person shall operate any vehicle for hire from or at the airport except a taxi daily operating under permit from the city unless such operation is with the written approval of the airport manager.
(Ord. No. 81-2, art. IV, § 2, 2-23-1981; Ord. No. 81-11, art. IV, § 2, 11-9-1981; Ord. No. 83-9, art. IV, § 2, 8-8-1983)

Cross reference—Vehicles for hire, ch. 94.

Secs. 18-145—18-170. Reserved.

DIVISION 3. FIRE HAZARDS*

Sec. 18-171. Cleaning aircraft.

No person shall use inflammable liquids in the cleaning of aircraft, aircraft engines, propellers and appliances on airport property, unless such cleaning operations are conducted in open air or in a room specifically set aside for that purpose, which room shall be properly ventilated, fireproofed, and equipped with adequate and readily accessible fire extinguishing apparatus.
(Ord. No. 81-2, art. V, § 1, 2-23-1981; Ord. No. 81-11, art. V, § 1, 11-9-1981; Ord. No. 83-9, art. V, § 1, 8-8-1983)

Sec. 18-172. Open flame operations.

No person shall conduct any open flame operations anywhere on airport property, unless specifically authorized in writing by contract or by the airport manager.
(Ord. No. 81-2, art. V, § 2, 2-23-1981; Ord. No. 81-11, art. V, § 2, 11-9-1981; Ord. No. 83-9, art. V, § 2, 8-8-1983)

*__Cross reference__—Fire prevention and protection, ch. 34.

Sec. 18-173. Fuel handling and storage.

(a) It shall be unlawful for any person to bring fuel to Center Municipal Airport in any type of container.

(b) It shall be unlawful for any person to dispense aircraft fuel for the fueling of any aircraft or for any other purpose at Center Municipal Airport other than qualified city personnel.

(c) Subsections (a) and (b) of this section shall not apply to owners and/or operators of aircraft authorized by the FAA to use auto gas. Owners and/or operators of authorized aircraft may fuel such aircraft provided it is done in the following manner:

(1) In a location that has been designated for such purpose by the city fire marshal;

(2) Utilizing approved containers manufactured and marked for such purpose; and

(3) In accordance with all applicable rules appertaining to aircraft fueling and fire safety.

(d) It shall be unlawful for any person to store fuel in hangars, aircraft, vehicles, etc., at Center Municipal Airport.

(e) Any person who violates any provision of this section shall, upon conviction, be fined an amount not to exceed $200.00 for each count and the loss of airport privileges (use of runway, rental of hangars, etc.) at Center Municipal Airport for up to 24 months.
(Ord. No. 95-17, §§ 1—4, 10-23-1995; Ord. No. 96-11, § 1, 8-12-1996)

Sec. 18-174. Storage of inflammable materials, liquids, etc.

All inflammable materials, liquids, gases or other hazardous materials on airport property must be stored in approved containers and kept in designated areas in the manner prescribed and approved by the city fire marshal. Such items include but are not limited to gasoline, oil, grease, cleaning liquids, rubbish and waste. Conformance to this section is the absolute responsibility of all tenants, lessees, contractors and their employees engaged in the construction, maintenance or operation of the airport.
(Ord. No. 81-2, art. V, § 3, 2-23-1981; Ord. No. 81-11, art. V, § 3, 11-9-1981; Ord. No. 83-9, art. V, § 3, 8-8-1983)

Sec. 18-175. Smoking.

No person shall smoke in any hangar or any other area of the airport in violation of posted "No Smoking" signs.
(Ord. No. 81-2, art. V, § 4, 2-23-1981; Ord. No. 81-11, art. V, § 4, 11-9-1981; Ord. No. 83-9, art. V, § 4, 8-8-1983)

Sec. 18-176. Fire extinguishers.

All tenants or lessees of enclosed hangars or shop facilities at the airport shall supply and maintain adequate and readily accessible, properly inspected and approved fire extinguishers in such hangars and shops.
(Ord. No. 81-2, art. V, § 5, 2-23-1981; Ord. No. 81-11, art. V, § 5, 11-9-1981; Ord. No. 83-9, art. V, § 5, 8-8-1983)

Secs. 18-177—18-200. Reserved.

DIVISION 4. AIRCRAFT OPERATION

Sec. 18-201. Federal Aviation Administration, state aeronautics commission rules adopted by reference.

The regulations governing the operation of aircraft at an airport, as established by the Federal Aviation Administration and the state aeronautics commission and currently in effect are hereby adopted by reference and made a part hereof as fully as though such regulations were set forth in this section.
(Ord. No. 81-2, art. VI, § 1, 2-23-1981; Ord. No. 81-11, art. VI, § 1, 11-9-1981; Ord. No. 83-9, art. VI, § 1, 8-8-1983)

Sec. 18-202. Required traffic patterns.

All aircraft shall adhere to proper traffic patterns when in the vicinity of the airport. The patterns are described and a diagram of such is on file and posted at the airport. Any approach closer than these prescribed patterns will be in violation of this chapter.
(Ord. No. 81-11, art. VI, § 8, 11-9-1981)

Sec. 18-203. Acrobatics prohibited.

No aircraft shall be flown within the airport traffic zone in maneuvers other than those required in normal routine operation.
(Ord. No. 81-2, art. VI, § 4, 2-23-1981; Ord. No. 81-11, art. VI, § 4, 11-9-1981; Ord. No. 83-9, art. VI, § 4, 8-8-1983)

Sec. 18-204. Taxiing into and out of hangars.

No person shall start an aircraft in or taxi an aircraft into or out of any closed hangar on airport property.
(Ord. No. 81-2, art. VI, § 6, 2-23-1981; Ord. No. 81-11, art. VI, § 6, 11-9-1981; Ord. No. 83-9, art. VI, § 6, 8-8-1983)

Sec. 18-205. Parking of aircraft.

No aircraft shall be parked or left standing on any runway or taxiway or in any runway approach zone. All aircraft shall be parked in designated parking areas.
(Ord. No. 81-11, art. VI, § 3, 11-9-1981)

Sec. 18-206. Securing of unattended aircraft.

No aircraft shall be parked for outside storage at the airport unless the aircraft is safely and securely tied down. Owners of such aircraft shall be held responsible for any damage resulting from failure to comply with this section.
(Ord. No. 81-2, art. VI, § 2, 2-23-1981; Ord. No. 81-11, art. VI, § 2, 11-9-1981; Ord. No. 83-9, art. VI, § 2, 8-8-1983)

Secs. 18-207—18-230. Reserved.

DIVISION 5. AIRCRAFT FUELING AND DEFUELING

Sec. 18-231. Prohibited while engine running.

No aircraft shall be fueled or drained of fuel while the engine is running or while such aircraft is in a hangar or enclosed space on airport property.
(Ord. No. 81-2, art. VII, § 1, 2-23-1981; Ord. No. 81-11, art. VII, § 1, 11-9-1981; Ord. No. 83-9, art. VIII, § 1, 8-8-1983)

Sec. 18-232. Smoking.

No smoking shall be permitted within 100 feet of an aircraft fuel tank while it is being fueled or drained of fuel on airport property.
(Ord. No. 81-2, art. VII, § 2, 2-23-1981; Ord. No. 81-11, art. VII, § 2, 11-9-1981; Ord. No. 83-9, art. VII, § 2, 8-8-1983)

Sec. 18-233. Operating electrical switches.

No person shall operate any radio transmitter or receiver or switch electrical appliances off and on in an aircraft on airport property during fueling or draining of fuel from such aircraft.
(Ord. No. 81-2, art. VII, § 3, 2-23-1981; Ord. No. 81-11, art. VII, § 3, 11-9-1981; Ord. No. 83-9, art. VII, § 3, 8-8-1983)

Sec. 18-234. Fire extinguishers.

Adequate fire extinguishers shall be within ready reach of personnel engaged in fueling and fuel draining operations on airport property.
(Ord. No. 81-2, art. VII, § 4, 2-23-1981; Ord. No. 81-11, art. VII, § 4, 11-9-1981; Ord. No. 83-9, art. VII, § 4, 8-8-1983)

Sec. 18-235. Grounding devices.

All hoses, funnels and appurtenances used in fueling and fuel draining operations on airport property shall be equipped with a grounding device to prevent ignition of volatile liquids.
(Ord. No. 81-2, art. VII, § 5, 2-23-1981; Ord. No. 81-11, art. VII, § 5, 11-9-1981; Ord. No. 83-9, art. VII, § 5, 8-8-1983)

Secs. 18-236—18-250. Reserved.

DIVISION 6. SPECIAL OPERATIONS POLICY

Sec. 18-251. Adoption; scope.

(a) The Center Municipal Airport Special Operations Policy is hereby adopted and shall govern the use of operations detailed at the Center Municipal Airport.

(b) Special operations includes every type of operation, activity or other use of airport property, on the ground or in the air, that is outside the scope of routine aircraft operations, including but not limited to fire surveillance and/or suppression, aerial applicators (including aerial application of herbicides, fertilizers or other chemicals), parachuting, ultralights, hang gliding, lighter-than-air aircraft, gliders, experimental test flights, banner towing, utility and pipeline operations, special mission aircraft, or any other operation of aircraft that are certificate or operate in categories other than normal category as defined by Federal Aviation Regulations (i.e., Transport, utility, restricted, experimental, etc.) or any other activity so designated by the City of Center. These rules and regulations apply to all fixed-wing, rotorcraft and lighter-than-air aircraft.
(Ord. No. 2003-18, § 1, 12-8-2003)

Sec. 18-252. Application for operation.

Written application on prescribed form must be submitted at least three days prior to requested date for commencement of special operations unless said operations are commenced on an emergency basis.

SPECIAL USE PERMIT

OPERATOR NAME: _____

ADDRESS: _____

FAX: _____ PHONE: _____

LEAD CONTACT: _____ PHONE: _____

CONTRACTING COMPANY: _____

PRODUCT(S) TO BE APPLIED: _____

AMOUNT: _____ EPA CLASSIFICATION: _____

DATE OF INTENDED OPERATION: _____

Applicant has read and agrees to comply with the foregoing Special Operations rules and regulations for the Center Municipal Airport.

Applicant Signature: Approved by:

By: _____ _____

Date: _____

AIRPORT CONTACT:

Allen Penick 936-598-8119

(Ord. No. 2003-18, § 1(I), 12-8-2003)

Sec. 18-253. Obtaining permit.

Written permit must be obtained before commencement of special operations. Engaging in any type of special operation at the Center Municipal Airport without a written permit issued by the City of Center is unlawful. The city manager or designee have authority to issue special operations permits.
(Ord. No. 2003-18, § 1(II), 12-8-2003)

Sec. 18-254. Special operations area.

All special operations must be conducted in the designated special operations area, using the designated entrance road and parking lot, unless otherwise specifically provided in the special operations permit. No vehicles are allowed on runways, aprons, ramps or taxiways outside the designated special operations area unless specifically provided in the special operations permit.
(Ord. No. 2003-18, § 1(III), 12-8-2003)

Sec. 18-255. Airport terminal building.

The airport terminal building may not be used for temporary base operations. Operators requiring a temporary operations base must provide their own facilities, to be placed in the designated location specified in the special operations permit.
(Ord. No. 2003-18, § 1(IV), 12-8-2003)

Sec. 18-256. Safe conduct.

All special operations must be conducted in a safe, orderly and controlled manner, in compliance with all Federal Aviation Regulations and requirements, including those applicable to aircraft, pilots and equipment.
(Ord. No. 2003-18, § 1(V), 12-8-2003)

Sec. 18-257. Hazardous materials.

Aerial application and other special operations involving the use of hazardous materials must be conducted in compliance with all federal, state and local requirements regulating such activities. Each operator is responsible for all expense and liability attendant to the use of hazardous materials on airport property, including but not limited to damage to public or private property and clean up expense due to any spill or release of hazardous materials.
(Ord. No. 2003-18, § 1(VI), 12-8-2003)

Sec. 18-258. "CTAF" monitoring.

All aircraft operating to or from the airport, or within the five-mile radius of the airport traffic area, should monitor the CTAF frequency 122.8, announcing their intentions while operating within the airport traffic area.
(Ord. No. 2003-18, § 1(VII), 12-8-2003)

Sec. 18-259. Report property damage.

Any damage to public or private property must be reported immediately to the airport manager or city hall.
(Ord. No. 2003-18, § 1(VIII), 12-8-2003)

Sec. 18-260. Fuel flowage fee.

Operators providing their own fuel must pay a $0.11 per gallon fuel flowage fee assessed for all aviation fuel transferred on the airport. This fee must be paid to:

City of Center
Attn: Airport Fees
P. O. Box 1744
Center, Texas 75935
(Phone: 936-598-2941)
(Ord. No. 2003-18, § 1(IX), 12-8-2003)

Sec. 18-261. Proof of liability insurance.

Each operator engaging in aerial application operations must provide proof of liability insurance in the form of a certificate of insurance addressed to the City of Center, Center, Texas 75935, evidencing coverage in the minimum amounts of $100,000.00 per person and $300,000.00 for each single occurrence for bodily injury or death, and $100,000.00 per occurrence for property damage. The city may require special operators to post a bond or furnish other adequate security to cover the potential expense and damage resulting from special operations.
(Ord. No. 2003-18, § 1(X), 12-8-2003)

Chapters 19—21

RESERVED

Chapter 22

BUILDINGS AND BUILDING REGULATIONS*

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Sec. 22-3. Additional requirements for building permit for hotel/motel facilities.
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Article III. Electric Code

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Sec. 22-77. Required.
Sec. 22-78. Inspections; generally.
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*__Cross references__—Environment, ch. 30; smoking in public buildings, § 30-231 et seq.; fire prevention and protection, ch. 34; floods, ch. 38; manufactured housing, ch. 50; signs, ch. 70; solid waste, ch. 74; streets, sidewalks and other public places, ch. 78; utilities, ch. 90.

__State law reference__—Authority to regulate buildings, V.T.C.A., Local Government Code § 342.012.

Sec. 22-80. Permit fees.
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Sec. 22-83. National Electrical Code adopted.
Sec. 22-84. Commercial requirements.
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Sec. 22-112. Same—Amendments.
Sec. 22-113. Appeals.
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Division 3. Gas Code

Sec. 22-131. International Fuel Gas Code—Adopted.
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Sec. 22-251. Maintenance of piers, docks and other structures.
Sec. 22-252. Notice of unsafe or abandoned structures; remedial action by city.
Sec. 22-253. Annual permit renewal fee.

ARTICLE I. IN GENERAL

Sec. 22-1. Fire limits prescribed.

The fire limits shall include all areas within the established city limits.
(Code 1978, § 5-1)

Cross reference—Fire prevention and protection, ch. 34.

State law reference—Authority to create fire limits, V.T.C.A., Local Government Code § 342.012.

Sec. 22-2. Inspection department created.

(a) The inspection department of the City of Center is hereby created. The inspection department shall be the accounting cost center for all expenses related to the services of permitting and inspection of construction within the city as required by state law and the codes of the city related to building construction, plumbing and electrical work and all other appropriate code compliance issues.

(b) All the regulations provided in this section are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the city council or city official or employee charged with the enforcement of this ordinance, acting for the city in the discharge of his duties, shall not thereby render himself personally liable, and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.
(Ord. No. 2006-9, §§ 1, 4, 5-8-2006)

Sec. 22-3. Additional requirements for building permit for hotel/motel facilities.

(a) The inspection department of the city shall not issue a building permit for the construction of a new hotel/motel facility until the following additional information shall have been submitted and additional requirements achieved as established herein.

(b) To be issued a building permit for the construction of a new hotel or motel facility, the information submitted to the city shall contain the following:

(1) All items required for issuance of a building permit for any commercial structure including construction plans, site plans, drainage analysis or any other construction submittal required by the inspection department, building code or other ordinance of the city;

(2) A feasibility study conducted by an independent third party, familiar with the hotel/motel industry; the study must:

a. Be specific to the market of Center and Shelby County, Texas, and not a broader regional study; and

b. Account for each and every hotel/motel facility currently operating and under construction (active construction with a building permit issued) within the city and the county.

(3) A letter from the bank or financial institution with any lien on the property, investment or facility for which the permit is requested with the following specific language:

"Our financial institution has reviewed the feasibility study prepared by _____ and dated _____ relative to the _____ hotel/motel project proposed to be located in Center, Texas. Based upon this feasibility study, our review of the Center market and information provided by the developer, we have determined this project to be a sound investment and meeting the financial requirements of our institution for loan approval."

(c) These requirements shall expire, unless readopted by the city council, five years from the effective date of the ordinance from which this section is derived.
(Ord. No. 2011-8, §§ 1—3, 4-25-2011)

Secs. 22-4—22-30. Reserved.

ARTICLE II. BUILDING CODE*

Sec. 22-31. Definitions.

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

International Residential Code means the International Residential Code for One- and Two-Family Dwellings promulgated by the International Code Council.

National Electrical Code means the electrical code published by the National Fire Protection Association.

Residential means having the character of a detached one-family or two-family dwelling or a multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling, and that does not have the character of a facility used for the accommodation of transient guests or a structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure.

Cross reference—Definitions generally, § 1-2.

Sec. 22-32. International Residential Code.

(a) To protect the public health, safety, and welfare, the International Residential Code, as it existed on May 1, 2001, is adopted as the city residential building code.

*__Cross reference__—Compliance with building and plumbing codes, § 90-231.
State law reference—Building standards, V.T.C.A., Local Government Code §§ 214.211—214.214.

(b) The International Residential Code applies to all construction, alteration, remodeling, enlargement, and repair of residential structures in the city.

(c) All permit fees are on file in the city secretary's office.

Secs. 22-33—22-60. Reserved.

ARTICLE III. ELECTRICAL CODE*

DIVISION 1. GENERALLY

Sec. 22-61. Liability.

This article shall not be construed to relieve from or lessen the responsibility of any person installing, operating or controlling any electric wiring or electrical apparatus for damages to anyone, or for full and faithful performance of the contract; nor shall the city be held as assuming any liability by reason of the inspection authorized in this article of certificate of permit issued pursuant to the provisions of this article.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Secs. 22-62, 22-63. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 22-64. Administration of article; appeal process.

(a) The city inspector and the building advisory board shall decide all disputed questions pertaining to the installation of all electrical wiring, devices and equipment, provided for in this article. Decisions shall be governed by taking into consideration the National Electrical Code, the National Electrical Safety Code, and the standards generally recognized by the trade concerning the safe and proper installation of electrical wiring, devices and equipment.

(b) Method of appeal for any decision under this division shall be identical to the appeal process in section 22-113.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

***Editor's note**—Ord. No. 2004-9, § 1(Exh. A), adopted Aug. 23, 2004, amended Art. III in its entirety to read as herein set out. Former Art. III, § 22-61, pertained to similar subject matter, and derived from the original codification.

Cross reference—Utilities, ch. 90.

State law reference—Electrical code, V.T.C.A., Local Government Code § 214.214.

Sec. 22-65. Office created; appointment.

The office of electrical inspector in and for the city is created; and such office shall be filled by appointment made by the city manager.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-66. Duties.

The electrical inspector shall be responsible for the supervision, inspection and record keeping of all electrical work and permits within the city and the enforcement of all applicable provisions of this Code, state law and city ordinances, rules and regulations.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-67. Right of entry for inspections, tests.

The electrical inspector shall have the right to enter any building during reasonable hours in the discharge of duty for the purpose of making any inspection or test of any electrical wiring, device and equipment in the building and where such installations are found hazardous to life or property or to the work of the fire department, or otherwise not in conformity with the provisions of this Code, state law or city ordinances, rules and regulations.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-68. Disconnection of service.

The electrical inspector is empowered to disconnect such parts of any unsafe or hazardous electrical installations or to order disconnection of unsafe or hazardous electric service to any building after having given notice, in writing, to the persons concerned. Such defective electrical installation or electric wiring shall not be again connected until made safe as directed by the electrical inspector.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-69. Stop work orders.

Upon notice from the chief building official and/or his designee, work on any electrical system being done contrary to the provisions of this code or in a dangerous, or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the chief building official and/or his designee, shall not be required to give a written notice prior to stopping work.

Secs. 22-70—22-72. Reserved.

DIVISION 3. ELECTRICIANS

Sec. 22-73. License required.

It shall be unlawful for any person to engage in business or work as a master electrician or journeyman electrician within the city without first having obtained a state license.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-74. When not required.

The following acts, work and conduct shall be permitted without license as an electrician:

(1) Electrical work done by a property owner in a residence owned and occupied by him or her as his or her home; however, all work and service named or referred to in this article shall be subject to permit, inspection and approval in accordance with the terms of this article.

(2) Electrical work done by persons engaged by any public service company, in the construction and maintenance of their public utility systems.

Secs. 22-75, 22-76. Reserved.

DIVISION 4. PERMITS; INSPECTIONS

Sec. 22-77. Required.

Before proceeding with the installation, alterations of or the addition to any electrical, wiring or equipment within or on any building, structure or premises, publicly or privately owned in the city, the master electrician in charge of such proposed work shall first file with the city electrical inspector an application requesting the inspection and secure a permit.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-78. Inspections; generally.

There shall be a minimum of two electrical inspections:

(1) Rough-in inspection before any work, wire or device has been concealed.

(2) Final inspection after all work has been completed. Request for such inspection shall be made 24 hours in advance.

(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-79. Inspection prior to commencement of service.

(a) It shall be unlawful for any public service company operating in the city to furnish current to any new building, tent, structure or outdoor wiring of any kind, nature or description without first obtaining clearance from the city electrical inspector stating that such

wiring is approved and a permit has been issued for the use of current. Whenever any service is discontinued to any building or structure for any cause whatever (exception non-payment of bill), an inspection will be necessary before the building or structure can be reconnected.

(b) Any building and/or premises that has had the electrical power disconnected for 90 or more days shall apply to the city for an electrical inspection prior to having the building and/or premises reconnected to the electrical supply system.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-80. Permit fees.

A schedule of permit fees as established by council is on file in the city secretary's office.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Secs. 22-81, 22-82. Reserved.

Sec. 22-83. National Electrical Code adopted.

All electrical construction and all materials and appliances used in connection with the installation, maintenance, and operation of electrical wiring apparatus or equipment for the utilization of service in providing electrical energy for light, heat or power inside the city shall conform to the provisions of the National Electrical Code, current edition, together with all future amendments, sponsored by the National Fire Protective Association and such future editions thereof that are recommended for approval to the city council, which are adopted by motion of the city council, such National Electrical Code being expressly adopted as a part hereof to the same extent as if set out at length herein, except that in the event of any conflict or inconsistency between the provisions of such code and any provision of this article, the latter shall prevail.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-84. Commercial requirements.

(a) Each commercial building shall have a single outside means of disconnect.

(b) All new electrical work in a commercial building shall be wired in conduit.

(c) New buildings of mixed occupancy (residential and commercial) shall be classed as commercial buildings and shall be wired as such, according to the rules and regulations of this article.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-85. Wiring generally.

Aluminum wiring shall not be allowed for electrical wiring purposes inside residential or commercial structures.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-86. Minimum size of wiring in residences.

All electric wiring in residences will be at least #12 except switch legs, which may be wired with #14 wire.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Sec. 22-87. Receptacles.

All electrical outlet receptacles shall be placed with the ground plug positioned above the hot and neutral.
(Ord. No. 2004-9, § 1(Exh. A), 8-23-2004)

Secs. 22-88—22-90. Reserved.

ARTICLE IV. PLUMBING AND GAS CODE*

DIVISION 1. GENERALLY

Sec. 22-91. Permit fees.

All permit fees are on file in the city secretary's office.

Secs. 22-92—22-110. Reserved.

DIVISION 2. PLUMBING CODE

Sec. 22-111. International Plumbing Code—Adopted.

The International Plumbing Code, including appendix chapters, as published by the International Code Council be and is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the city and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of such International Plumbing Code, current edition, published by the International Code Council on file in the office of the city are hereby referred to, adopted and made a part hereof as if fully set out in this section. A copy of such code is on file in the city secretary's office.
(Ord. No. 2002-8, § 1, 6-10-2002; Ord. No. 2009-4, § 1, 2-23-2009)

*Cross reference—Utilities, ch. 90.

Sec. 22-112. Same—Amendments.

The following sections of the code adopted in section 22-111 are hereby revised to read as follows:

Section 101.1 Title. These regulations shall be known as the International Plumbing Code of the City of Center hereinafter referred to as "this code."

Section 103.2 Appointment. The code official shall be appointed by the city manager of the jurisdiction, and the code official shall not be removed from office without full opportunity to be heard on specific and relevant charges by and before the city manager.

Section 106.2 Exempt work. The following work shall be exempt from the requirement for a permit:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.
3. Work exempt from permit requirements of the Texas Plumbing License Law and rules of the Texas State Board of Plumbing Examiners.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

Section 106.6.2 Fee schedule. The fees for all plumbing work shall be as established by the most current schedule approved and adopted by the city council.

Section 106.6.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 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 50 percent of the plan review fee paid when 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.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Section 108.4 Violation penalties. Any person 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 plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of an offense, punishable by a fine of not more than $1,000.00. Each day that a violation continues after due notice had been served shall be deemed a separate offense.

Section 108.5 Stop work order. Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. 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 liable to a fine of not less than $200.00 or more than $1,000.00 per violation.

Section 109 Means of Appeal shall be deleted in its entirety.

Section 305.6.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall be a minimum of 18 inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches below grade.

Table 702.1. Notation added: No polyvinyl chloride (PVC) or plastic pipe (DWV) under SDR 35 shall be allowed.

Table 702.2. Notation added: No polyvinyl chloride (PVC) or plastic pipe (DWV) under SDR 35 shall be allowed.

Table 702.3. Notation added: No polyvinyl chloride (PVC) or plastic pipe (DWV) under SDR 35 shall be allowed.

Section 904.1 Roof extension. All open vent pipes that extend through a roof shall be terminated at least ten inches above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven feet (2134 mm) above the roof.

Section 917 Air Admittance Valves shall be deleted in its entirety and use of such equipment or fixtures shall be allowed at the discretion of the Plumbing Inspector and only as necessitated by the renovation of existing structures when traditional venting is not practical. (Ord. No. 2002-8, § 2, 6-10-2002; Ord. No. 2009-4, § 2, 2-23-2009)

Sec. 22-113. Appeals.

The method and process of appeal for any decision under this division shall be as follows:

(1) *Appeals generally.*

a. Decisions of the plumbing inspector/building official shall be final with regard to technical requirements of the code adopted in this division.

b. The decision of the plumbing inspector/building official regarding any requirements or administrative practices related to this division or the code adopted under this division may be appealed to the city manager provided:

1. The appeal is delivered to the city secretary within 15 days of the issuance of the decision being appealed;

2. The appeal is made in writing; and

3. The appeals fee as established by city council shall be paid at the time of submission of the appeal.

c. The city manager shall receive written responses to the appeal from the plumbing inspector and/or building official with regards to the decision and facts surrounding the appeal.

d. The city manager shall hold a hearing on the appeal within 30 days of the date the appeal is filed with a minimum of three days prior notice of the hearing time and place issued to all parties.

e. The written determination of the city manager, after the hearing, shall be issued to the appellant and plumbing inspector.

f. The decision of the city manager shall not have the power to waive or set aside any requirements of this division or the code adopted in this division, but shall have the power to interpret the provisions of such code.

(2) *Variance.* Upon appeal, the city manager shall have the authority to grant a one-time variance to application of the code adopted in this division when the enforcement thereof would do manifest injustice and finds specifically that:

a. Special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others;

b. The special conditions and circumstances do not result from the action or inaction of the appellant;

c. Granting the variance requested will not confer on the appellant any special privilege that is denied by the code adopted in this division to any other service systems;

d. The variance granted is the minimum variance that will make possible the reasonable use of the service system; and

e. Granting the variance will be in harmony with the general intent and public purpose of the code adopted in this division, not detrimental to the public health, safety and general welfare and will not reduce the quality of installation from that required by the code adopted in this division.

(Ord. No. 2002-8, § 5, 6-10-2002)

Secs. 22-114—22-130. Reserved.

DIVISION 3. GAS CODE

Sec. 22-131. International Fuel Gas Code—Adopted.

That certain documents, three copies of which are on file in the office of the city secretary and the city, being marked and designated as International Fuel Gas Code, including appendix chapters, as published by the International Code Council be and is hereby adopted as the code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the city and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of such International Fuel Gas Code, current edition, published by the International Code Council on file in the office of the city are hereby referred to, adopted and made a part hereof as if fully set out in this section. A copy of such code is on file in the city secretary's office.
(Ord. No. 2002-8, § 3, 6-10-2002; Ord. No. 2009-4, § 1, 2-23-2009)

Sec. 22-132. Same—Amendments.

The following sections of the code adopted in section 22-131 are hereby revised to read as follows:

Section 101.1 Title. These regulations shall be known as the International Fuel Gas Code of the City of Center hereinafter referred to as "this code."

Section 103.2 Appointment. The code official shall be appointed by the city manager of the jurisdiction, and the code official shall not be removed from office without full opportunity to be heard on specific and relevant charges by and before the city manager.

Section 106.2 Permit not required. Permits shall not be required for the following:

1. Any portable heating appliance.
2. Replacement of any minor component of equipment that does not alter approval of such equipment or make such equipment unsafe.
3. Work exempt from permit requirements of the Texas Plumbing License Law and rules of the Texas State Board of Plumbing Examiners.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

Section 106.5.2 Fee schedule. The fees for all work shall be as established by the most current schedule approved and adopted by the city council.

Section 106.5.3 Fee refunds. The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than 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 50 percent of the plan review fee paid when 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.

The code official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Section 108.4 Violation penalties. Any person 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 plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of an offense, punishable by a fine of not more than $1,000.00. Each day that a violation continues after due notice had been served shall be deemed a separate offense.

Section 108.5 Stop work order. Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. 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 liable to a fine of not less than $200.00 or more than $1,000.00 per violation.

Section 109 Means of appeal shall be deleted in its entirety.
(Ord. No. 2002-8, § 4, 6-10-2002)

Sec. 22-133. Appeals.

The method and process of appeal for any decision under this division or the code adopted in this division shall be as follows:

(1) *Appeals generally.*

a. Decision of the plumbing inspector/building official shall be final with regard to technical requirements of the code adopted in this division.

b. The decision of the plumbing inspector/building official regarding any requirements or administrative practices related to this division or the code adopted under this division may be appealed to the city manager provided:

1. The appeal is delivered to the city secretary within 15 days of the issuance of the decision being appealed;

2. The appeal is made in writing; and

3. The appeals fee as established by city council shall be paid at the time of submission of the appeal.

c. The city manager shall receive written responses to the appeal from the plumbing inspector and/or building official with regards to the decision and facts surrounding the appeal.

d. The city manager shall hold a hearing on the appeal within 30 days of the date the appeal is filed with a minimum of three days prior notice of the hearing time and place issued to all parties.

e. The written determination of the city manager, after the hearing, shall be issued to the appellant and plumbing inspector.

f. The decision of the city manager shall not have the power to waive or set aside any requirements of this division or the code adopted under this division, but shall have the power to interpret the provisions of such code.

(2) *Variance.* Upon appeal, the city manager shall have the authority to grant a one-time variance to application of the code adopted under this division when the enforcement thereof would do manifest injustice and finds specifically that:

a. Special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others;

b. The special conditions and circumstances do not result from the action or inaction of the appellant;

c. Granting the variance requested will not confer on the appellant any special privilege that is denied by the code adopted under this division to any other service systems;

d. The variance granted is the minimum variance that will make possible the reasonable use of the service system; and

e. Granting the variance will be in harmony with the general intent and public purpose of the code adopted under this division, not detrimental to the public health, safety and general welfare and will not reduce the quality of installation from that required by the code adopted in this division.

(Ord. No. 2002-8, § 5, 6-10-2002)

Secs. 22-134—22-160. Reserved.

ARTICLE V. HOUSE MOVING*

DIVISION 1. GENERALLY

Sec. 22-161. Penalty for violation.

(a) Any person duly licensed by the city as a house moving contractor who is found guilty of violating any other provisions of this article or part thereof shall be subject to the penalty in section 1-17 or the suspension of such person's license for 30 days or both.

*__Cross reference__—Streets, sidewalks and other public places, ch. 78.

(b) Any person violating any provision of this article or part thereof shall be deemed guilty of a violation, and each violation shall be subject to a separate penalty.
(Code 1978, § 5-15)

Sec. 22-162. Escort.

No person shall move a building or structure across or along any street, public way or public place within the corporate limits of the city unless accompanied or escorted by a uniformed officer as required by the police department.
(Code 1978, § 5-14; Ord. No. 87-19, § 6, 10-12-1987)

Sec. 22-163. Buildings left on public property.

If it becomes temporarily necessary to leave the building on public property, there shall be placed around the building or structure and all equipment, red lanterns, flares or other warning devices. No building or structure under any condition shall be allowed to remain in or on the streets, public ways or public property for more than 24 hours except weekends, Any public property after sundown shall have sufficient lights and flares continually burning for the protection of the public.
(Code 1978, § 5-13; Ord. No. 87-19, § 4, 10-12-1987)

Secs. 22-164—22-180. Reserved.

DIVISION 2. PERMIT

Sec. 22-181. Permit, bond and insurance requirements.

No person, except a permitted house mover, shall move any building or structure over, across or along any street, public way or public place within the corporate limits of the city, except as specifically provided as follows:

(1) Every person shall, before engaging in moving a building or structure, have made application to the authorized person for a permit and such permit shall have been approved and issued. The fee for such permit shall be $100.00. A separate permit is required each time a building or structure is to be moved, and payment of a separate permit fee of $100.00 is required for each such movement.

(2) Before such permit is issued, the applicant shall file with the city a copy of the moving permit issued by the state department of highways and public transportation for such movement.

(3) Further, before such permit is issued, the applicant shall file with the city a surety bond in the amount of $2,000.00, saving and protecting the city harmless from any and all damages, and to pay for any and all damages to public property, that may arise from the use of any streets, alleys or public places in the moving of any building or structure. Such bond shall contain a provision for a ten-day written notice to the city of cancellation by the surety.

(4) Further, before such permit is issued, the applicant shall file with the city a public liability property damage insurance policy certificate naming the applicant as the assured and providing for the payment of and liability imposed by law on such applicant in the sum of $20,000.00 for each person for bodily injury; $40,000.00 for bodily injury liability for each accident; $15,000.00 for property damage liability for each accident.

(5) Upon filing of such bond and certificate of insurance and issuance of a permit by the authorized person, the authorized person shall notify the police department and the chief of police shall inspect, or cause to be inspected, such equipment and facilities to be used by the house moving contractor, and shall determine that such equipment is properly licensed and has a valid inspection sticker.

(Ord. No. 87-19, § 1, 10-12-1987; Ord. No. 2010-10, § 1, 7-12-2010)

Sec. 22-182. Transfer of permit prohibited.

It shall be unlawful for any person to lend, rent or transfer his permit to any other person.
(Ord. No. 87-19, § 2, 10-12-1987)

Sec. 22-183. Application.

No person shall move any building or structure over, across or along any street, public way or public place within the corporate limits of the city until proper application is made as provided in this section:

(1) Such house mover shall, in each case before moving or preparing to move any building or structure, apply to the city secretary by written application for a permit to do so, in which application the building or structure to be moved shall be described with the extreme dimensions of its width, length and height, present location, and the place to which it is proposed to be moved.

(2) Before such application is made, the house mover shall notify all public utilities and other persons whose facilities are, or may be, involved in such movement.

(Ord. No. 87-19, § 3, 10-12-1987)

Sec. 22-184. Notification of police department.

Before an application for a permit required by this division is made, the house mover shall notify the police department and shall obtain proper clearance from the police department in writing. This clearance shall specify the day of the week and hour of the day the moving is to take place. The route to be taken shall be at the discretion of the police department.
(Code 1978, § 5-13(3))

Cross reference—Law enforcement, ch. 46.

Sec. 22-185. Exemptions.

Nothing contained in this article shall require a permit or bond for the movement of oversized equipment, or buildings or structures of a temporary nature, when such equipment,

building or structure is within the legal road limit as required by the state statutes; nor shall bond and permit be required of one passing through the city in route between two other incorporated cities.
(Ord. No. 87-19, § 5, 10-12-1987)

Secs. 22-186—22-220. Reserved.

ARTICLE VI. DANGEROUS AND UNSAFE BUILDINGS AND OTHER STRUCTURES*

DIVISION 1. GENERALLY

Sec. 22-221. Definitions.

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

Building inspector means the legally designated inspection authority of the city including the persons employed as code enforcement officers.

Dangerous structures means all structures, dwellings, dwelling units, and accessory structures which have any or all the following defects shall be deemed dangerous structures:

(1) All buildings or structures whose walls or other vertical structural members list, lean, or buckle in excess of three-fourths inch from vertical for each foot of vertical measurement.

(2) All buildings or structures which show 33 percent or more damage or deterioration of the supporting members, or 50 percent or more damage or deterioration of the nonsupporting or outside walls or coverings.

(3) All buildings or structures which have parts thereof which are so attached that they may fall or injure members of the public or property.

(4) All buildings or structures which, by reason of dilapidated or deteriorated condition, have unsafe or defective electrical wiring devices or equipment, unsafe or defective gas piping, or appliances which are liable to cause or promote fires.

(5) All buildings or structures which have been damaged by fire, explosion, wind, vandalism, or elements of nature so as to have become dangerous to the life, safety, and general welfare and health of the occupants and/or the general public.

***Cross reference**—Environment, ch. 30.

State law reference—Substandard buildings and structures, V.T.C.A., Local Government Code § 214.001 et seq.

(6) Those structures which have become so dilapidated, decayed, unsafe, unsanitary, or which utterly fail to provide amenities essential to decent living such that they are unfit for human habitation or likely to cause sickness or disease so as to work injury to the health, safety, and general welfare of those living thereabout.

Owner means the owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person in control of a structure.

Premises means a lot or parcel of land, including a building or dwelling, and auxiliary structures thereon.

Vacant structure means any building or dwelling to which utility services have been disconnected or which has been continuously unoccupied for as long as 120 calendar days.
(Ord. No. 80-17, § 1, 12-8-1980; Ord. No. 2002-15, §§ 1, 2, 10-14-2002)

Cross reference—Definitions generally, § 1-2.

Sec. 22-222. Liability of city.

Neither the city nor any authorized agent or employee of the city acting under the terms of this article shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this article.
(Ord. No. 80-17, § 12, 12-8-1980)

Sec. 22-223. Enforcement officer.

The provisions of this article shall be administered and enforced by the building inspector or other duly designated representative of the city.
(Ord. No. 80-17, § 2, 12-8-1980)

Sec. 22-224. Right of entry.

Upon presentation of proper identification to the owner of the property and in such manner as to cause the least possible inconvenience to the persons in possession, the building inspector may enter any building, structure or premises during all reasonable hours to make inspections or examinations thereof in order to perform the duties imposed on him by this article.
(Ord. No. 80-17, § 3, 12-8-1980)

Sec. 22-225. Warrant to inspect premises.

If the owner of any building or dwelling refuses admittance thereto of the building inspector for the purpose of making an examination or inspection of the premises, the building inspector may make an affidavit before any judge or a court of competent jurisdiction that the building inspector believes or has reason to believe that by an inspection of certain premises designated in the affidavit, he will obtain evidence tending to reveal the existence of violations of this

article. Upon receiving this affidavit, the judge may issue a warrant authorizing the building inspector to inspect the premises named in the affidavit as designated in the warrant, to obtain evidence tending to reveal the existence of violations of this article.
(Ord. No. 80-17, § 4, 12-8-1980)

State law reference—Inspection warrants, Vernon's Ann. C.C.P. art. 18.05.

Sec. 22-226. Notification/citation.

(a) When it is determined by the building inspector that a building or structure is vacant or dangerous, within the terms of this article, a letter of notification of violation of this article shall be mailed to the owner of record of the building. The initial notification shall allow the owner 30 calendar days to repair or remove the public nuisance. However, if, in the opinion of the building inspector, the structure presents an immediate danger to the health, safety, and welfare of the general public, the building inspector shall secure the structure by posting signs reading "CONDEMNED, DO NOT ENTER" at highly visible locations on and around the structure. The building inspector shall then attempt to contact the owner of the structure and order the owner, the owner's agent, or the occupant of the property, on which the structure is located, to repair, remove, or demolish the structure, in a reasonable, specified time, consistent with the urgency of the moment, and the health, safety, and welfare of the general public.

(b) When response to the notification required in subsection (a) of this section is not received, or if the owner, occupant, nor owner's agent takes required action, the building inspector shall cite the owner of the building or structure, or his authorized agent or representative, and all discoverable mortgagees and lien holders to appear before the municipal judge and show cause why such building should not be declared to be a public nuisance and why the owner should not be ordered to remove or demolish and clear such building or structure from its premises. The date of such hearing shall not be less than 30 calendar days after the citation shall have been made. Notice of the hearing shall also be filed in the deed records of the county.
(Ord. No. 80-17, § 5, 12-8-1980; Ord. No. 2002-15, § 3, 10-14-2002)

State law reference—Authority to adopt ordinances requiring demolition or repair of dilapidated or substandard structures, V.T.C.A., Local Government Code § 214.002.

Sec. 22-227. Service of citation.

(a) Citation may be served by personal delivery of a copy thereof to the owner of the property, as such ownership appears on the tax records of the tax appraisal office of the county, a title search from a title company, the deed records of the county, the records of the secretary of state, the assumed name records of the county, the tax records of the county and the city or, the utility records of the city, or by depositing such citation properly addressed and as certified mail, restricted delivery, ten day return, in the U.S. Postal Service.

(b) Notice shall also be given by attaching a copy of such citation to a place of prominence on such building or structure.

(c) If service of citation under subsection (a) of this section fails, then notice shall be given by publishing the citation two times in a newspaper of general distribution to the city at least ten calendar days prior to the date set for a hearing, which shall state the time and place of such hearing.
(Ord. No. 80-17, § 6, 12-8-1980; Ord. No. 2002-15, § 4, 10-14-2002)

Sec. 22-228. Hearing.

On the date set in such citation for the hearing, a hearing shall be had and on the basis of such hearing, the municipal judge shall determine whether or not such structure is dangerous, based on a preponderance of the evidence presented. Determination by the municipal judge shall be final, and his decision shall be recorded in the form of a court order.

(1) In conducting a hearing authorized under this section, the municipal judge shall require the owner, lienholder, or mortgagee of the building to within 30 days:

   a. Secure the building from unauthorized entry; or

   b. Repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

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

(3) The municipal judge may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

   a. Submits a detailed plan and time schedule for the work at the hearing; and

   b. Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

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

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

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

(Ord. No. 80-17, § 7, 12-8-1980; Ord. No. 2002-15, § 5, 10-14-2002)

Sec. 22-229. Posting of order.

(a) Any order issued by the municipal judge for the demolition or removal of a building or structure shall be immediately and prominently posted by the building inspector on the premises, in the form of a placard. Such placard shall declare the premises unfit for human habitation and shall contain other information, as to the order in force. Reasonable effort shall be made to provide the property owner with this information, by hand delivery of certified mail, if such property owner has not been notified by the municipal judge.

(b) Any person who shall use, enter, or occupy such premises and/or any person who shall interfere or hinder the demolition or removal of any building or structure under the terms of this article or the order of the court, shall be deemed guilty of a violation and shall be subject to a fine as prescribed in this article.

(Ord. No. 80-17, § 9, 12-8-1980; Ord. No. 2002-15, § 6, 10-14-2002)

Sec. 22-230. Failure to comply with order.

(a) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the municipality may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of the city to collect on a bond or other financial guaranty that may have been required by subsection 22-228(4).

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

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

(Ord. No. 80-17, § 10, 12-8-1980; Ord. No. 2002-15, § 7, 10-14-2002)

Sec. 22-231. Establishment of lien.

(a) Whenever any work is done on any building or structure by the city pursuant to this article, the building inspector on behalf of the city shall file a statement of the expenses incurred with the county clerk. Such statement shall give the amount of such expenses and the date on which the work was done or the expenses incurred and costs of demolishing, cleaning or removing the building or structure.

(b) When this statement is filed with the county clerk, the city shall have a privileged lien on the lot or real estate upon which the work was done to secure the expenses involved. Such lien shall be second only to tax liens for street improvements, and the amount thereof shall bear interest at the rate of ten percent per annum from the date the statement was filed with the county clerk. The statement of expenses for work done and filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended for such repairs, demolitions, clearance or removal.
(Ord. No. 80-17, § 11, 12-8-1980)

Sec. 22-232. Unsafe structures.

All structures, dwellings, apartment houses, roominghouses, buildings or outbuildings which are unsafe, unsanitary, unfit for human habitation, a fire hazard or are otherwise dangerous to human life or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, abandonment or lack of adequate egress are generally in contemplation of this section, unsafe buildings. All such unsafe buildings are hereby declared illegal and a public nuisance and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of this article and the laws of the state.
(Ord. No. 80-16, § 8, 12-8-1980)

Secs. 22-233—22-250. Reserved.

DIVISION 2. LAKE PINKSTON

Sec. 22-251. Maintenance of piers, docks and other structures.

All piers, docks, wharfs, ramps, floats or other structures in or along the shores of Lake Pinkston shall be kept in good condition at all times.
(Ord. No. 90-2, § 1, 3-26-1990)

Cross reference—Boats and docks, § 58-261 et seq.

Sec. 22-252. Notice of unsafe or abandoned structures; remedial action by city.

When any such structure is abandoned or becomes unsafe or unsightly, the city shall give written notice to such holder to make repairs or remove such structure if the holder of such permit fails to remedy such condition within ten days of such notice, the city is authorized to take such remedial action as may be necessary.
(Ord. No. 90-2, § 2, 3-26-1990)

Cross references—Environment, ch. 30; unsafe structures or craft; life preservers, § 58-265.

Sec. 22-253. Annual permit renewal fee.

An annual renewal permit fee of $25.00 shall be paid by each holder of such permits on the anniversary date of the receipt of such permit.
(Ord. No. 90-2, § 3, 3-26-1990)

Chapters 23—25

RESERVED

Chapter 26

CIVIL EMERGENCIES*

Article I. In General

Secs. 26-1—26-30. Reserved.

Article II. Emergency Management

Sec. 26-31. Organization.
Sec. 26-32. Powers and duties of emergency management director.
Sec. 26-33. Emergency management plan.
Sec. 26-34. Interjurisdictional program.
Sec. 26-35. Override.
Sec. 26-36. Liability.
Sec. 26-37. Commitment of funds.
Sec. 26-38. Offenses; penalties.

*__Cross references__—Administration, ch. 2; fire prevention and protection, ch. 34; law enforcement, ch. 46.

ARTICLE I. IN GENERAL

Secs. 26-1—26-30. Reserved.

ARTICLE II. EMERGENCY MANAGEMENT*

Sec. 26-31. Organization.

There exists the office of emergency management director of the city, which shall be held by the mayor in accordance with state law.

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

(2) The emergency management director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this article. The emergency management director may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the emergency management director.

(3) The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the emergency management director in the emergency management plan, as well as, organized volunteer groups. The functions and duties of the operational emergency management organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.

(Ord. No. 91-17, § 1, 6-24-1991)

Sec. 26-32. Powers and duties of emergency management director.

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

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

(2) Supervision of the development of an emergency management plan for the city, and shall recommend that plan for adoption by the city council along with any and all mutual aid 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

*__State law reference__—Emergency management, V.T.C.A., Government Code § 418.001 et seq.

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) Direction and control of the operations of the center emergency management organization as well as the training of emergency management personnel.

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

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

(7) 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 plan.

(8) Issuance of necessary proclamations, regulations or directives which are necessary for the protection of life and property in the city. Such proclamations, rules, regulations, or directives shall be filed in the office of the city secretary and shall receive widespread publicity unless publicity would be of aid and comfort to the enemy.

(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 drafting and execution, if deemed desirable, of an agreement with the county in which the city is located and with other municipalities within the county, for the countywide coordination of emergency management efforts.

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

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

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

(13) Other requirements as specified in Texas Disaster Act 1975 V.T.C.A., Government Code § 418.001 et seq.

(Ord. No. 91-17, § 2, 6-24-1991)

Sec. 26-33. Emergency management plan.

A comprehensive emergency management plan shall be developed and maintained in a current state. The emergency management plan shall set forth the form of the organization, establish and designate divisions and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this article. As provided by state law, the plan shall follow the standards and criteria established by the state division of emergency management. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the state division of emergency

management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The emergency management plan, shall be considered supplementary to this article and have the effect of law during the time a disaster emergency proclamation is in effect.
(Ord. No. 91-17, § 3, 6-24-1991)

Sec. 26-34. Interjurisdictional program.

The mayor is hereby authorized to join with the county judge and the mayors of the other cities in the county in the formation of an emergency management council for the county and shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as such program may affect the city.
(Ord. No. 91-17, § 4, 6-24-1991)

Sec. 26-35. Override.

At all times when the orders, rules, and regulations made and promulgated pursuant to this article shall be in effect, they shall supercede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.
(Ord. No. 91-17, § 5, 6-24-1991)

Sec. 26-36. Liability.

This article is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of such activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license of privilege, or otherwise permits the city to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or manmade disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.
(Ord. No. 91-17, § 6, 6-24-1991)

Sec. 26-37. Commitment of funds.

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement or

otherwise, without prior and specific approval of the city council unless during a declared disaster. During a declared disaster the mayor or city manager may expend and/or commit public funds of the city when deemed necessary for the protection of health, life, and property. (Ord. No. 91-17, § 7, 6-24-1991)

Sec. 26-38. Offenses; penalties.

(a) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this article, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this article.

(b) It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the emergency management organization of the city, unless authority to do so has been granted to such person by the proper officials.

(c) Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this article and shall be subject to the penalties imposed by this article.

(d) Convictions for violations of the provisions of this article shall be punishable by fine not to exceed $200.00.
(Ord. No. 91-17, § 8, 6-24-1991)

Chapters 27—29

RESERVED

Chapter 30

ENVIRONMENT*

Article I. In General

Sec. 30-1. Accumulations.
Secs. 30-2—30-30. Reserved.

Article II. Nuisances

Division 1. Generally

Secs. 30-31—30-50. Reserved.

Division 2. Private Property

Sec. 30-51. Definitions.
Sec. 30-52. Acts declared nuisances.
Sec. 30-53. Penalty for violations.
Sec. 30-54. Permitting public nuisance prohibited.
Sec. 30-55. Maintaining mosquito breeding places.
Sec. 30-56. Notice; abatement of nuisance; assessment of costs.
Sec. 30-57. Liens.
Secs. 30-58—30-80. Reserved.

Division 3. Public Property

Sec. 30-81. Definitions.
Sec. 30-82. Placement of garbage, refuse, rubbish and other materials on city property prohibited.
Sec. 30-83. Littering prohibited.
Sec. 30-84. Sweeping litter and waste into gutters, streets, etc., prohibited; exception.
Sec. 30-85. Storage of waste on public property prohibited.
Secs. 30-86—30-120. Reserved.

Article III. Grass, Weeds and Wild Growth

Sec. 30-121. Conditions declared public nuisances.
Sec. 30-122. Definitions.
Sec. 30-123. Excessive weed and brush growth prohibited.
Sec. 30-124. Notice of violation; liability for expenses.
Sec. 30-125. Statement of expenses; lien.
Secs. 30-126—30-150. Reserved.

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*__Cross references__—Animals, ch. 14; buildings and building regulations, ch. 22; dangerous and unsafe buildings and other structures, § 22-221 et seq.; notice of unsafe or abandoned structures; remedial action by city, § 22-252; floods, ch. 38; manufactured housing, ch. 50; parks and recreation, ch. 58; solid waste, ch. 74; streets, sidewalks and other public places, ch. 78; dangerous or hazardous materials, § 86-251 et seq.; utilities, ch. 90; heavy metals and toxic materials, § 90-127.

Article IV. Junked and Abandoned Vehicles

Division 1. Generally

Sec. 30-151. Adoption of state law.
Sec. 30-152. Definitions.
Secs. 30-153—30-170. Reserved.

Division 2. Junked Vehicles

Sec. 30-171. Declaration of public nuisance.
Sec. 30-172. Junked vehicles prohibited.
Sec. 30-173. Notice to remove junked vehicle.
Sec. 30-174. Public hearing.
Sec. 30-175. Order for removal of junked vehicle.
Sec. 30-176. Refusal to comply with order.
Sec. 30-177. Compliance required when hearing not requested.
Sec. 30-178. Removed vehicles not to be reconstructed or made operable.
Sec. 30-179. Notice to state department of transportation.
Sec. 30-180. Exceptions.
Sec. 30-181. Administration and enforcement personnel.
Sec. 30-182. Removal of vehicle by city; transfer to demolisher or scrapyard.
Sec. 30-183. Payment of removal costs from proceeds of sale.
Secs. 30-184—30-200. Reserved.

Division 3. Abandoned Vehicles

Sec. 30-201. Custody of abandoned motor vehicles; notice.
Sec. 30-202. Publication of notice.
Sec. 30-203. Reimbursement for storage fees.
Sec. 30-204. Use of vehicle by police department; auction sales; disposition of proceeds.
Secs. 30-205—30-230. Reserved.

Article V. Smoking in Public Buildings

Sec. 30-231. Locations where smoking is prohibited.
Sec. 30-232. Posting of signs.
Sec. 30-233. Penalty for violation.
Secs. 30-234—30-250. Reserved.

Article VI. Gas/Oil Wells

Sec. 30-251. Unlawful to drill or operate without permit.
Sec. 30-252. Application for permit—Contents, fee, agreement.
Sec. 30-253. Definitions.
Sec. 30-254. Distance requirements.
Sec. 30-255. Noncommercial saltwater disposal well for lease use only.
Sec. 30-256. Revocation.
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Secs. 30-259—30-270. Reserved.

Article VII. Stormwater Drainage

Sec. 30-271. Applicability.
Sec. 30-272. Drainage control during construction.
Sec. 30-273. Development standards for drainage control.
Sec. 30-274. Protection of property from grading of adjoining property.

ARTICLE I. IN GENERAL

Sec. 30-1. Accumulations.

It shall be unlawful for any person to allow refuse to accumulate upon any property owned or occupied by such person which creates an unsanitary condition or a condition which is obnoxious or a nuisance to the adjoining property owners.
(Ord. No. 82-12, § 9, 11-8-1982)

Secs. 30-2—30-30. Reserved.

ARTICLE II. NUISANCES*

DIVISION 1. GENERALLY

Secs. 30-31—30-50. Reserved.

DIVISION 2. PRIVATE PROPERTY

Sec. 30-51. Definitions.

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

Garbage means solid waste consisting of putrescible animal and vegetable waste material resulting from the handling, preparation, cooking, and consumption of food, including waste material from markets, storage facilities, as well as resulting from the handling and sale of produce and other food products.

Junk means old or discarded material or objects such as metals, wood, old furniture, machines, cars, car parts, and other such materials.

Litter means garbage and all other waste material which, if thrown or deposited as prohibited in this division, tends to create a public nuisance.

Person means and include any natural person, association of persons, partnership, corporation, agent or officer, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, administrators.

Premises means a lot, plot, or parcel of land including the buildings or structures thereon.

***Cross reference**—Conditions for animals constituting public nuisances, § 14-3.

State law references—Authority to define and abate nuisances, V.T.C.A., Local Government Code § 217.041 et seq.; health control in cities, towns and villages, V.T.C.A., Health and Safety Code § 342.001 et seq.

Public nuisance means a thing, act, occupation, or use of the property which shall annoy, injure, or endanger the safety, health, comfort, or repose of any considerable number of persons; shall offend the public decency; or shall in an way render any considerable number of persons insecure in life or in use of property.

Rubbish means nonputrescible solid waste consisting of combustible materials, the residue from the burning of combustible materials, and noncombustible materials. Combustible waste materials include, but are not limited to, paper, cardboard, rags, cartons, wood, excelsior, furniture, rubber, plastic, yard trimmings, brush, and leaves. Noncombustible waste materials include, but are not limited to, glass, crockery, tin, aluminum, metal, furniture, and other materials that will not burn.

(Ord. No. 95-20, § 2(A—G), 12-11-1995; Ord. No. 2002-14, § 1, 10-14-2002)

Cross reference—Definitions generally, § 1-2.

Sec. 30-52. Acts declared nuisances.

The following specific acts, places, conditions, and things are hereby declared to be a nuisance within the corporate limits of the city or outside the limits of the city for a distance of 5,000 feet:

(1) Any attractive nuisance on any premises, which may prove detrimental to children, whether in a building or structure or unoccupied lot, plot, or parcel of land. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators, motor vehicles or other junk; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.

(2) Placing on or allowing to be placed upon, accumulated or remain on public or private property, any garbage, litter, junk, rubbish, or any unsightly condition as determined by an authorized city official as designated by the city manager or city council.

(3) Accumulation of manure, rubbish, or garbage which are breeding places for flies, mosquitoes, or vermin.

(4) The keeping of any premises on which there is located a pool of unwholesome, impure, stagnated or offensive water.

(Ord. No. 95-20, § 3, 12-11-1995; Ord. No. 2002-14, §§ 2, 3, 10-14-2002)

Sec. 30-53. Penalty for violations.

Any person who shall knowingly cause or create any public nuisance, or permit any public nuisance to be created or to be placed upon or to remain upon any premises owned or occupied by him shall, upon conviction thereof, be punished by being subject to a fine of $150.00 and each and every day's violation shall constitute a separate and distinct offense.

(Ord. No. 95-20, § 4, 12-11-1995)

Sec. 30-54. Permitting public nuisance prohibited.

It shall be unlawful for any person who shall knowingly cause or create any public nuisance, or permit any public nuisance to be created or to be placed upon or to remain upon any premises owned or occupied by him.
(Ord. No. 95-20, § 1, 12-11-1995)

Sec. 30-55. Maintaining mosquito breeding places.

It shall be unlawful to have, keep, maintain, cause or permit within the corporate limits of 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 to effectively prevent such breeding.
(Code 1978, § 12-11)

Sec. 30-56. Notice; abatement of nuisance; assessment of costs.

(a) If any owner of any premises within the corporate limits of the city or outside the limits of the city for a distance of 5,000 feet does not abate a public nuisance on that person's premises within seven days after notice personally to such owner, in writing, or by letter addressed to such owner at the address as recorded in the appraisal district records, or within seven days after notice by publication once in any newspaper in the city, the city may abate such nuisance in the notice or cause the abatement of the nuisance to be done and may pay therefor, and charge the expenses incurred in doing such work or having such work done or improvements made to the owner of the premises; and if such work is done and improvements made at the expense of the city, then such expenses shall be assessed to the premises upon which such expense was incurred.

(b) If personal services cannot be obtained, the notice may be by publication, posting on or near the front door of each building in violation or posting on a placard attached to a stake driven into the ground on the property.
(Ord. No. 95-20, § 5, 12-11-1995)

State law reference—Similar provisions, V.T.C.A., Health and Safety Code § 342.006.

Sec. 30-57. Liens.

The city shall file a statement of the expenses incurred under this division, as the case may be, giving the amount of such expense, the date on which such work was done or improvements made with the county clerk and the city shall have a privileged lien on such premises upon which such work was done or improvements made to secure the expenditures so made, which lien shall be second only to tax liens; and such amount shall bear ten percent interest from the date such statement was filed. It is further provided that for any such expenditures and interest, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the city and the statement of expenses so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.
(Ord. No. 95-20, § 6, 12-11-1995)

Secs. 30-58—30-80. Reserved.

DIVISION 3. PUBLIC PROPERTY

Sec. 30-81. 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:

Authorized receptacle means a litter storage receptacle approved of and authorized for containment of litter, rubbish, garbage, junk, refuse, trash and construction materials.

City street or right-of-way means the entire width between the property road lines of a road, street, right-of-way, thoroughfare, bridge or park located in the city.

Construction materials means all waste, refuse, concrete, rock/brick or earthen materials resulting from construction or demolition projects.

Garbage means all waste capable of decay from public and private establishments and restaurants, including vegetable, animal and fish offal and animal carcasses.

Junk means all worn out, worthless and discarded materials to include odds and ends, iron or other metal, glass and cordage.

Litter means garbage, refuse, junk, construction material, and rubbish and all other waste material, which if thrown or deposited as prohibited in this division, tends to create a danger to public health, safety and welfare.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Public place means any and all streets, sidewalks, boulevards, alleys or other public ways; also included are all public parks, squares, spaces, grounds or buildings.

Refuse means any garbage, rubbish, paper or other waste, both capable and incapable of decay. This includes vegetable matter and animal and fish carcasses.

Rubbish means all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances.

(Ord. No. 98-6, § 2, 5-26-1998)

Cross reference—Definitions generally, § 1-2.

Sec. 30-82. Placement of garbage, refuse, rubbish and other materials on city property prohibited.

It shall be unlawful for any person to place litter, rubbish, garbage, junk, refuse, trash and construction materials on city property other than those areas maintained for such purposes.
(Ord. No. 98-6, § 1, 5-26-1998)

Cross reference—Solid waste, ch. 74.

Sec. 30-83. Littering prohibited.

No person shall throw or deposit litter in or upon any public place within the city except in public receptacles or in other authorized receptacles for collection or at the city resource recovery facility.
(Ord. No. 98-6, § 3, 5-26-1998)

Cross reference—Solid waste, ch. 74.

Sec. 30-84. Sweeping litter and waste into gutters, streets, etc., prohibited; exception.

No person shall sweep into any gutter, on any curb, street or other public place within the city, the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. No person shall, without express permission of the city, store, dump or dispose of any litter, construction materials or other solid waste in or on any public place. Express permission is given by the city to anyone for the placement of any litter, construction material or other solid waste in or on a public place adjacent to that persons property that he owns or occupies if the litter, construction material or any other solid waste is placed there not more than 72 hours before arrangements have been made to have it collected, removed and disposed of.
(Ord. No. 98-6, § 4, 5-26-1998)

Cross references—Solid waste, ch. 74; streets, sidewalks and other public places, ch. 78.

Sec. 30-85. Storage of waste on public property prohibited.

A person commits an offense if that person, without prior permission of the city, stores, dumps or disposes of junk, garbage, rubbish, refuse or other solid waste on a city road, street, right-of-way, thoroughfare, bridge or park.
(Ord. No. 98-6, § 5, 5-26-1998)

Secs. 30-86—30-120. Reserved.

ARTICLE III. GRASS, WEEDS AND WILD GROWTH*

Sec. 30-121. Conditions declared public nuisances.

It shall be unlawful and declared to be a public nuisance for any person to allow grass, weeds or brush to grow or flourish without having the grass, weeds or brush cut to a height not greater than 18 inches from the ground on any lot, block or tract of land within the corporate city limits of the city when the following conditions are met:

(1) Property within a 100-foot radius of any school property.

(2) Property within ten feet of any developed street rights-of-way where such growth could tend to obstruct the view of oncoming traffic as determined by the city manager or his designee.

(3) Property within 100 feet of any occupied or utilized residence or commercial structure or property within 15 feet of any property that has any occupied or utilized residence or commercial structure if owner of the affected property could be negatively impacted by such overgrowth.

(Ord. No. 98-9, § 1, 5-26-1998; Ord. No. 2003-13, § 1, 9-22-2003)

Sec. 30-122. 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:

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Property means any portion or part of a parcel or tract of land. Example of use of definition: when property is a large tract that is overgrown, only the area of the property that is within 100 feet of a house is subject to enforcement.

Weeds means any brush, grass, vegetation, weeds or any plant that is not regularly cultivated, that exceeds a height of 18 inches. Any plant that is not regularly cultivated which exceeds 18 inches in height shall be presumed to be objectionable, unsanitary, and unsightly. (Ord. No. 98-9, § 2, 5-26-1998)

Cross reference—Definitions generally, § 1-2.

Sec. 30-123. Excessive weed and brush growth prohibited.

(a) Any person who owns or occupies property and allows weeds, brush, grass or vegetation to reach or exceed 18 inches on the property within the corporate limits of the city when the conditions in section 30-121 are met is found to be in violation of this article.

***State law reference**—Nuisance abatement, V.T.C.A., Health and Safety Code § 342.001 et seq.

(b) If service cannot be achieved by certified mail or personal delivery, the letter of citation shall be placed in the official newspaper of Center, Texas. Said notice shall state, also, that, "This is an official summons, and the owner of sited property is ordered to appear before the municipal judge within ten calendar days of publication of this notice."

(c) Upon the tenth calendar day after publication the municipal judge shall order the property cut to comply with city ordinance.
(Ord. No. 98-9, § 3, 5-26-1998; Ord. No. 2003-13, § 3, 9-22-2003)

Sec. 30-124. Notice of violation; liability for expenses.

(a) Any person found in violation of this article and does not abate the offenses within ten days written notice by the city is liable for any and all expenses incurred for the mowing, shredding and/or removal of the offensive growth.

(b) Notice shall be as provided in section 30-125.

(c) A citation for violation shall be issued to the owner of record of the offending property, in conformance with V.T.C.A., Local Government Code § 54.005. The citation must be delivered in person or by certified mail, return receipt requested.
(Ord. No. 98-9, § 4, 5-26-1998; Ord. No. 2003-13, §§ 2, 4, 9-22-2003)

State law reference—Similar provisions, V.T.C.A., Health and Safety Code § 342.006.

Sec. 30-125. Statement of expenses; lien.

The city shall file a statement of such expenses incurred under this article, as the case may be, giving the amount of such expenses, the date on which such work was done with the county clerk. The city shall have a privileged lien on such premises upon which the work was done to secure the expenditures so made, which lien shall be second only to tax liens and such amount shall bear ten percent interest from the date the statement was filed. It is further provided that for any such expenditures and interest, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the city. The statement of such expenses or a certified copy of such statement shall be prima facie proof of the amount expended for such work.
(Ord. No. 98-9, § 5, 5-26-1998)

State law reference—Similar provisions, V.T.C.A., Health and Safety Code § 342.007.

Secs. 30-126—30-150. Reserved.

ARTICLE IV. JUNKED AND ABANDONED VEHICLES*

DIVISION 1. GENERALLY

Sec. 30-151. Adoption of state law.

The city adopts the provisions of V.T.C.A., Transportation Code § 683.001 et seq. (Ord. No. 2000-14, § 1, 12-11-2000)

Sec. 30-152. 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:

Abandoned vehicle means a motor vehicle that is inoperable and more than five years old and left unattended on public property for more than 48 consecutive hours, or a motor vehicle that has remained illegally on private property without the consent of the land owner for more than 48 consecutive hours, or a motor vehicle left unattended on the right-of-way of a designated city, county, or state highway for any period of time.

Demolisher means any person whose business is to convert motor vehicles into processed scrap or scrap metal, or to otherwise wreck or dismantle motor vehicles.

Junked vehicle means a vehicle that is self-propelled and:

(1) Does not have lawfully attached to it:

a. An unexpired license plate; or

b. A valid motor vehicle inspection certificate; and

(2) Is:

a. Wrecked, dismantled or partially dismantled, or discarded; or

b. Inoperable and has remained inoperable for more than:

1. Seventy-two consecutive hours, if the vehicle is on public property; or

2. Thirty consecutive days, if the vehicle is on private property.

Motor vehicle means any motored vehicle subject to registration pursuant to the state certificate of title act V.T.C.A., Transportation Code § 523.001 et seq., including outboard motors and motorboats and trailers.

***Cross reference**—Traffic and vehicles, ch. 86.

State law references—Control of junkyards and automobile graveyards, V.T.C.A., Transportation Code § 683.001 et seq.; junked and abandoned vehicles, V.T.C.A., Transportation Code § 683.001 et seq.; certificate of title, junked motor vehicles, V.T.C.A., Transportation Code § 501.001; license plates and certificate of title, disposition, V.T.C.A., Transportation Code § 683.071 et seq.

Police department means the police department of the city.
(Ord. No. 2000-14, § 2, 12-11-2000)

Cross reference—Definitions generally, § 1-2.

Secs. 30-153—30-170. Reserved.

DIVISION 2. JUNKED VEHICLES*

Sec. 30-171. Declaration of public nuisance.

Junked vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city and state, by producing urban blight which is adverse to the maintenance and continuing development of the city, and such vehicles are, therefore declared a public nuisance.
(Ord. No. 2000-14, § 3, 12-11-2000)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.072.

*__State law reference__—Junked vehicles, V.T.C.A., Transportation Code § 683.073 et seq.

Sec. 30-172. Junked vehicles prohibited.

It shall be unlawful for any individual, company, or corporation to leave or permit to remain upon public rights-of-way or public or private property, except as provided in this division, within the city, any junked vehicle or parts or portions thereof, for any period of time in excess of ten days.
(Ord. No. 2000-14, § 4, 12-11-2000)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.073.

Sec. 30-173. Notice to remove junked vehicle.

Whenever it is brought to the attention of the chief of police or his authorized representative, that a nuisance, in the form of a junked vehicle, as defined in this article, exists in the city, the chief of police shall give or cause to be given to the registered owner of the vehicle and each lienholder of record and to the owner or occupant of private premises, or to the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way whereupon such public nuisance exists, in writing, a ten-day notice, giving recognizable identity of the junked vehicle, stating the nature of the public nuisance, and that it must be removed and abated within a ten-calendar-day period after a notice is personally delivered or mailed, and further that a request for a hearing must be made before the expiration of such ten-day period. The notice shall be mailed, by certified mail with a five-day return requested, to the owner or occupant of the premises where upon the public nuisance exists and to the registered owner of such junked vehicle, if it can be determined. If the notice is returned undelivered by the United States Postal Service, official action to abate such nuisance shall be continued to a date not less than ten days from the date of such return. Notice shall be posted in a local newspaper of general circulation, stating the information required by notice provided for in this section.
(Ord. No. 2000-14, § 5A, 12-11-2000)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.075.

Sec. 30-174. Public hearing.

A public hearing shall be held prior to the removal of the vehicle or part thereof as a public nuisance. The public hearing shall be held before the municipal judge of the city, when such hearing is requested by the owner or occupant of the premises on which such vehicle is located, within ten days after service of notice to abate the nuisance. Any resolution or order requiring the removal of the vehicle or part thereof shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site.
(Ord. No. 2000-14, § 5B, 12-11-2000)

Sec. 30-175. Order for removal of junked vehicle.

After the hearing is held by the judge of the municipal court of the city, if the judge finds that such a nuisance exists, he shall order the owner or occupant of the premises on which such vehicle is located to remove such junked vehicle within ten calendar days after such order is

given to such owner or occupant of the premises on which such vehicle is located. If the judge determines that no nuisance exists, the vehicle shall be returned to the owner, as soon as is practical.
(Ord. No. 2000-14, § 6A, 12-11-2000)

Sec. 30-176. Refusal to comply with order.

It shall be unlawful and a violation of this article for any person to whom such order is given to fail or refuse to comply within the time provided by such order.
(Ord. No. 2000-14, § 6B, 12-11-2000)

Sec. 30-177. Compliance required when hearing not requested.

In the event the owner or occupant of the premises does not request a hearing, it shall be his duty to comply with the provisions of the notice given him and to abate such nuisance within ten calendar days after the date of the receipt of such notice, or shall be considered in contempt of municipal court.
(Ord. No. 2000-14, § 7, 12-11-2000)

Sec. 30-178. Removed vehicles not to be reconstructed or made operable.

After a vehicle has been removed in accordance with or under the terms and provisions of this article, it shall not be reconstructed or made operable.
(Ord. No. 2000-14, § 8, 12-11-2000)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.074.

Sec. 30-179. Notice to state department of transportation.

Notice shall be given to the state department of transportation within five work days after the date of removal, identifying the vehicle or part/parts thereof, and using the forms specified by state department of transportation.
(Ord. No. 2000-14, § 9, 12-11-2000)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.076.

Sec. 30-180. Exceptions.

This article shall not apply to:

(1) Vehicles or parts of vehicles completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

(2) Vehicles or parts of vehicles which are stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or

(3) Unlicensed, operable or inoperable, antique and special-interest vehicles stored by a collector on his property, provided that the vehicles and the outdoor storage areas are

maintained in such a manner 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 appropriate means.

(Ord. No. 2000-14, § 10, 12-11-2000)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.072.

Sec. 30-181. Administration and enforcement personnel.

The administration of this article shall be by regularly salaried, full-time employees of the city, except that the removal of vehicles or parts thereof from property may be by any person duly authorized by the chief of police, or his designated representative. A regularly salaried employee of the city that has been appointed by the city manager or a police officer may enter upon private property for the purposes of fulfilling the requirements of this article.

(Ord. No. 2000-14, § 11, 12-11-2000)

Cross reference—Administration, ch. 2.

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.074.

Sec. 30-182. Removal of vehicle by city; transfer to demolisher or scrapyard.

After ten calendar days past the date notice has been delivered to the owner or occupant of the premises on which the junked vehicle is located, if a hearing is not requested, or if a hearing is requested, within ten calendar days after an order requiring the removal of such junked vehicle has been served upon or delivered to the owner or occupant of the premises on which such vehicle is located, the chief of police or his designated representative, acting under the direction of the chief of police, may, if such nuisance has not been abated, remove, or cause to be removed the vehicle which was the subject of such notice to a professional demolisher, scrapyard, or other suitable site, as designated by the city manager. A form acceptable to the state department of transportation will be used to convey ownership to the demolisher that receives the vehicle. Copies of this form shall be furnished to the state department of transportation within five days of the transfer to the demolisher, and the demolisher shall be instructed to keep a copy of the form as a permanent record.

(Ord. No. 2000-14, § 12, 12-11-2000)

Sec. 30-183. Payment of removal costs from proceeds of sale.

Out of the proceeds of the sale, the chief of police shall pay for the cost of removal and storage, and the balance, if any, shall be paid to the person entitled thereto, as owner of the junked vehicle.

(Ord. No. 2000-14, § 13, 12-11-2000)

Secs. 30-184—30-200. Reserved.

DIVISION 3. ABANDONED VEHICLES

Sec. 30-201. Custody of abandoned motor vehicles; notice.

The city police department or a regularly salaried employee designated by the city manager may take into custody an abandoned vehicle found on public or private property. Such custody

may be performed by city employees or by a person hired for such purposes, by the city. The city shall notify the owner and any lienholders of such vehicle, within ten days of taking custody of such vehicle, by certified mail, describing the year, make, model and VIN of the abandoned vehicle, if available, give location where vehicle may be retrieved, and informing them that they may reclaim the vehicle within 20 days, by paying towing, storage, preservation, and any other expenses incurred by those involved in impounding the vehicle, which have been approved by the city manager. The notice shall also state that failure to exercise their right to reclaim the vehicle, within the specified time, shall constitute a waiver by the owner or lienholder of all right, title, and interest in the vehicle, and their consent to the sale of the abandoned motor vehicle at public auction.

(Code 1978, § 12-23; Ord. No. 2000-14, § 14A, 12-11-2000)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.012.

Sec. 30-202. Publication of notice.

If it is impossible to determine ownership or who holds lien on the vehicle, or if no address is available, or if the certified letter is returned undeliverable, notice by publication in one newspaper of general circulation in the city shall be sufficient notice, and shall contain the same information that would have been in the certified letter.

(Ord. No. 2000-14, § 14B, 12-11-2000)

Sec. 30-203. Reimbursement for storage fees.

The city, or whomever takes custody of the abandoned vehicle, shall be entitled to reimbursement for reasonable storage fees for the storage, payable by the owner/lienholder before release of the vehicle to the owner/lienholder.

(Ord. No. 2000-14, § 15, 12-11-2000)

Sec. 30-204. Use of vehicle by police department; auction sales; disposition of proceeds.

If an abandoned vehicle has not been reclaimed as provided by section 30-203, within 20 days, the police department of the city may use that vehicle for police department purposes. When such use is discontinued, the vehicle shall be sold at public auction. Notice shall be given in a newspaper of general circulation in the city, prior to the public auction. The purchaser shall receive the title free and clear of all liens, shall receive a sales receipt from the police department and may receive a certificate of title. Proceeds from the auction shall be used to perpetuate the abandoned vehicle program. Amounts in excess of $1,000.00 shall be placed in the general revenue account of the city.

(Ord. No. 2000-14, § 16, 12-11-2000)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.016.

Secs. 30-205—30-230. Reserved.

ARTICLE V. SMOKING IN PUBLIC BUILDINGS*

Sec. 30-231. Locations where smoking is prohibited.

The smoking, inhaling, burning or carrying of any lighted cigar, cigarette, weed, or other plant in any manner or in any form is prohibited in the following:

(1) All public buildings owned by the city not occupied by city employees.

(2) All public buildings owned by the city that are occupied by city employees except the city police facility.

(3) The fire station located at 110 Patton Street owned by the city volunteer fire department and occupied by paid firefighters, but only in the portions of the building occupied by the paid city firefighters (being the bedroom and dayroom), but not in the portion of the building not occupied by paid city firefighters (being the volunteer fire department meeting room, offices and trophy room).

(4) The city police facility including the city jail, in all areas of all police department buildings except within cells in the city jail that are designated by the chief of police as smoking areas for prisoners. In those cells, prisoners only will be allowed to smoke as part of the police department's rules of operation. Nonsmoking cells will also be designated by the chief of police for the incarceration of prisoners who do not smoke. If circumstances require that prisoners who smoke are placed within the same cell with prisoners who do not smoke, then smoking is hereby prohibited within that cell.

(Ord. No. 94-25, § 1, 8-8-1994)

Sec. 30-232. Posting of signs.

"No Smoking" signs and/or symbols shall be clearly and conspicuously posted in each such building or portion thereof where smoking is prohibited by this article.
(Ord. No. 94-25, § 2, 8-8-1994)

Sec. 30-233. Penalty for violation.

Any person who violates any provision of this article shall be guilty of an infraction punishable by a fine not exceeding $100.00 for each violation.
(Ord. No. 94-25, § 3, 8-8-1994)

Secs. 30-234—30-250. Reserved.

ARTICLE VI. GAS/OIL WELLS

Sec. 30-251. Unlawful to drill or operate without permit.

It shall be unlawful and an offense for any person acting for himself or acting as an agent, employee, independent contractor, or servant of any other person, to commence to drill or to

*Cross reference—Buildings and building regulations, ch. 22.

operate any well to be drilled within the city limits; or to work upon or to assist in any way in the operation of any such well, without a permit for the drilling and operation of any such well, without a permit for the drilling and operation of such well having been first issued by the building inspector in accordance with the terms and provisions of this article. A drilling permit shall be required for all wells to be drilled within the confines of the city limits of Center, Texas. Any wells existing at the time of passage of the ordinance from which this article is derived are exempt only as to the filing of the application and the payment of the filing fees; all other provisions of this article fully apply to all wells drilled or existing within the city limits. An application and fee shall be required for reworking operations.
(Ord. No. 2008-6, § 1, 8-25-2008)

Sec. 30-252. Application for permit—Contents, fee, agreement.

(a) Every application for a permit to drill and operate a well upon a drilling unit shall be in writing signed by the applicant or some person duly authorized to sign same on his or its behalf, and it shall be filed with the city secretary and contain the following:

(1) The date of the application;

(2) Name of the applicant and well;

(3) Address of the applicant;

(4) Proposed site of the well, accompanied by a plat of the drilling unit showing the description of the lots, blocks or tracts owned or leased by the applicant;

(5) Name of the fee owner or owners of surface estate;

(6) Name of the lease owner or owners, if different from applicant;

(7) Brief description of the land;

(8) A certified or photostatic copy of the deed, oil and gas lease or drilling contract, with the owners of the mineral estate on the lot or block or tract in said drilling unit on which the well site is located;

(9) Copy of the applicant's application to the railroad commission of the state for said well;

(10) Designation of proposed streets to be used for egress and ingress to drilling site, on a city map;

(11) An agreement that all streets and utilities belonging to the city shall be restored to the same condition after the said use by the applicant as before the said use. The street superintendent and a representative of the applicant shall meet prior to the commencement of construction to view the proposed streets.

(b) The fee for permit required by this article shall be the sum of $250.00 and shall accompany said application, and said fee is nonrefundable.

(c) The permit shall terminate on the expiration of six months from the date of issuance of permit. An extension may be granted upon good cause shown by the applicant. A permit to drill or a permit to rework shall terminate on the expiration of six months from the date of issuance

of the permit, unless the well drilled or reworked pursuant to such permit is completed or recompleted as a commercial producer of oil and/or gas. Upon the completion or recompletion of a well as a commercial producer of oil and/or gas, the permit to drill or the permit to rework shall become a permit to operate said well, subject to the provisions of this article. For good cause shown by the applicant, a permit to drill or a permit to rework a well may be extended for a successive period, or periods, of six months each.
(Ord. No. 2008-6, § 2, 8-25-2008)

Sec. 30-253. Definitions.

[For purposes of this article, the following definitions shall be used:]

Applicant means any person who applies for a permit under the provisions of this article.

Commercial salt disposal well means a hole or other holding cavity, drilled into the ground, for the disposal or storage of by-products of the drilling operation, including but not limited to salt water, and is available to any person or company that uses the facility for a fee.

Extraterritorial jurisdiction (ETJ) means that that area of land which immediately surrounds the city limits of Center, Texas for a distance of one mile, 5,280 feet, from said city limits, for which the city has legal authority to enforce all city ordinances existing, for the city, within said area.

Noncommercial salt water disposal well means a hole or other cavity, drilled in the ground, for the disposal or storage of by-products of the drilling operation, including but not limited to salt water, and is placed for the exclusive use of the drilling company and for the specific lease unit upon which it is placed.

Operator includes every person, and the agents, servants, and employees of such person, engaged in operations for the drilling, reworking, redrilling, well servicing, or plugging and abandonment of any well subject to this article and the production or transportation of any product therefrom.

Person includes any natural person, persons, or groups of persons, whether acting individually, in concert, or in a representative capacity, in any partnership, private or public corporation, trust, estate, agency, trustee, executor, administrator, agent, or legal entity.

Well means any hole, excavation or bore downward from the surface, intended to extend into the subsurface, made by any means or manner, for the purpose of exploring for, discovering, producing, or injecting hydrocarbons, water or other minerals, and which has not been officially plugged and abandoned. This term does not include a water well drilled to furnish fresh water.
(Ord. No. 2008-6, § 3, 8-25-2008)

Sec. 30-254. Distance requirements.

No well shall be drilled and no permit shall be issued for any well to be drilled at any location which is nearer than 300 feet to any residence, building open to the public, hospital,

park, cemetery, or school. This distance is to be measured from the actual drill hole location. All existing permitted drill sites or well locations are exempt from the distance ordinance requirements, and additional wells may be drilled on or from said sites or a location after a drilling permit is issued, in the event any residences, buildings open to the public, hospitals, parks, cemeteries or schools are erected or expanded after the adoption of this article closer than 300 feet to any existing well, any future well drilled from that site shall be exempt.

(1) All engines used in the applicant's operations for drilling and preparation for drilling shall be properly muffled, and all power for all operations after the completion of drilling shall be electric or properly muffled gas or gasoline engines.

(2) The applicant or producer shall have the obligation to enclose such well after drilling and well completion operations have ceased, together with surface facilities, by a substantial wire fence, sufficiently high and properly built (at least six feet high), so as to ordinarily keep persons and animals out of said enclosure, with all gates thereto to be kept locked when the applicant or his employees are not within the enclosure, except for temporary periods for well servicing and well testing operations.

(3) No person engaged in drilling or operation any wells shall permit gas to escape or to be vented or flared into the air within the city limits, except for purposes of drilling tests, well cleanup, well testing and in the operation of pressure-relief type safety devices, and for the purpose of depressurizing lines and vessels. The fire department and police department shall be given notice by applicant of any such venting or flaring prior to commencement.

(4) All surface areas utilized by operator for production of oil, gas, or liquid hydrocarbons shall be clear of high weeds, grass, combustible trash or other rubbish and debris that would, if allowed to accumulate, result in a fire hazard.

(5) No streets or alleys shall be blocked or obstructed by any drilling or producing operations unless prior consent is obtained by the operator, in the form of a resolution adopter by the city council, except when necessary to protect life and property in connection with emergency operations.

(6) All roads constructed by the applicant to the well shall be of all-weather construction.

(7) In the event an emergency arises in the course of conducting the drilling or production operation, which in the good faith of applicant constitutes a serious hazard to life or property, applicant may undertake such emergency action which applicant deems necessary under the circumstances; however, the fire department and police department of the city shall be immediately notified of such emergency. In the case of such emergency, the building inspector shall be immediately notified and a written report shall be made to the city manager by the applicant of such emergency. Such operation, if an emergency, shall not be considered as a violation of this article. This section shall not be used as a defense in failing to file for a permit.

(8) In the event the building inspector does not grant a permit, and the applicant desires to appeal to the city council; or the applicant desires a variance from the requirements of this article, the applicant shall comply with the following procedures:

a. A copy of the application, and a copy of the building inspector's denial shall be forwarded to the city attorney for a hearing to be scheduled by the city council at the next regularly scheduled meeting;

b. Any applicant may file for a hearing with the city council to request a variance from this article by requesting such in its application and setting forth in detail the reasons for such a variance. The request for a variance shall be heard by the city council at the next regularly scheduled meeting.

(9) The issuance of a permit and the acceptance by the applicant shall bind and obligate the applicant, for so long as any drilling, producing, processing, transport, handling, treating, or other operations are being conducted on or with reference to any well or other facility, as follows:

a. To maintain in force and effect policies of public liability and property damage insurance;

b. To indemnify the city against, and to promptly pay the city, for all the property damage of every kind and nature caused to property owned by the city that may arise because of willful or negligent act of permittee or failure of permittee to comply with the provisions of this article;

c. To fully comply with the terms and requirements of this article and all other applicable ordinances of the city, as any of the same may be amended from time to time, and to fully comply with all applicable requirements of federal and state laws and of all federal and state regulatory bodies having jurisdiction.

(10) Any person who shall do or perform an unlawful act of commit an offense as specified herein shall be guilty of a misdemeanor and shall, on conviction thereof, be fined in any sum not less than $100.00 or more than $2,000.00; violation of each provision, rule or requirement shall be considered a separate offense, and each day's violation of such separate provision, rule, or requirement shall be considered a separate offense.

(Ord. No. 2008-6, § 4, 8-25-2008)

Sec. 30-255. Noncommercial saltwater disposal well for lease use only.

A city permit for a noncommercial saltwater disposal well for lease use only, as identified on the railroad commission for W-14, may be issued if:

(1) The saltwater disposal well is located in a zoning district of agricultural or manufacturing district, or in the city's extraterritorial jurisdiction, but in each case must remain not less than 500 feet from other zoning districts, and shall comply with the setback requirements specified in section 30-254, for oil and/or gas wells; and

(2) All permit and notifications requirements to obtain a state permit are reviewed by proper authority of the city prior to obtaining the state permit; and

(3) A state permit is obtained from the commission to dispose of nonhazardous oil and gas waste by injection into a porous formation not productive of oil and gas; and

(4) The saltwater disposal well is cased and cemented to the surface; and

(5) The saltwater disposal well is in compliance with all conditions of the state permit; and

(6) The saltwater disposal well is in compliance with any restrictions placed on the city permit. The city shall have the right to terminate the saltwater disposal permit and require the well to be plugged and abandoned within 30 days after notification of noncompliance.

(Ord. No. 2008-6, § 5, 8-25-2008; Ord. No. 2009-18, §§ 1, 2, 11-9-2009)

Sec. 30-256. Revocation.

In addition to the foregoing penalties, it is further provided that the city council, at any regular or special meeting thereof, may revoke any permit issued hereunder in the event the applicant has intentionally or repeatedly done or performed unlawful acts or committed an offense as specified herein; provided, that written notice be given to the applicant of said meeting.

(Ord. No. 2008-6, § 6, 8-25-2008)

Sec. 30-257. Interpretation of article.

Neither this article nor any permit issued hereunder shall be interpreted as granting any right or license to the applicant, to enter upon or use any land in the city, where none exists, nor shall this article be construed as attempting to arbitrate rights between leasees of mineral estate and surface rights.

(Ord. No. 2008-6, § 7, 8-25-2008)

Sec. 30-258. Conflict.

All definitions, terms, permit requirements and other regulations of this article are in full force and effect except as conflict with the following:

Commercial salt water disposal wells:

(1) All commercial salt water disposal wells within the city limits or the ETJ of the city shall be required to obtain a permit from the city prior to any operations or filing application for a permit with the railroad commission of the state.

(2) A city permit for a commercial saltwater disposal well, as identified on the railroad commission for W-14, may be issued conditional to the verification and maintenance of all requirements stated herein.

(3) The application for permit shall require the same application, filing fee and information as required for all other permits issued under authority of this article.

(4) The City shall be included as a party to all permit and notification requirements to obtain a disposal well permit and are reviewed by a proper authority of the city prior to obtaining the permit from the railroad commission.

(5) The saltwater disposal well shall be located in an agricultural or manufacturing zoning district, or in the city's extraterritorial jurisdiction (ETJ).

(6) The saltwater disposal well shall comply with all regulations for noncommercial salt water disposal wells as adopted in this article and shall additionally comply with the following requirements:

a. Ingress/egress from any public road shall require installation and maintenance of a concrete driveway or road on at least the first 100 feet of access onto the property or all traveling areas within 100 feet of the public roadway. This includes service areas and parking of any kind within 100 feet of frontage.

b. The well head point shall not be closer than 300 feet from the nearest public roadway.

c. All access drives or roads from the public roadway to the well site shall be hard surfaced with no intended traffic to occur across any gravel or dirt surfaces.

d. No traffic, travel, parking or other transportation of any vehicles, material or any other equipment shall be on, across or over areas not surfaced with concrete at the well site.

e. All lighting at the well site or adjoining drives shall be directional to ensure no detrimental impact any adjoining property.

f. All adjoining property, other than those zoned Ag or M-1, shall require the installation by the well permit applicant of a minimum six-foot wood privacy fence, or a similar or better material approved and agreed by the adjoining property owner.

g. A property buffer or setback shall be required with all adjoining properties along the perimeter of the entire tract, not just the permitted well site as follows:

1. Adjoining properties zoned Ag or M-1, shall require a minimum buffer of 15 feet along the entire adjoining property line; or

2. All other adjoining property, whether developed or not shall require a buffer of no less than 30 feet along the entire adjoining property line.

These buffers shall not be used by the permittee except to maintain undergrowth, trees or natural vegetation and required adjoining fencing. The buffers are intended to be planted with trees to provide additional sound reductions from the well site operation.

h. If the well site is nearer than 1,000 feet, but under no circumstances within less than 500 feet, from any commercial or residential zoned property than the following additional requirements shall apply:

1. All surfaces for routine traffic within, on and immediately around the permitted well site shall be concrete.

2. The well site shall be enclosed with a minimum seven-foot tall, 1.5-inch thick sound dampening barrier fence, with the lone exception of the drive entrance not wider than 35 feet on all sides of the well site facing the residential or commercial zoned properties.
3. Any drive or access from a public road to the well site, shall be sided with a minimum six-foot privacy fence at any and all points along this drive in the direction of the commercial or residential zoned properties.
4. Parking or idling areas shall be treated and requirements be the same as for driveways and the well site for barriers, buffers and required surfacing.

(7) Failure to install or maintain compliance with all these and other requirements for permit issuance shall result in immediate revocation of the city's permit and fines for violations of health and safety laws of the city as defined within this Code.

(8) The saltwater disposal well shall comply with the requirements specified in section 30-254 and shall further comply with the following additional requirements:

(9) The saltwater disposal well is in compliance with any additional restrictions placed on the city permit. The city shall have the right to terminate the saltwater disposal permit and require the well to be cease operations and additional be plugged and abandoned within 30 days after notification of noncompliance;

(10) Under no circumstances shall the permitted well site as measured from the well head be within 500 feet of a currently developed property used for commercial or residential purposes.

(Ord. No. 2009-18, §3, 11-9-2009)

Secs. 30-259—30-270. Reserved.

ARTICLE VII. STORMWATER DRAINAGE*

Sec. 30-271. Applicability.

These regulations shall apply to any properties within the city limits of the City of Center, Texas, and to subdivisions of property as defined in V.T.C.A., Local Government Code ch. 212. Where laws or regulations of the federal government or the state impose more stringent requirements than those herein, the more stringent requirements shall apply.
(Ord. No. 2009-20, § 2(Exh. A), 11-23-2009)

Sec. 30-272. Drainage control during construction.

(a) *Applicability.* All sites, properties or locations within the incorporated city limits of the City of Center. The permit for site work shall be included in the building permit and such application for building permit shall include a site plan inclusive of a site grading plan, site drainage plan and stormwater discharge calculations.

*__Cross references__—Floods, ch. 34; streets, sidewalks, and other public places, ch. 78.

(b) *NPDES general permit requirements.* Construction contractors and/or the property owner are responsible for meeting the requirements of the U.S. Environmental Protection Agency (EPA), Texas Commission on Environmental Quality (TCEQ) and any other regulations applicable to the specific site on which construction is occurring.

(c) *Basic construction standards.* All construction sites shall require silt fencing or other silt control to prevent erosion onto adjoining properties, drainage structures or stormwater channels.
(Ord. No. 2009-20, § 2(Exh. A), 11-23-2009)

Sec. 30-273. Development standards for drainage control.

(a) All nonresidential construction within the city meeting either of the following categories shall be required to comply with these requirements for post-construction control of the site's stormwater discharge under this section.

(1) Sites of three acres or more regardless of percent of impervious coverage.

(2) Sites of one acre but less than three acres with greater than 85 percent impervious coverage of the site or the immediate point of discharge from the site.

For purposes herein, "impervious coverage" shall mean any non-dirt or natural ground surface material that prevents natural absorption of water and include but not be limited to all building materials, concrete, asphalt and gravel.

(b) Discharge control.

(1) *Drainage calculations.* Both pre-development and proposed post-development discharge rates shall be calculated for the 25-year storm event for the specific site prior to any site clearing, grading or the issuance of a building permit.

(2) *Design storm.* The design storm used to determine discharge rates and detention volume necessary to obtain the required discharge rate shall be a storm with a statistical probability of occurrence of one in 25 in any given year. If the project is within an environmentally critical area, including any designated floodplain or discharging directly into a designated floodplain, the design storm may be adjusted to require discharge rates and detention based on the 100-year storm event at the discretion of the floodplain administrator.

(3) *Discharge point.* The discharge point for drainage water from each site shall be determined based upon the preservation of natural drainage patterns, restricting obstructions to natural water courses and whether the capacity of existing drainage channels is adequate for the additional volume.

(4) *Discharge rate.* To the extent practical, the peak drainage water discharge rate from pervious and impervious surfaces on the site shall not exceed 0.2 cubic feet per second per acre under design storm conditions or three percent increase in the discharge rate from pre-development conditions, whichever is less.

(5) *Control measures.* During new development, redevelopment and land-disturbing activities, best management practices shall be used to accomplish the following:

a. Control erosion and the transport of sediment from the site through measures such as mulching, matting, covering, silt fences, sediment traps and catch basins, settling ponds and protective berms;

b. Permanently stabilize exposed soils that are not being actively worked, through such methods as the installation of permanent vegetative cover and installation of slope protective materials; and

c. Control the introduction of contaminants and pollutants into, and reduce and treat contaminants in drainage water, drainage control facilities, surface water and groundwater, and public drainage systems by methods such as covering of material stockpiles; proper disposal of hazardous materials; regular cleaning of catch basins, gravel truck loading and heavy equipment areas; spill control for fueling operations; sweeping; and maintaining erosion control protective features described above.

(6) *Drainage easement requirements.* When drainage easements are required for the proper discharge of site drainage across other private properties, evidence of drainage easements shall be reflected in the site plan or records filed in the deed records of the county.

(7) *Floodplain development regulations.* Nothing herein shall alter or adjust the regulations, requirements or other provisions regulating the development of properties in, on or adjacent to the designated floodplains within the city, generally referred to as the floodplain development ordinance.

(8) *Federal / state permits for adjustments to water courses.* In the event the developer has obtained federal permits for the adjustment, relocation or other modification of existing drainage channels, the development requirements herein shall be overruled by the issuance of such permits.

(Ord. No. 2009-20, § 2(Exh. A), 11-23-2009)

Sec. 30-274. Protection of property from grading of adjoining property.

The provisions of this section shall apply to permanent and temporary protection of, and encroachment on, adjoining property.

(1) *Maximum slope.* When the existing grade of a site is altered by fill, excavating, dredging or moving of earth materials, the owner shall protect all adjoining property during construction from encroachment or collapse by sloping the sides of the temporary grading at a slope which is safe and not more than one horizontal to one vertical. In addition, adjoining property shall be protected from encroachment or collapse by sloping the sides of the permanent grading at a slope not greater than two horizontal to one vertical. The building official may approve temporary or permanent slopes of greater steepness based on a certified design by a geotechnical/civil engineer.

(2) *Encroachment.* All grading shall occur entirely within the site unless the applicant provides one of the following:

a. Proof of ownership; or

b. An easement, granted by the fee owner of the encroached-upon property, which authorizes the encroachment on the adjoining property; or

c. A letter signed by the owner of the adjoining property, which authorizes such temporary encroachments during construction on the adjoining property as temporary change of grade, temporary stockpiling or shoring.

(3) *Conflict with other requirements.* Nothing herein shall minimize other requirements or regulations of the city including any provisions of the zoning ordinance, floodplain ordinance or other general laws, ordinances and policies of the city. To the extent that the provisions herein create situations of conflict with other ordinances, the more stringent provisions as determined by the city manager shall govern.

(Ord. No. 2009-20, § 2(Exh. A), 11-23-2009)

Chapters 31—33

RESERVED

Chapter 34

FIRE PREVENTION AND PROTECTION*

Article I. In General

Sec. 34-1. Maintaining fire hazard generally.
Sec. 34-2. Improper heating, lighting, storage.
Sec. 34-3. Prosecution after order and refusal to obey.
Sec. 34-4. Use of fire hydrants.
Sec. 34-5. Loosening, tampering with fire hydrants.
Sec. 34-6. Parking near fires; fire lines.
Sec. 34-7. Riding on fire truck, etc.
Sec. 34-8. Fees for certain emergency and rescue services within the fire department response area.
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***Cross references**—Fire hazards at airport, § 18-171 et seq.; buildings and building regulations, ch. 22; fire limits prescribed, § 22-1; civil emergencies, ch. 26; open fires in parks, § 58-42; open fire in Perry Sampson Park, § 58-114.

State law references—Authority to provide for fire department, V.T.C.A., Local Government Code §§ 211.013, 217.042, 341.003, 342.011; following fire apparatus or ambulance, V.T.C.A., Transportation Code § 545.407; standing or parking a vehicle near fire station driveway, V.T.C.A., Transportation Code § 545.302.

Sec. 34-104. Payment.
Secs. 34-105—34-130. Reserved.

Article V. Open Burning

Sec. 34-131. Definitions.
Sec. 34-132. Open burning prohibited.
Sec. 34-133. Exceptions.
Sec. 34-134. Enforcement agents.
Sec. 34-135. Penalty for violation.
Sec. 34-136. Temporary ban or limit on burning.

ARTICLE I. IN GENERAL

Sec. 34-1. Maintaining fire hazard generally.

Any owner or occupant of a building or other structure or premises who shall keep or maintain the building, structure or premises when for want of repair, or by reason of age or dilapidated condition or for any cause, the building, structure or premises is especially liable to fire and is so situated as to endanger buildings or property of others, or is especially liable to fire and is so occupied that fire would endanger other persons or their property therein, shall be subject to the penalty set out in section 1-17.
(Code 1978, § 9-9)

Sec. 34-2. Improper heating, lighting, storage.

Any owner or occupant of any building or other structure or premises who shall keep or maintain the building, structure or premises with an improper arrangement of a stove, range, furnace or other heating appliance of any kind whatever, including chimneys, flues and pipes with which the chimneys, flues and pipes may be connected, so as to be dangerous in the matter of fire or health or safety of persons or property of others; with an improper arrangement of a lighting device or system; with storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, refuse, or with any other condition which shall be dangerous in character to persons, their health or the property of others, which shall be dangerous in the matter of promoting, augmenting or causing fires or which shall create conditions dangerous to firefighters or occupants of such building, structure or premises other than the maintainor thereof, shall be subject to the penalty set out in section 1-17.
(Code 1978, § 9-10)

Sec. 34-3. Prosecution after order and refusal to obey.

No prosecution shall be brought under sections 34-1 and 34-2 until notice has been given and the party notified shall fail or refuse to comply with the notice.
(Code 1978, § 9-11)

Sec. 34-4. Use of fire hydrants.

No one shall be allowed to use or operate any fire hydrant in the city without authorization from the director of utilities or the fire chief.
(Code 1978, § 16-11)

Sec. 34-5. Loosening, tampering with fire hydrants.

It shall be a violation of this article to unscrew, loosen or tamper with the plug caps, steamer, stem or any other part of any fire hydrant in the city.
(Code 1978, § 16-12)

Sec. 34-6. Parking near fires; fire lines.

No vehicle, except by direction of the fire chief, shall approach or park within 250 feet of a building on fire at any time; provided, that this shall not apply to the owner or occupant of the burning building. The fire chief may establish fire lines and prohibit anyone from going within such fire lines, and it shall be the duty of the police department to enforce such order.
(Code 1978, § 18-32)

Cross reference—Fire lanes, § 86-157.

Sec. 34-7. Riding on fire truck, etc.

It shall be unlawful for any person other than the fire chief, the firefighters, and the chief of police, to become a passenger on or ride on any fire truck or motor vehicle of any kind used for fighting fire except for ceremonial purposes.
(Code 1978, § 18-33)

Sec. 34-8. Fees for certain emergency and rescue services within the fire department response area.

(a) Fees shall be collected in accordance with the fee schedule attached to the city's annual rate and fee schedule applicable both inside and outside the city limits. Fire administration shall utilize applicable incident report information that will be forwarded to the city fire department, or its authorized agent, for the collection of fees.

(b) The city fire department, or its authorized agent, shall submit an invoice to the relevant insurance company covering the particular loss that is related to the emergency services rendered. If it can be reasonably determined that there is no insurance coverage for a particular loss which causes the city fire department to incur loss, damage, and wear and tear to any apparatus, tools, equipment, personnel and materials, then the city fire department may invoice the fees and hold jointly and separately responsible the person or persons and/or entity or entities that received said emergency services.

(c) Calls for service at residential structure fires within the city limits shall not be subject to any of the fire department service charges established herein, unless it is determined by the fire department that the emergency services rendered were connected to negligent and/or malicious act or acts on the part of the property owners.

(d) The city manager is hereby authorized to enter into a contractual agreement with an authorized agent for the collection of the aforementioned fees.
(Ord. No. 2011-12, §§ 2—5, 8-22-2011)

Secs. 34-9—34-30. Reserved.

ARTICLE II. FIRE MARSHAL*

Sec. 34-31. Office created.

The office of fire marshal is hereby created. The office of fire marshal shall be filled by appointment by the city manager. The fire marshal shall be properly qualified for the duties of his office and shall receive compensation as provided by the city council.
(Code 1978, § 9-1)

Sec. 34-32. Initial investigation and record of fires.

The fire marshal shall investigate the cause, origin, and circumstances of every fire occurring within the city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within 24 hours, not including Sunday, of the occurrence of such fire. The fire marshal shall keep in his office a record of all fires occurring within the city, together with all facts, statistics and circumstances, including the origin of the fires and the amount of loss, which may be determined by the investigation required by this article. Such record shall at all times be open to public inspection.
(Code 1978, § 9-2)

Sec. 34-33. Further investigation of fires.

The fire marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony or oath of all persons supposed to be cognizant of any facts or to have means of knowledge relating to the fire when an examination is required to be made, and shall cause the examination to be reduced to writing. If the fire marshal shall be of the opinion that

*Cross reference—Administration, ch. 2.

there is evidence sufficient to charge any person with the crime of arson, the attempt to commit the crime of arson, conspiracy to defraud or criminal conduct in connection with such fire he shall cause such person to be lawfully arrested and charged with such offense or either of them, and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.
(Code 1978, § 9-3)

Sec. 34-34. Summoning witnesses; administering oaths.

The fire marshal shall have the power to summon witnesses before him to testify in relation to any matter which is by the provisions of this article a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto. The fire marshal is hereby authorized and empowered to administer oaths and affirmations to any person appearing as witness before him.
(Code 1978, § 9-4)

Sec. 34-35. Refusal of witness to be sworn, to testify, etc.

Any witness who refuses to be sworn; refuses to appear or testify; disobeys any lawful order of the fire marshal; fails or refuses to produce any book, paper, or document touching any matter under examination or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of the investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a violation; and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted. Any person being convicted of any such violation shall be fined in a sum not exceeding $25.00; provided, however, that any person so convicted shall have the right of appeal.
(Code 1978, § 9-5)

Sec. 34-36. Investigations may be private.

All investigations held by or under the direction of the fire marshal may, in his discretion, be private. Persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.
(Code 1978, § 9-6)

Sec. 34-37. Examination of buildings.

The fire marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this article, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the location of a fire. This authority shall be exercised only with reason and good discretion.
(Code 1978, § 9-7)

Sec. 34-38. Inspections, orders and appeals.

The fire marshal, upon complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the city. Whenever the fire marshal shall find any building or other structure which, for want of repair or by reason of age or dilapidated condition or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces, or other heating appliances of any kind whatsoever, including chimneys, flues, and pipes with which the chimneys, flues, and pipes may be connected; a dangerous arrangement of lighting devices or system; a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible materials, inflammable materials, and refuse materials; or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firefighters or occupants, he shall order the condition to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of the building or premises. Provided, however, that if the owner or occupant deems himself aggrieved by such order, he may, within five days, appeal to the city manager. The city manager shall investigate or cause to be investigated the cause of the complaint. If, following such investigation and action of the city manager, the owner or occupant remains dissatisfied, he may appeal to the city council. The city council shall review the complaint and investigation and unless by its authority the order is revoked, such order shall remain in force and be forthwith complied with by the owner or occupant.
(Code 1978, § 9-8)

Secs. 34-39—34-70. Reserved.

ARTICLE III. FIREWORKS*

Sec. 34-71. 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:

Fireworks means any firecrackers, cannon crackers, skyrockets, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, gerbs, or any other substance in whatever combination by any designated name intended for use in obtaining visible or audible pyrotechnic display, and shall include all articles or substances within the commonly accepted meaning of fireworks whether specially designated and defined in this definition or not.

*__Cross reference__—Fireworks in parks, § 58-48.
__State law reference__—Fireworks, V.T.C.A., Occupations Code § 2154.001 et seq.

Person means any natural person, association of persons, partnership, corporation, agent or officer of a corporation, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, and administrators.
(Code 1978, § 9-21)

Cross reference—Definitions generally, § 1-2.

Sec. 34-72. Exceptions.

This article shall not apply to signal flares and torpedoes of the type and kind commonly used by any railroad and which signal flares and torpedoes are received by and stored or transported by any such railroad for use in railroad operation; nor shall this article apply to any kind of signal flare.
(Code 1978, § 9-23)

Sec. 34-73. Fireworks prohibited.

It shall be unlawful for any person to manufacture, assemble, store, transport, receive, keep, sell, offer or have in his possession with intent to sell, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.
(Code 1978, § 9-22)

Sec. 34-74. Declared a public nuisance.

The presence of any fireworks within the jurisdiction of the city in violation of this article is hereby declared to be a common and public nuisance. The chief of police is directed and required to seize and cause to be safely destroyed any fireworks found within the jurisdiction in violation of this article. Any police officer of the city or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the fireworks may be seized and destroyed in accordance with the terms of this section. Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city for injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping, or use of fireworks within the jurisdiction of the city, and to particularly prevent any person from interfering with the seizure and destruction of such fireworks; but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction. The chief of police or any member of the police department is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the building for the presence of such fireworks.
(Code 1978, § 9-24)

Secs. 34-75—34-100. Reserved.

ARTICLE IV. ARSON REWARD

Sec. 34-101. Definition.

As used in this article, the word "arson" shall be held to mean that a person commits an offense if he starts a fire or causes an explosion:

(1) Without the effective consent of the owner and with intent to destroy or damage the owner's building or habitation;

(2) With intent to destroy or damage any building or habitation to collect insurance for the damage or destruction.

(Ord. No. 83-3, § 1, 1-24-1983)

Cross reference—Definitions generally, § 1-2.

Sec. 34-102. Established.

The mayor is hereby required, authorized and empowered to offer a reward of $500.00 payable to the person who shall be responsible for the arrest and conviction of any person committing the crime of arson in the city.

(Code 1978, § 9-31; Ord. No. 83-3, § 2, 1-24-1983)

Sec. 34-103. Tendering.

Whenever the mayor shall be informed that any fire occurring in the city was of an incendiary origin, the mayor shall call for a report on the fire by the fire marshal, and, if the fire marshal shall report that such fire was caused by the commission of the crime of arson, it shall become the duty of the mayor to offer the reward prescribed in this article. This reward shall be in the form of a proclamation duly issued by the mayor under his official signature and attested by the seal of the city, and it shall be posted in conspicuous places, one of which shall be the city hall in accordance with the regulations of the state fire insurance department.

(Ord. No. 83-3, § 3, 1-24-1983)

Sec. 34-104. Payment.

Upon information being given by any person causing the arrest and conviction of any person guilty of the specific crime of arson and upon the final conviction of such person, the person giving such information shall be entitled to receive the reward offered in this article.

(Ord. No. 83-3, § 4, 1-24-1983)

Secs. 34-105—34-130. Reserved.

ARTICLE V. OPEN BURNING

Sec. 34-131. Definitions.

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

Garbage means all waste from public and private establishments and restaurants, including vegetable, animal and fish offal and animal carcasses.

Litter means garbage, refuse and rubbish which is capable of supporting combustion.

Public property means any and all streets, sidewalks, boulevards, alleys or other public ways; also included are all public parks, squares, spaces, grounds or buildings.

Refuse means any garbage, rubbish, paper, litter or trash capable of supporting combustion.

Rubbish means all waste capable of supporting combustion.
(Ord. No. 98-8, § 2, 5-26-1998)

Cross reference—Definitions generally, § 1-2.

Sec. 34-132. Open burning prohibited.

It shall be unlawful for any person to burn garbage, refuse, rubbish, trash, leaves, brush and/or other debris on public property within the corporate city limits of the city.
(Ord. No. 98-8, § 1, 5-26-1998)

Sec. 34-133. Exceptions.

The provisions of this article shall not apply to the following:

(1) Any burning on public property contained in city approved and designated barbecue pits or grills such as those found in city parks.

(2) Any burning of leaves, brush or other such matter on public property when previously authorized by the city fire chief/marshal who shall then make provisions for adequate firefighting personnel, apparatus and equipment to be made available at the site of the burning.

(Ord. No. 98-8, § 3, 5-26-1998)

Sec. 34-134. Enforcement agents.

The enforcing agents for this article are the fire chief/marshal and/or his authorized designee.
(Ord. No. 98-8, § 4, 5-26-1998)

Sec. 34-135. Penalty for violation.

A person violating a provision of this article or causes another person to violate a provision of this article shall upon conviction be punishable by a fine of not less than $50.00 and not more than $1,000.00 for each separate and distinct offense.
(Ord. No. 98-8, § 5, 5-26-1998)

Sec. 34-136. Temporary ban or limit on burning.

During those times when atmospheric conditions are such that any burning would prove too great a fire hazard, the city manager or the fire marshal may declare a temporary or intermittent moratorium either banning or limiting burning within the entire city limits and the city's extraterritorial jurisdiction.
(Ord. No. 98-8, § 6, 5-26-1998)

Chapters 35—37

RESERVED

Chapter 38

FLOODS*

Article I. In General

Secs. 38-1—38-30. Reserved.

Article II. Flood Hazard Reduction

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Sec. 38-32. Definitions.
Sec. 38-33. Findings of fact.
Sec. 38-34. Statement of purpose.
Sec. 38-35. Methods of reducing flood losses.
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Sec. 38-37. Basis for establishing the areas of special flood hazard.
Sec. 38-38. Compliance.
Sec. 38-39. Abrogation and greater restrictions.
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Division 2. Administration

Sec. 38-61. Administrator.
Sec. 38-62. Establishment of development permit; procedures.
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Division 3. Standards

Sec. 38-81. General standards.
Sec. 38-82. Specific standards.
Sec. 38-83. Standards for subdivision proposals.
Sec. 38-84. Standards for areas of shallow flooding (AO/AH zones).
Sec. 38-85. Penalties for non-compliance.

***Cross references**—Buildings and building regulations, ch. 22; environment, ch. 30; manufactured housing, ch. 50; streets, sidewalks and other public places, ch. 78; utilities, ch. 90.

State law references—Flood Control and Insurance Act, V.T.C.A., Water Code § 16.311 et seq.; political subdivisions, compliance with federal requirements, V.T.C.A., Water Code § 16.315.

ARTICLE I. IN GENERAL

Secs. 38-1—38-30. Reserved.

ARTICLE II. FLOOD HAZARD REDUCTION

DIVISION 1. GENERALLY

Sec. 38-31. Statutory authorization.

The legislature of the state has in the Flood Control Insurance Act, V.T.C.A., Water Code § 16.315, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain the provisions of this article.
(Ord. No. 87-7, art. I, § A, 3-23-1987; Ord. No. 2008-2, § 1.a, 4-14-2008)

Sec. 38-32. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

Area of future conditions flood hazard means the land area that would be inundated by the one-percent-annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) is the elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year - also called the base flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS), see flood elevation study.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway, see regulatory floodway.

Functionally dependent use means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior or;

b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area, see area of special flood hazard.

Start of construction, (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. No. 87-7, art. 2, 3-23-1987; Ord. No. 2008-2, § 1.b, 4-14-2008)

Cross reference—Definitions generally, § 1-2.

Sec. 38-33. Findings of fact.

(a) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
(Ord. No. 87-7, art. I, § B, 3-23-1987)

Sec. 38-34. Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential buyers are notified that property is in a flood area.

(Ord. No. 87-7, art. I, § C, 3-23-1987)

Sec. 38-35. Methods of reducing flood losses.

In order to accomplish its purposes, this article uses the following methods:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 87-7, art. I, § D, 3-23-1987)

Sec. 38-36. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Ord. No. 87-7, art. 3, § A, 3-23-1987)

Sec. 38-37. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the City of

Center," dated September 4, 1985, with accompanying flood insurance rate maps and flood boundary floodway maps and any revisions thereto are hereby adopted by reference and declared to be a part of this article.
(Ord. No. 87-7, art. 3, § B, 3-23-1987)

Sec. 38-38. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.
(Ord. No. 87-7, art. 3, § D, 3-23-1987)

Sec. 38-39. 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 conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. No. 87-7, art. 3, § E, 3-23-1987)

Sec. 38-40. 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.

(Ord. No. 87-7, art. 3, § F, 3-23-1987)

Sec. 38-41. Warning and disclaimer or liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.
(Ord. No. 87-7, art. 3, § G, 3-23-1987)

Secs. 38-42—38-60. Reserved.

DIVISION 2. ADMINISTRATION*

Sec. 38-61. Administrator.

(a) *Designation of the floodplain administrator.* The city manager is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

***Cross reference**—Administration, ch. 2.

(b) *Duties and responsibilities of the floodplain administrator.* The 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 application to determine whether proposed, building site will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this article.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the 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 has not been provided in accordance with section 38-37, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of division 3 of this article.

(9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. 87-7, art. 4, §§ A, B, 3-23-1987; Ord. No. 2008-2, § 1.c, 4-14-2008)

Sec. 38-62. Establishment of development permit; procedures.

(a) *Permit required.* A development permit shall be required to ensure conformance with the provisions of this article.

(b) *Permit procedures.*

(1) Application for a development permit shall be presented to the floodplain administrator on forms furnished by him and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 38-82(2);

d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

e. Maintain a record of all such information in accordance with subsection 38-61(b)(1).

(2) 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:

a. The danger to life and property due to flooding or erosion damage;

b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

c. The danger that materials may be swept onto other lands to the injury of others;

d. The compatibility of the proposed use with existing and anticipated development;

e. The safety of access to the property in times of flood for ordinary and emergency vehicles;

f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

h. The necessity to the facility of a waterfront location, where applicable;

i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

j. The relationship of the proposed use to the comprehensive plan for that area.

(Ord. No. 87-7, art. 4, § C, 3-23-1987)

Sec. 38-63. Variance procedures.

(a) The appeal board as established by the community shall hear and render judgement on requests for variances from the requirements of this article.

(b) The appeal board shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.

(c) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

(d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the federal emergency management agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of 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 38-62(b)(2) 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 in this section and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Prerequisites for granting variances shall be as follows:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(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 (i) the criteria outlined in subsections (a) through (i) of this section are met, and (ii) 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.

(k) The appeal board for the city shall be the city council.

(l) 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.
(Ord. No. 87-7, art. 4, § D, 3-23-1987; Ord. No. 2008-2, § 1.d, 4-14-2008)

Secs. 38-64—38-80. Reserved.

DIVISION 3. STANDARDS

Sec. 38-81. General standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed, or modified, and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 87-7, art. 5, § A, 3-23-1987)

Sec. 38-82. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 38-37, subsection 38-61(b)(8) or subsection 38-83(d), 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 subsection 38-61(b)(1)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 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 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, shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring

may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. All manufactured homes shall be in compliance with subsection (1) of this section.

c. Require that all manufactured homes to be placed or substantially improved within zones A1-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provision of this subsection.

(Ord. No. 87-7, art. 5, § B, 3-23-1987)

Sec. 38-83. Standards for subdivision proposals.

(a) All subdivision proposals including manufactured home parks and subdivisions shall be consistent with sections 38-33, 38-34 and 38-35.

(b) All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet development permit requirements of section 38-62 and the provisions of this division.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 38-37 or subsection 38-61(b)(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.

(Ord. No. 87-7, art. 5, § C, 3-23-1987)

Sec. 38-84. Standards for areas of shallow flooding (AO/AH zones)

Located within the areas of special flood hazard established in section 38-37 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:

a. 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); or

b. 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 of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in subsection 38-62(b)(1)a, are satisfied.

(4) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. 87-7, art. 5, § D, 3-23-1987)

Sec. 38-85. Penalties for non-compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of these provisions by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates any provisions or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00 for each violation and in addition shall pay all costs and expenses involved in the case. Nothing contained herein shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2008-2, § 1.e, 4-14-2008)

Chapters 39—41

RESERVED

Chapter 42

HUMAN RELATIONS*

Article I. In General

Secs. 42-1—42-30. Reserved.

Article II. Fair Housing

Sec. 42-31. Definitions.
Sec. 42-32. Interpretation and effect.
Sec. 42-33. Familial status.
Sec. 42-34. Discrimination in the sale or rental of housing.
Sec. 42-35. Discrimination in the financing of housing.
Sec. 42-36. Discrimination in the provision of brokerage services.
Sec. 42-37. Exemptions and exclusions.
Sec. 42-38. Fair housing administrator.
Sec. 42-39. Complaints.
Sec. 42-40. Investigation.
Sec. 42-41. Cumulative legal effect.
Sec. 42-42. Unlawful intimidation.
Sec. 42-43. Cooperation with Secretary of Housing and Urban Development.
Sec. 42-44. Education and public information.
Sec. 42-45. Penalty.

*Cross reference—Administration, ch. 2.

ARTICLE I. IN GENERAL

Secs. 42-1—42-30. Reserved.

ARTICLE II. FAIR HOUSING*

Sec. 42-31. Definitions.

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

Age means the calendar age of an individual 18 years of age or over.

Aggrieved person means any person who:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that the person will be injured by a discriminatory housing practice that is about to occur.

Creed means any set of principles, rules, opinions and precepts formally expressed and seriously adhered to or maintained by a person.

Disability means a mental or physical impairment that substantially limits at least one major life activity, a record of the impairment, or being regarded as having the impairment. The term "disability" does not include current illegal use or addiction to any drug or illegal or federally controlled substance and does not apply to an individual because of an individual's sexual orientation or because that individual is a transvestite.

Discriminatory housing practice means an act prohibited by section 42-34 or conduct that is an offense under this article.

Dwelling means any:

(1) Structure or part of a structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or

(2) Vacant land that is offered for sale or lease for the construction or location of a structure or part of a structure described by subsection (1) of this definition.

Family includes a single individual.

Major life activities means functions such as, but not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Marital status means an individual's status as a single, married, divorced, widowed or separated person.

***State law reference**—Fair housing, V.T.C.A., Property Code § 301.001 et seq.

Parenthood means a person's status as a parent or legal guardian of a child or children under the age of 18.

Person means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.

Physical or mental disability means any physical or mental impairment which substantially limits one or more major life activities.

Physical or mental impairment means:

(1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Respondent means:

(1) A person accused of a violation of this article in a complaint of discriminatory housing practice; or

(2) A person identified as an additional or substitute respondent under V.T.C.A., Property Code § 301.084 or an agent of an additional or substitute respondent.

Senior adult means a person 55 years of age or older.

To rent means to lease, sublease, or let, or to grant in any other manner, for a consideration, the right to occupy premises not owned by the occupant.
(Ord. No. 93-13, § 1, 7-26-1993)

Cross reference—Definitions generally, § 1-2.

Sec. 42-32. Interpretation and effect.

This article shall in no way be interpreted as creating a judicial right or remedy which is the same or substantially equivalent to the remedies provided under Title VIII of the Civil Rights Act of 1968, as amended, or the Federal Equal Credit Opportunity Act (15 U.S.C. 1691). All aggrieved parties shall retain the rights granted to them by Title VIII of the Civil Rights Act of 1968, as amended, and the Federal Equal Credit Opportunity Act. In construing this article, it is the intent of the city council that the courts shall be guided by Federal Court interpretations of Title VIII of the Civil Rights Act of 1968, as amended, and the Federal Equal Credit Opportunity Act, where appropriate.
(Ord. No. 93-13, § 2, 7-26-1993)

Sec. 42-33. Familial status.

A discriminatory act is committed because of familial status if the act is committed because the person who is the subject of discrimination is:

(1) Pregnant;

(2) Domiciled with an individual younger than 18 years of age in regard to whom the person:

a. Is the parent or legal custodian;

b. Has the written permission of the parent or legal custodian for domicile with that person; or

(3) In the process of obtaining legal custody of an individual younger than 18 years of age.

State law reference—Similar provisions, V.T.C.A., Property Code § 301.004.

Sec. 42-34. Discrimination in the sale or rental of housing.

Except as exempted by section 42-36, it shall be unlawful for any person to:

(1) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.

(2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.

(3) Make, print, publish, or cause to be made, printed or published any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age, or any intention to make any such preference, limitation or discrimination.

(4) Represent to any person because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) For profit or with the hope or expectation of profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.

(6) For profit or with the hope or expectations of profit to influence or attempt to influence, by any words, acts, or failure to act, any seller, purchaser, landlord or tenant of a dwelling so as to promote the maintenance of racially segregated housing or so as to retard, obstruct, or discourage racially integrated housing.

(Ord. No. 93-13, § 3, 7-26-1993)

Sec. 42-35. Discrimination in the financing of housing.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or their financial assistance, because of:

(1) The race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age of such person or of any person associated with him in connection with such loan or other financial assistance; or

(2) The race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age of the present or prospective owner, lessees, tenants, or occupants of the dwelling or dwellings for which such a loan or other financial assistance is to be made or given.

(Ord. No. 93-13, § 4, 7-26-1993)

Sec. 42-36. Discrimination in the provision of brokerage services.

It shall be unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership or participation, on account of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.

(Ord. No. 93-13, § 5, 7-26-1993)

Sec. 42-37. Exemptions and exclusions.

(a) There shall be exempted from the application of section 42-34 all transactions involving:

(1) The rental of units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner actually maintains and occupies one of such units as his residence.

(2) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four such rooms are offered.

(3) The sale or rental of any single house by a private individual who owns such house, provided that:

a. The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman, or person;

b. The sale is made without the publication, posting or mailing of any advertisement or written notice in violation of this article (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title);

c. The owner does not own more than three single-family houses at the time of the sale;

d. The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental or more than three such single-family houses at any one time; and

e. If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period.

(b) Nothing in this article shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, mental or physical disability, marital status, parenthood or age.

(c) Nothing in this article shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose provides lodging which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(d) Nothing in this article shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.

(e) Nothing in this article shall prohibit the sale, rental, lease or occupancy of any dwelling designed and operated exclusively for senior adults and their spouses, unless the sale, rental, lease or occupancy is further restricted on account of race, color, creed, religion, sex, national origin, physical or mental handicap and marital status.

(f) Nothing in this article shall bar a person who owns, operates or controls rental dwellings, whether located on the same property or on one or more contiguous parcels of property, from reserving any grouping of dwellings for the rental or lease to tenants with a minor child or children; provided however, in the event that such reserved area is completely leased or rented, the person owning, operating or controlling such rental dwelling may not refuse to rent or lease any other available dwelling to the prospective tenant on the basis of the tenant's status as parent or any other of the protected classifications set forth in this article. (Ord. No. 93-13, § 6, 7-26-1993)

Sec. 42-38. Fair housing administrator.

The mayor shall appoint and the council shall confirm a fair housing administrator (hereinafter referred to as "administrator"), who shall have the responsibility for implementing this article. The administrator may delegate his authority to investigate and conciliate complaints to other city employees under his direction.
(Ord. No. 93-13, § 7, 7-26-1993)

Cross reference—Administration, ch. 2.

Sec. 42-39. Complaints.

(a) Only the person who claims to have been injured by a discriminatory housing practice who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereinafter referred to as "person aggrieved") may file a complaint with the administrator. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The administrator shall prepare complaint forms and furnish them without charge to any person, upon request.

(b) A copy of all complaints filed with the city shall also be forwarded to the Fair Housing and Equal Opportunity Division of the Region VI Office of the Department of Housing and Urban Development.

(c) The administrator shall provide for free administrative counseling to those complainants who wish to file a private suit for relief in the local, state or federal court.

(d) If at any time the administrator shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the administrator may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

(e) The administrator shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints under this article in the same manner as complaints filed pursuant to subsection (a) of this section.

(f) All complaints shall be filed within 60 days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the administrator shall provide notice of the complaint by furnishing a copy of such complaint to the persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within 15 days of receipt of the written complaint.

(g) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.
(Ord. No. 93-13, § 8, 7-26-1993)

Sec. 42-40. Investigation.

(a) Upon the filing or referral of a complaint as provided in this article, the administrator shall cause to be made a prompt and full investigation of the matter stated in the complaint.

(b) If the administrator determines that there is not probable cause to believe that a particular alleged discriminatory housing practice has been committed, the administrator shall take no further action with respect to that alleged offense.

(c) During or after the investigation, but subsequent to the mailing of the notice of complaints, the administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this article. Nothing said or done in the course of such informal endeavors may be made public by the administrator, by the complainant or by any other party to the proceedings without the written consent of all persons concerned.

(d) Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within 30 days of the filing of the complaint with the administrator, if the efforts of the administrator to secure voluntary compliance have been unsuccessful, and if the administrator has made a determination that a discriminatory housing practice has in fact occurred, the administrator shall recommend to the city attorney that such violations be prosecuted in the municipal court. With such recommendations, the administrator shall refer his entire file to the city attorney. The city attorney shall, within 30 days after such referral, make a determination as to whether to proceed with prosecution of such complaint in municipal court. If the city attorney determines to prosecute, he shall institute a complaint and prosecute the complaint to conclusion within 30 days after such determination or as soon thereafter as practicable.
(Ord. No. 93-13, § 9, 7-26-1993)

Sec. 42-41. Cumulative legal effect.

This article is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue.
(Ord. No. 93-13, § 10, 7-26-1993)

Sec. 42-42. Unlawful intimidation.

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because they have complied with the provisions of this article, because they have exercised his rights under this article, or enjoyed the benefits of this article, or because they have made a charge, testified or assisted in any investigation, or in any proceeding under this article or have made any report to the administrator.
(Ord. No. 93-13, § 11, 7-26-1993)

Sec. 42-43. Cooperation with Secretary of Housing and Urban Development.

The administrator and the city attorney are authorized to cooperate with the U.S. Secretary of Housing and Urban Development and the U.S. Attorney General pursuant to the provisions of Title VII, Fair Housing Act of 1968, Public Law 90284, and may render such service to the Secretary as they shall deem appropriate to further the policies of this article.
(Ord. No. 93-13, § 12, 7-26-1993)

Sec. 42-44. Education and public information.

In order to further the objectives of this article, the administrator may conduct educational and public information programs.
(Ord. No. 93-13, § 13, 7-26-1993)

Sec. 42-45. Penalty.

Any person violating any provision of this article shall, upon conviction, be fined a sum not to exceed $200.00 for each violation. Each day a violation continues after passage of 75 days from date of the filing of the initial complaint with the administrator shall constitute a separate and distinct offense.
(Ord. No. 93-13, § 14, 7-26-1993)

Chapters 43—45

RESERVED

Chapter 46

LAW ENFORCEMENT*

Article I. In General

Secs. 46-1—46-30. Reserved.

Article II. Police Reserve Force

Sec. 46-31. Established.
Sec. 46-32. Composition.
Sec. 46-33. Number of members.
Sec. 46-34. Authority, control and command.
Sec. 46-35. Membership.
Sec. 46-36. Rules and regulations.
Sec. 46-37. Resignation.
Sec. 46-38. Use of firearms.
Sec. 46-39. Designation of uniforms, insignia and badges.
Sec. 46-40. Use of uniforms, badges and sidearms.
Sec. 46-41. Misrepresentation.
Sec. 46-42. Police reserve to act in supplemental capacity.
Sec. 46-43. Fundraising activities and financial affairs.
Sec. 46-44. Ownership of property.

***Cross references**—Administration, ch. 2; notification of police department for house moving, § 22-184; civil emergencies, ch. 26; offenses, ch. 54; traffic and vehicles, ch. 86.

State law reference—Law enforcement, V.T.C.A., Local Government Code § 341.001 et seq.

ARTICLE I. IN GENERAL

Secs. 46-1—46-30. Reserved.

ARTICLE II. POLICE RESERVE FORCE*

Sec. 46-31. Established.

(a) An auxiliary police force to be known as the city police reserve is hereby established.

(b) The police reserve hereby established shall not by incorporation or any other means establish or attempt to established an existence or operation separate from that created and authorized in this article.
(Ord. No. 88-13, art. I, § 1, 12-12-1988)

Sec. 46-32. Composition.

The police reserve shall be composed only of personnel who:

(1) Have volunteered to join the organization.

(2) Are licensed by the state commission on law enforcement officer's standards and education.

(3) Are recommended for appointment by the chief of police.

(4) Are approved for appointment by the city council upon recommendation by the chief of police.

(Ord. No. 88-13, art. I, § 2, 12-12-1988; Ord. No. 2009-19, § 1, 11-9-2009)

Sec. 46-33. Number of members.

The number of members of the police reserve shall not exceed the number of full-time paid police officer positions of the city police department.
(Ord. No. 88-13, art. I, § 3, 12-12-1988)

Sec. 46-34. Authority, control and command.

The members of the police reserve shall be under the authority, control and command of the chief of police subject to all of the provisions of the Constitution and laws of the United States of America, the state, the city Charter, and ordinances of the city.
(Ord. No. 88-13, art. I, § 4, 12-12-1988)

***State law reference**—Police reserve force, V.T.C.A., Local Government Code § 341.012.

Sec. 46-35. Membership.

Members of the police reserve serve at the discretion of the chief of police and membership of any reserve officer may be terminated by the chief of police at any time, for any cause deemed sufficient by the chief of police.
(Ord. No. 88-13, art. I, § 5, 12-12-1988)

Sec. 46-36. Rules and regulations.

The chief of police may establish additional rules and regulations as he may deem necessary to govern the police reserve force.
(Ord. No. 88-13, art. I, § 6, 12-12-1988)

Sec. 46-37. Resignation.

Any member of the police reserve may resign at any time.
(Ord. No. 88-13, art. I, § 7, 12-12-1988)

Sec. 46-38. Use of firearms.

Members of the police reserve shall carry firearms only when authorized to do so by the chief of police, and only when discharging official duties as a peace officer.
(Ord. No. 88-13, art. I, § 8, 12-12-1988)

Sec. 46-39. Designation of uniforms, insignia and badges.

The chief of police shall prescribe the uniform, insignia, badges, etc., of the police reserve and shall direct the manner in which the uniform, insignia or badges shall be worn.
(Ord. No. 88-13, art. I, § 9, 12-12-1988)

Sec. 46-40. Use of uniforms, badges and sidearms.

Members of the police reserve shall wear uniforms, badges, sidearms etc., only when authorized to do so by the chief of police.
(Ord. No. 88-13, art. I, § 10, 12-12-1988)

Sec. 46-41. Misrepresentation.

It shall be unlawful for any person to wear, carry or display a police reserve uniform or otherwise represent himself to be connected with the police reserve, unless he is a member thereof in good standing.
(Ord. No. 88-13, art. I, § 11, 12-12-1988)

Sec. 46-42. Police reserve to act in supplemental capacity.

Police reserve officers may act only in a supplemental capacity to the regular police force and may not assume the full-time duties of regular police officers.
(Ord. No. 88-13, art. I, § 12, 12-12-1988)

Sec. 46-43. Fundraising activities and financial affairs.

All fundraising activities, funds, bank accounts, etc., of the police reserve shall be governed by the same policies of the city and the police department.
(Ord. No. 88-13, art. I, § 13, 12-12-1988)

Sec. 46-44. Ownership of property.

All property purchased by the police reserve shall be the property of the city unless such item is paid for with the separate funds of a member, when authorized by the chief of police.
(Ord. No. 88-13, art. I, § 14, 12-12-1988)

Chapters 47—49

RESERVED

Chapter 50

MANUFACTURED HOUSING*

Sec. 50-1. Definitions.
Sec. 50-2. Installation standards for manufactured homes.
Sec. 50-3. Location within manufactured home, travel trailer or motor home park required.
Sec. 50-4. Exceptions.
Sec. 50-5. Requirements for mobile/manufactured home, travel trailer, and motor home parks.

***Cross references**—Buildings and building regulations, ch. 22; environment, ch. 30; floods, ch. 38; solid waste, ch. 74; streets, sidewalks and other public places, ch. 78; utilities, ch. 90.

State law reference—Manufactured housing, Vernon's Ann. Civ. St. art. 5221f.

Sec. 50-1. Definitions.

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

HUD-code manufactured home means a structure constructed on or after June 15, 1976, according to the rules of the United States Department or Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 CFR 3282.8(g).

Manufactured home means a HUD-code manufactured home or a mobile home and collectively means and refers to both.

Mobile home means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

Mobile/manufactured home, travel trailer or motor home park means a tract or parcel of land, consisting of not less than three acres, used for lease or rental occupancy by such units and that is in compliance with section 50-5.

Occupant means any person who legally resides in the manufactured home, mobile home, travel trailer or motor home.

Travel trailer or *motor home* means a portable vehicle built on a chassis and designed as a temporary dwelling for travel, recreation and vacation use and which has been permanently identified and equipped and identified by the manufacturer for use on public streets and highways. The term "travel trailer" shall also be deemed to include any other portable contrivance used or intended to be used generally for living and sleeping quarters and which may be moved under its own power, towed or transported by another vehicle.

Vacant means any structure, commercial or residential, that has been either unoccupied by the occupant for not less than 60 days or without benefit of water service for not less than 60 days.

(Ord. No. 98-7, § 1, 5-26-1998; Ord. No. 99-1, § 1, 2-22-1999)

Cross reference—Definitions generally, § 1-2.

Sec. 50-2. Installation standards for manufactured homes.

It shall be required that all manufactured homes placed in the corporate limits of the city or the city's extraterritorial jurisdiction, as defined by state law, must be installed by a person

possessing a valid installer's license with the state department of housing and community affairs and in accordance with all standards, rules regulations and administrative orders and requirements of the state department of housing and community affairs.
(Ord. No. 98-7, § 2, 5-26-1998)

Sec. 50-3. Location within manufactured home, travel trailer or motor home park required.

It shall be required that all manufactured homes, mobile homes, travel trailers, or motor homes placed in the corporate limits of the city or the city's extraterritorial jurisdiction, as defined by state law, after May, 26, 1998, must be installed and located in a mobile/ manufactured home, travel trailer, or motor home park. Exceptions to this section are included within section 50-4.
(Ord. No. 98-7, § 3, 5-26-1998)

Sec. 50-4. Exceptions.

The following are the exceptions to the requirements of this chapter:

(1) Any mobile/manufactured home that was installed on the site prior to May 26, 1998, until it becomes vacant. Upon vacancy after the adoption of the ordinance from which this chapter is derived, such homes lose this exemption. Prior to the loss of this exemption, the owner of the property on which the mobile/manufactured home is located shall be given proper written notice that the exemption will be lost if the mobile/manufactured home does not change its status from being vacant (meaning it becomes occupied and have an established active city water service account) within 30 days after receipt of the written notice. Proper written notice shall be defined in this instance as written notice sent by certified mail return receipt requested to the mailing address of the property record of the county appraisal district. Proper written notice shall not be sent earlier than the 45th day of the 60-day time frame as used in the definition of vacancy in this chapter.

(2) Manufactured homes provided by any governmental agency as temporary housing following any public disaster or public calamity, or mobile homes moved from any mobile home park or subdivision by reason of any public disaster or public calamity; this arrangement is to be temporary.

(3) For temporary parking of an occupied (if it is not vacant then it will be considered occupied) travel trailer, recreational vehicle, or motor home at any residence or commercial site for a period not to exceed 30 cumulative days in any 12-month period.

(4) For storage parking of a vacant and unoccupied travel trailer, motor home, or recreational vehicle at any residence or commercial site.

(5) For security purposes at a temporary commercial facility for a period approved by the city manager or his designee.

(6) In case of hardship situations, as determined by the city council, for period of time not to exceed one year. After one year, the city council may review such cases and grant extensions of no more than one year at a time.

(7) HUD-code manufactured homes installed on any parcel or tract of land that has no other residential or commercial structure on it, and prior to having city water service, the wheels and hitch are removed and it has a solid facia or perimeter enclosure, whether load bearing or not.

(Ord. No. 98-7, § 4, 5-26-1998; Ord. No. 99-1, § 2, 2-22-1999)

Sec. 50-5. Requirements for mobile/manufactured home, travel trailer, and motor home parks.

All mobile/manufactured home, travel trailer, and motor home parks shall comply with the following requirements:

(1) All such areas must be declared as such by the city council and approved for such use prior to its creation. If a mobile/manufactured, travel trailer, or motor home park was in existence prior to May 26, 1998, the city council may declare it an approved site with any conditions as it deems necessary to protect the public health, safety, and welfare of the city and its citizens.

(2) All appropriate state, county and city sanitation and health regulations must be strictly observed.

(3) No mobile/manufactured home, travel trailer or motor home shall be parked closer than 20 feet to the street or roadway (public or private), highway or any property line; and a clearance of not less than 15 feet shall be maintained between mobile/manufactured homes, travel trailers or motor homes on both sides and in the rear. Such clearance is intended for the purpose of fire protection.

(4) Water, sewer, electric, gas, telephone and cable television connections available at each mobile/manufactured home, travel trailer or motor home space shall be readily accessible by those respective company/city technicians for maintenance, connection, and/or inspections as required for providing service.

(5) Only when necessary infrastructure has been approved and dedicated to the city according to all applicable ordinances shall individual water meters to each unit be installed. Providing the water service by individual water meters shall also require individual garbage service and all applicable fees will be assessed accordingly.

(6) The following minimum requirements shall be enforced as the minimum construction standards and shall be required for any mobile home park fencing, streets and parking:

a. Fencing.

1. Shall be required along the property line of the park with any adjacent property currently occupied by residential or commercial uses the entire length of the occupied lot, tract or parcel;

2. Shall be a minimum of six feet in height;
3. Shall be constructed of material that inhibits the visibility through the fencing (i.e. screened or privacy fencing materials);
4. Shall not be constructed of unattractive (i.e. unfinished metal or tin) or dilapidated material (i.e. rusted, bent or broken materials).

b. Streets to be dedicated to the city and made public shall be built to the city standards in place for public street construction. The following requirements shall govern only the minimum construction for private streets within a mobile home park that shall not be the responsibility of the city for maintenance or replacement.
1. Private streets shall be a minimum of 20 feet in width as measured from back of curb to back of curb or width of pavement surface if built without curb and gutter;
2. Private streets with asphalt surfaces shall have a minimum of six inches of prepared base material and 1½ inches of surface material;
3. Private streets may be built with minimum of six inches reinforced concrete;

c. Parking spaces.
1. A minimum of two parking spaces will be provided for each unit/lot;
2. All parking spaces shall be built of the same material as the street, regardless of whether the street is private or public;
3. Parking spaces shall be a minimum of 100 feet from the lot/space to which they are assigned.

(Ord. No. 98-7, § 5, 5-26-1998; Ord. No. 2005-4, § 1, 4-25-2005)

Chapters 51—53

RESERVED

Chapter 54

OFFENSES*

Article I. In General

Sec. 54-1. Loitering.
Sec. 54-2. Loud and obnoxious music devices.
Sec. 54-3. Discharge of firearms prohibited; exception.
Sec. 54-4. Throwing missiles at persons and property.
Sec. 54-5. Regulation of firearm discharges within one thousand feet of city limits.
Secs. 54-6—54-30. Reserved.

Article II. Curfew for Minors

Sec. 54-31. Intent.
Sec. 54-32. Definitions.
Sec. 54-33. Offenses.
Sec. 54-34. Defenses.
Sec. 54-35. Enforcement.
Sec. 54-36. Penalty.

*Cross references—Law enforcement, ch. 46; traffic and vehicles, ch. 86.

ARTICLE I. IN GENERAL

Sec. 54-1. Loitering.

(a) *Loitering unlawful.* It shall be unlawful for any person to loiter, as defined in this section, in, on, or about any place, public or private, when such loitering is accompanied by activity or is under circumstances that afford probable cause for alarm or concern for the safety and well being of persons or for the security of property in the surrounding area.

(b) *Definitions.* As used in this section the following words and terms shall have the meanings respectively ascribed:

(1) *Loiter* means and shall include the following activities: the walking about aimlessly without apparent purpose; lingering; hanging around; lagging behind; the idle spending of time; delaying; sauntering and moving slowly about, where such conduct is not due to physical defects or conditions.

(2) *Place* means a place, public or private, and shall include, but not be limited to, the following: all places commonly known as being distinctively public such as public streets, public restrooms, sidewalks, parks, parking lots, alleys and buildings; all places privately owned but open to the public generally such as shopping centers, transportation terminals, retail stores, movie theaters, office parking lots, buildings, and restaurants; and all places distinctively private such as homes or private residences and apartment houses.

(3) *Surrounding area* means an area easily and immediately accessible to the person under observation.

(c) *Examples of loitering activities.* The term "loiter" is defined to include any of the following activities although this list is not meant to be all inclusive:

(1) Lingering in the streets, sidewalks, parking lots, or vicinity of a business in which the person has no ownership or employment interest, either within or outside of a vehicle, when the premises are not open for business to the public;

(2) Failure to leave private property when requested to do so by the owner, manager, proprietor, or lessee of such property, or conspicuous sign stating "No Loitering";

(3) Walking, standing, driving a vehicle, or parking a vehicle in the business district or nonresidential areas of the city under circumstances that show no apparent business or employment-related need for such activity;

(4) Lingering in the streets, alleys, sidewalks, or vicinity of a residence, either within or outside of a vehicle, without the permission of the owner or tenant of the residence;

(5) Lingering in the street, sidewalk, parks or other public places, either within or outside of a vehicle, under circumstances that show no apparent reason or business to do so;

(6) The systematic checking by a person of doors, windows or other means of access to buildings, houses or vehicles;

(7) Repeated activity by a person, continuous or broken, which outwardly manifests no purpose, such as going from one place to another and back with no showing of use for such movement; and/or

(8) Continuous presence by a person in close proximity to any building, house, vehicle, or any other property or to any other person, at any time when the activity of such person manifests possible unlawful activity, such as continuous presence being for an unreasonable period of time under the circumstances then existing.

(d) *Exemptions.* The following activities shall not be considered "loitering" and shall be exempt from the provisions of this section:

(1) A person shall not be considered loitering while in direct route, and not lingering, to or from work or to or from place of residence;

(2) A person shall not be considered loitering while engaged in the repair of a disabled vehicle;

(3) A person under the age of 18 shall not be considered loitering while engaged in, or in direct route to school, church or entertainment activities with permission of his parent or guardian; and/or

(4) A person shall not be considered loitering while sleeping in a vehicle provided the vehicle is parked on private property with the permission of the owner or manager of the premises, or if the vehicle is parked on public property, with permission of a police officer.

(e) *Section not to limit police powers.* Nothing in this section shall be construed to in any way limit the present police powers of law enforcement officers of the city to make any investigation, detention or arrest as the circumstances may warrant, in the usual course of the enforcement of the laws and ordinances applicable to such cases.
(Ord. No. 96-6, § 1, 5-6-1996)

Sec. 54-2. Loud and obnoxious music devices.

(a) No person shall wilfully or knowingly keep or maintain on his premises any jukebox, record player, radio or other device that makes or creates loud and obnoxious music by whatsoever method created, thereby disturbing the peace of the neighborhood or disturbing the occupants of adjacent premises or people living in the vicinity of such loud and obnoxious music.

(b) A person shall be deemed to have wilfully and knowingly violated the terms of this section if such person shall have been notified by his neighbors or the chief of police or any peace officer of such disturbance and shall have refused for a period of 24 hours to correct such disturbance and prevent the recurrence.
(Code 1978, §§ 13-1, 13-2)

Sec. 54-3. Discharge of firearms prohibited; exception.

(a) If any person shall within the corporate limits of the city fire off or cause to be fired off any shotgun, pistol, target rifle, or any other kind of rifle, or any gun of any description whatsoever except in the line of duty, they shall, upon conviction, be fined in any sum not exceeding $200.00.

(b) The prohibition on the discharge of firearms shall not apply to persons making use of a weapon in the performance of duties as a law enforcement officer, in lawful defense of their person or home or by lawful action of a person licensed by the State of Texas to carry a handgun.

(Code 1978, § 13-1; Ord. No. 91-24, § 2, 9-23-1991; Ord. No. 2017-2, § 1(Exh. A), 1-23-2017)

State law references—Discharging firearms in public place, V.T.C.A., Penal Code § 42.01(a)(9); discharging firearm on or across a public road, V.T.C.A., Penal Code § 42.01(a)(11).

Sec. 54-4. Throwing missiles at persons and property.

If any person in this city shall throw or cast any stone or any other missile upon, against or at another person or at any property not belonging to him; or shall throw any bullet or other missile from any rubber shooter or other contrivance of like character; or shall cut, hack or deface, remove or otherwise injure any building, fence, railing, window glass, awning post, telegraph, telephone or electric wire or post, any shade trees or other shrubbery planted on, along or near a sidewalk or street, any monument, sign or other thing not belonging to him, he shall, upon conviction, be punished by a fine of not less than $1.00 nor more than $100.00.

(Code 1978, § 13-21)

Sec. 54-5. Regulation of firearm discharges within one thousand feet of city limits.

The discharge of firearms in violation of P&W Code Chapter 62, other than shotguns and air guns as defined in V.T.C.A., Local Government Code ch. 229, is prohibited within 1,000 feet of the city limits as authorized and allowed by V.T.C.A., Local Government Code ch. 229. Effective defenses to prosecution under this section shall be only for those exceptions and restrictions on municipal regulation stipulated within V.T.C.A., Local Government Code § 229.002.

(Ord. No. 2017-2, § 1(Exh. A), 1-23-2017)

Secs. 54-6—54-30. Reserved.

ARTICLE II. CURFEW FOR MINORS*

Sec. 54-31. Intent.

*__Editor's note__—Ord. No. 2016-1, §§ 1—6, adopted Jan. 11, 2016, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 54-31—54-36 pertained to similar

(a) The city council has determined that there has been an increase in juvenile violence, juvenile criminal activity and an increase in crime by persons under the age of 18 in the city; and

(b) Some persons under the age of 18 years are particularly susceptible by their lack of maturity and experience to participate in unlawful and undesirable activities and to be victims of older perpetrators of crime; and

(c) The city has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental or guardian control of and responsibility for their minors, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

(d) A curfew for those persons under 18 years of age will be in the interest of the public health, safety, and general welfare, and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on other citizens of the city.
(Ord. No. 2016-1, § 1, 1-11-2016; Ord. No. 2019-04, § 1, 1-28-2019)

Sec. 54-32. Definitions.

The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning.

Emergency shall mean an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term shall include but not [be] limited to a fire, natural disaster, vehicular accident, or a serious medical condition of sudden onset.

Guardian shall mean the person who, under a court order, is the guardian of the person of a minor or the public or private agency with whom a minor has been placed by a court.

Minor shall mean any person under the age of 18 years.

Parent shall mean a person who is the natural or adoptive parent of a person. As used herein, "parent" shall also include a court appointed guardian or their person 18 years of age or older, authorized by the parent, by a court order, or by the court appointed guardian to have the care and custody of a person.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartments, houses, office buildings, transport facilities, and shops.
(Ord. No. 2016-1, § 2, 1-11-2016; Ord. No. 2019-04, § 2, 1-28-2019)

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subject matter, and derived from Ord. No. 2013-1, §§ 1—6, adopted Jan. 14, 2013; Ord. No. 2007-1, §§ 1—6, adopted Jan. 8, 2007; Ord. No. 2004-1, §§ 1—6, adopted Jan. 12, 2004; and Ord. No. 2001-1, adopted Feb. 26, 2001.

Sec. 54-33. Offenses.

(a) It shall be unlawful for any child under the age of 18 years to knowingly remain, walk, run, stand, drive or ride about, in or upon any public place in the city between the hours 11:00 p.m. and 5:00 a.m. for such periods that begin on a Sunday, Monday, Tuesday, Wednesday or Thursday.

(b) It shall be unlawful for any child under the age of 18 years to knowingly remain, walk, run, stand, drive or ride about, in or upon any public place in the city between the hours of 1:00 a.m. and 5:00 a.m. on Saturday or Sunday (times after midnight on Friday and Saturday.)

(c) It shall be unlawful for the parent or guardian having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed by this article.
(Ord. No. 2016-1, § 3, 1-11-2016; Ord. No. 2019-04, § 3, 1-28-2019)

Sec. 54-34. Defenses.

It is a defense to prosecution under section 54-33 of this article that:

(1) The minor was accompanied by his or her parent or guardian;

(2) The minor was accompanied by an adult designated by his or her parent or guardian;

(3) The minor was on an errand made necessary by an emergency;

(4) The minor was attending a school, religious, or government sponsored activity or was traveling to or from a school, religious, or government sponsored activity;

(5) The minor was engaged in a lawful employment activity or was going directly to or coming directly from lawful employment;

(6) The minor was on an errand directed by his or her parent or guardian;

(7) The minor was in a motor vehicle involved in intrastate or interstate transportation;

(8) The minor was engaged in, participating in, or traveling to or from any event, function or activity for which the application of section 54-33 of this article would contravene his or her rights protected by the Texas or United States Constitution;

(9) The minor was married or had been married or had disabilities of minority removed in accordance with V.T.C.A., Family Code ch. 31.

(Ord. No. 2016-1, § 4, 1-11-2016; Ord. No. 2019-04, § 4, 1-28-2019)

Sec. 54-35. Enforcement.

Notwithstanding the penal effect of this article, the chief of police is encouraged to develop alternative enforcement strategies, which may include but not [be] limited to the return of minors to their residence, counseling with minors and their parents or guardians, or the issuance of citations (formal and/or warnings) to minors or their parents or guardians.
(Ord. No. 2016-1, § 1, 1-11-2016; Ord. No. 2019-04, § 5, 1-28-2019)

Sec. 54-36. Penalty.

A person violating a provision of this article shall upon conviction be punishable by a fine not to exceed $200.00.

(Ord. No. 2016-1, § 1, 1-11-2016; Ord. No. 2019-04, § 6, 1-28-2019)

Chapters 55—57

RESERVED

Chapter 58

PARKS AND RECREATION*

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*__Charter reference__—Streets, parks, cemeteries and public grounds, art. X, § 15.

__Cross references__—Environment, ch. 30; streets, sidewalks and other public places, ch. 78.

__State law references__—Power of city to provide for parks, Vernon's Ann. Civ. St. arts. 1175(15), 6080 et seq.; authority to operate and maintain parks, Vernon's Ann. Civ. St. art. 6081f.

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ARTICLE I. IN GENERAL

Sec. 58-1. Definitions.

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

City park means any property in the city designated as a park, playground, recreational facility, trails or bike path and shall include buildings, parking lots and driveways in such areas.

Facility license agreement is a contractual arrangement made between the city and a recognized community organization for the sole use of a park facility.

Solicitation means to request a donation of money or other thing of value from another person by the spoken, written, or printed word, or by other means of communication and includes providing a nominal or token gift in return for the donation. Also, the sale of any item to another person for money or other thing of value if the proceeds from the sale are intended to provide support for non-commercial protected speech.
(Ord. No. 2012-11, § 2, 8-27-2012)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-1, which pertained to "park" defined, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 2 of Ord. No. 2012-11 has been codified as § 58-1 at the discretion of the editor.

Sec. 58-2. Recreation advisory board.

(a) The recreation advisory board is established for the purpose of recommendations to the city council regarding modification of parks policies, usage fees and rents, construction or enhancement projects, program operations and other items related to athletic facilities and programs within the jurisdiction and supervision of the city.

(b) The board shall:

(1) Consist of seven voting members appointed by the city council;

(2) Have one, but no more than one, person representing each of the recreational programs/leagues operated or coordinated by the city;

(3) The mayor and city manager shall be non-voting members of the board.

(c) Terms of the recreation advisory board shall be for two years beginning January 1 of each year, except in this first year, three positions will be one-year terms.

(d) The board shall have the authority to guide and direct staff in the operation of recreational programs within the budgetary constraints and other laws, regulations and ordinances approved by the city council.

(e) The board shall not have the authority without budgetary authority to fiscally obligate the city nor enter into any agreements or contracts on behalf of the city.
(Ord. No. 2015-12, § 1, 9-28-2015)

Editor's note—Ord. No. 2015-12, § 1, adopted Sept. 28, 2015, changed the title of § 58-2 from "Parks advisory committee established" to read as herein set out.

Sec. 58-3. Park facilities owned by the city.

(a) The city owns and operates five park properties:

(1) Center Park;

(2) Portacool Park;

(3) Perry Sampson Park;

(4) Community Park (Ballard Street Park);

(5) American Legion Park (Brooks Field);

(6) Center Softball Complex.

(b) Unless explicitly stated the following rules also apply to the city sidewalk and trail system.
(Ord. No. 2012-11, § 1, 8-27-2012; Ord. No. 2017-13, § 1, 9-25-2017)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-3, which pertained to ownership by city, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 1 of Ord. No. 2012-11 has been codified as § 58-3 at the discretion of the editor.

Sec. 58-4. Facility license agreements and priority use.

(a) Generally, the use of all city park facilities are on a first come, first serve basis.

(b) The city allows various community groups to make exclusive use of park facilities for organized athletic events. The city's authorization to an organization to use a park facility for a particular purpose at a specific time does not grant the organization any rights other than what is included in the facility license agreement.

(c) Any recognized community group wanting exclusive use of a park facility must present a request to the city council on their organization's letterhead and signed by a duly authorized representative stating intent, duration, purpose, etc.

(d) Upon acceptance of the request, the council will create a facility license agreement. Terms and conditions of the use of the park facility will be within the facility license agreement.

(e) The terms of priority use for the Center High School baseball, softball, and soccer fields are included in the lease agreement between the City of Center and the Center Independent School District.

(3) *Priority 3.* Any group or person from outside the county shall have third priority. Any group or person making this request must do so in writing to the city manager at least 30 days prior to the event.

(Ord. No. 84-13, § 1, 7-9-1984)

Sec. 58-36. Fees and permits.

The city may upon certain conditions charge a fee for the use of any park facility. Permits and fees may be required and charged on the recommendation of the parks advisory committee and approval of the city council.

(Ord. No. 84-13, § 1, 7-9-1984)

(f) As part of the facility license agreement, the City of Center may grant concession rights to the requesting party. Request for concession rights must be included in the organization's request to the city council.

(g) Activities operated under the city's recreational program shall not require a facility license agreement and will have priority use for all league games, practices and activities during the season.

(Ord. No. 2012-11, § 3, 8-27-2012; Ord. No. 2017-13, § 2, 9-25-2017)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-4, which pertained to overall maintenance of facilities, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 3 of Ord. No. 2012-11 has been codified as § 58-4 at the discretion of the editor.

Sec. 58-5. Operation of motorized vehicles in city parks prohibited.

The operation of any motorized vehicles, including automobiles, ATV's, motorcycles, scooters, and other similar vehicles are expressly prohibited within all city park facilities, with the exception of city employees or contractors of the City of Center, in performance of assigned duties, and except in areas expressly designated as parking lots or driveways for the operation of said conveyances.

(Ord. No. 2012-11, § 9, 8-27-2012)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-5, which pertained to similar subject matter, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 9 of Ord. No. 2012-11 has been codified as § 58-4 at the discretion of the editor.

Sec. 58-6. Temporary facility use permit.

In lieu of a facility license agreement required by section 58-4(c), a facility use permit may be issued administratively without the prior approval of the city council under this section.

(1) Permits will not be issued for personal events including birthday parties, family gatherings or similar activities that can be accommodated by smaller pavilions on a first come, first served basis.

(2) Only exceptions to generally-prohibited activities within parks defined in sections 58-32 and 58-33 are allowed under these permits.

(3) Facilities that can be issued temporary permits include only:

a. Basketball pavilion and adjoining area at Portacool Park (NOT inclusive of small pavilions, sprayground or any playgrounds).

b. Pavilion at Center Park adjoining pond.

c. Perry Sampson Park.

d Center Noon Lion's Club Baseball Complex (not in conflict with any facility license agreements or recreation program schedules).

e. Center Softball Complex (not in conflict with any facility license agreements or recreation program schedules).

(4) A permit will be provided for use of the facility for the specified date and time period and posted at the location by the city at least 24 hours prior to the event.

(5) Fee for this permit shall be as established annually by council ordinance (for 2017—2018 the fee shall be $25.00).

(6) To receive a permit, events must meet the following criteria:

a. Event is generally open to the public without fee or charges;

b. Does NOT authorize items for sale in violation of section 58-33(1);

(Note: Temporary concessions of food sales are allowed however prizes, merchandise, etc. must be provided to attendees at no charge)

c. Does NOT include any commercial or business activities in violation of section 58-33(2) other than:

1. Temporary signage by sponsor and/or business

2. Distribution of business promotional materials free of charge to any and all park users

d. Last no more than six (6) hours during a single day including setup/cleaning; and

(7) Exceptions to general park rules if included on the written application/permit include:

a. Use of sound amplification equipment not otherwise in violation of public nuisance laws for sound level, vulgarity and disturbance;

b. Concession sales during the permit time;

c. Business advertising and distribution of promotional materials as a component of an event but NOT as the sole activity;

d. Use of temporary facilities including tables, chairs, displays, inflatables and/or other similar event equipment;

e. Operation of field lights, with additional hourly fees.

(Ord. No. 2017-13, § 3, 9-25-2017)

Sec. 58-7. Race event permits.

Permits shall be issued, without additional council consideration or approval, for 5K runs or similar events so long as:

(1) The race route does not include closure or crossing of any roadways requiring TXDoT approval;

(2) Only requires temporary closure of city roadways;

(3) Predominately located within city parks or trail facilities;

(4) Sponsored and operated by a local non-profit organization;

(5) Civic center or other park area is available without conflict for event start/finish on the date/time for event;

(6) Permit fee as established by council ordinance (initial fee for 2017—2018 is $25.00);

(7) Applicant agrees to mark route and clean all impacted areas.

(Ord. No. 2017-13, § 6, 9-25-2017)

Secs. 58-8—58-30. Reserved.

ARTICLE II. USE OF PARKS GENERALLY

Sec. 58-31. Park improvements.

(a) Any proposed improvements made to any park facility must be approved by the city council prior to construction.

(b) Any physical improvements made to any park facility, whether by the city or by a volunteer group, become the property of the city.

(Ord. No. 2012-11, § 4, 8-27-2012)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-31, which pertained to purpose of article, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 4 of Ord. No. 2012-11 has been codified as § 58-31 at the discretion of the editor.

Sec. 58-32. Causing damage to public park facilities prohibited.

It shall be considered an offense punishable under this chapter to cause damage to any city park facility including but not limited to:

(1) Willfully mark, deface, disfigure, injure, tamper with or displace or remove any physical structures or equipment including but not limited to: building, bridge, table, bench, railing, paving or paving material, water line or public utilities or parts or appurtenances thereof, signs, notices, or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances, either real or personal.

(2) Dig or remove any soil, rock, stones, trees, shrubs or plants or other wood or materials, or make any excavations by tool, equipment, blasting or other means or agency.

(3) Make or kindle a fire except in public stoves, grills, or designated areas for that purpose. Fires shall not be left unattended and must be extinguished prior to departure. The city manager may prohibit all fires in public parks during those periods that open flames would endanger public health and safety.

(4) Destroy, damage, deface or remove shrubbery, trees, soil, grass, turf or other vegetation, rock, minerals or any other personal or real property.

(5) Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition.

(Ord. No. 2012-11, § 5, 8-27-2012)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-32, which pertained to violations of rules, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 5 of Ord. No. 2012-11 has been codified as § 58-32 at the discretion of the editor.

Sec. 58-33. Prohibited activities and behaviors in public park facilities.

It shall be considered an offense punishable under this ordinance to engage in such behaviors listed below in any city park facility including but not limited to:

(1) Sell or offer for sale any food, drinks, confections, merchandise, or services unless provided by a city concessions contract or permit. [Exception - as allowed under section 58-4]

(2) Conduct any commercial or business activities of any kind or distributing commercial promotional materials or advertising. [Exception - Organized athletic events]

(3) Possess, use, or discard any glass containers or related trash upon or within any park or recreational facility or property owned or controlled by the city, including but not limited to any public parks, lakes, streams, sports facilities, including athletic fields and bleachers or trails.

(4) Carry a concealed handgun in a City park, except those persons who are duly licensed by the state to carry a concealed handgun in accordance with the provisions of the Texas Concealed Weapons Act.

(5) Carry or discharge firearms (unless permitted under this section), facsimile firearms, fireworks, air guns, bows and arrows, slingshots or any other device which would or could project any object which would or could create a fire hazard or danger to the public.

(6) Gamble or participate in or abet any game of chance.

(7) Hit golf balls of any type in a park facility, except in areas specifically designated for that purpose.

(8) Launch or operate model rockets, model airplanes, model gliders, or model vehicles.

(9) Camp overnight.

(10) Operate the field lights without a signed Facility License Agreement.

(11) Unless permitted by a facility license agreement or by a temporary facility use permit, use any type of sound amplification device which include but are not limited to loudspeakers, amplifiers, or microphones, which would provide a general disturbance for those enjoying the park.

(12) Any use of profanity or vulgar language.

(13) Enter, remain or linger in, near or about a public restroom located at or in a park facility for the purpose of engaging in or soliciting any lewd or lascivious or criminal activity.

(14) Any interference or obstruction of priority use of city park facilities approved or granted and posted in conformance with a facility license agreement under section 58-4 or temporary facility use permit under section 58-6.

(Ord. No. 2012-11, § 6, 8-27-2012; Ord. No. 2017-13, §§ 4, 5, 9-25-2017)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-33, which pertained to nondiscrimination, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 6 of Ord. No. 2012-11 has been codified as § 58-33 at the discretion of the editor.

Sec. 58-34. Controlled substances.

(a) A person commits an offense if the person possesses or consumes an alcoholic beverage in a park.

(b) It is unlawful for any person to smoke or chew tobacco in a city park except in designated areas.

(Ord. No. 2012-11, § 7, 8-27-2012)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-34, which pertained to hours of operation, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 7 of Ord. No. 2012-11 has been codified as § 58-34 at the discretion of the editor.

Sec. 58-35. Animals in the park facilities.

(a) Dogs are allowed in the park so long as they are restrained by a leash. Such leashes shall at all times serve as a connection between the dog and the person that accompanies the dog.

(b) No person shall tie or restrain an animal by attaching its leash to fencing, trees, benches, bleachers, poles or other park equipment.

(c) Dogs are not permitted inside park facility buildings, spraygrounds, or playground areas.

(d) Any person accompanying a dog shall immediately clean up any feces left by such animal. A person commits an offense if the owner or person that accompanies an animal fails to immediately remove and dispose of any feces left by such animal.

(e) Animals that are trained to assist the handicapped are permitted in all park facilities.

(f) Horses are not permitted onto any park facility.

(Ord. No. 2012-11, § 9, 8-27-2012)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-35, which pertained to priority use of parks, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 9 of Ord. No. 2012-11 has been codified as § 58-35 at the discretion of the editor.

Sec. 58-36. Park hours.

(a) All city parks are open to the public each day from sunrise to 11:00 p.m.

(b) Park facilities and park buildings designed for specific purposes, including athletic fields, are open by designated applicable city policy.

(Ord. No. 2012-11, § 10, 8-27-2012)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-36, which pertained to fees and permits, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 10 of Ord. No. 2012-11 has been codified as § 58-36 at the discretion of the editor.

Sec. 58-37. Surface drilling and mining operations.

There shall be no surface drilling or mineral extraction operations allowed on city park property.

(Ord. No. 2012-11, § 11, 8-27-2012)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-37, which pertained to damage to equipment or property, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 11 of Ord. No. 2012-11 has been codified as § 58-37 at the discretion of the editor.

Sec. 58-38. Enforcement.

(a) The following remedies are cumulative and not exclusive for violations of this article.

(b) Any person, firm, company, partnership, corporation, or an association violating any provisions of this article or the rules and regulations adopted pursuant to this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in the sum of not more than $500.00 for each such offense, and each and every day such violation shall continue, shall be deemed to constitute a separate offense.

(c) The city's duly authorized personnel and the police department shall have the authority to eject from park facilities any person acting in violation of this article.

(Ord. No. 2012-11, § 12, 8-27-2012)

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-38, which pertained to user risk and liability, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984. Section 12 of Ord. No. 2012-11 has been codified as § 58-38 at the discretion of the editor.

Sec. 58-39. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-39, which pertained to conduct of users generally, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-40. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-40, which pertained to volunteer improvements, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-41. Concessions.

(a) Concession sales rights may be granted by the city to individuals, groups or organizations. Those wishing to receive concession rights must make a request in writing to the city offices. Each request will be reviewed by the parks advisory committee and a recommendation made by the committee to the city council for its action.

(b) Concession sales rights shall not be available to individuals, groups or organizations for the purpose of generating profit or private gain. A request for concession sales rights must be in writing, must contain an explanation of all revenues to be generated, who will be responsible for those funds, and the purpose for which the funds will be used. One hundred percent of the profits generated are to be expended on city park activities or for nonprofit or charitable activities approved by the city in writing.

(Ord. No. 84-13, § 1, 7-9-1984; Ord. No. 88-2, § 1, 3-28-1988)

State law reference—Concessions in city park, Vernon's Ann. Civ. St. art. 6081.

Sec. 58-42. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-42, which pertained to open fires, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-43. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-43, which pertained to firearms, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-44. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-44, which pertained to alcoholic beverages, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-45. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-45, which pertained to animals, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-46. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-46, which pertained to hazardous hobbies, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-47. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-47, which pertained to traffic control, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-48. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-48, which pertained to fireworks, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-49. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-49, which pertained to litter control, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-50. Signs.

(a) Signs are not to be placed in any city park without the written approval of the city. Those wishing to place signs in any city park must make a request in writing to the city offices. Each request will be reviewed by the parks advisory committee and a recommendation made by the parks advisory committee to the city council for action.

(b) Sign rental (advertisements) shall not be available to individuals, groups or organizations for the purpose of generating profit or private gain. One hundred percent of the profit generated by such rental shall be expended on city park activities or for nonprofit or charitable activities approved by the city.
(Ord. No. 88-2, § 1, 3-28-1988)

Cross reference—Signs, ch. 70.

Sec. 58-51. Tournaments.

City baseball/softball facilities are not available to individuals, groups or organizations for the purpose of tournament play for profit or private gain. Those wishing to reserve a facility for a tournament must make a request in writing to the city offices. Each request must contain an explanation of all revenues to be generated, who will be responsible for those funds, and the purposes for which the funds will be used. One hundred percent of the profits/revenues generated are to be expended on city park activities or charitable activities approved by the city.
(Ord. No. 88-2, § 1, 3-28-1988)

Secs. 58-52—58-80. Reserved.

ARTICLE III. RESERVED*

Secs. 58-81—58-110. Reserved.

ARTICLE IV. RESERVED†

Secs. 58-111—58-150. Reserved.

ARTICLE V. RESERVED‡

Secs. 58-151—58-190. Reserved.

ARTICLE VI. LAKE PINKSTON MANN-PINKSTON RESERVOIR

DIVISION 1. GENERALLY

Sec. 58-191. Penalty for violation.

Any person violating the provisions of this article shall, upon conviction, be subject to the fine set out in section 1-17. Any motor vehicle found parked and unattended on the dam in violation of this article shall be towed away at the owner's expense.
(Code 1978, § 14-17)

Sec. 58-192. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-192, which pertained to description, location, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-193. Reserved.

Editor's note—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed § 58-193, which pertained to primary purpose, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

***Editor's note**—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed Art. III, §§ 58-81—58-83, which pertained to Mini Park, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

†**Editor's note**—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed Art. IV, §§ 58-111—58-116, which pertained to Perry Sampson Park, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

‡**Editor's note**—Ord. No. 2012-11, adopted Aug. 27, 2012, repealed Art. V, §§ 58-151—58-157, which pertained to Community Park, and derived from Ord. No. 84-13, § 1, adopted July 9, 1984.

Sec. 58-194. Mooring and buoys.

No person shall at any time moor any boat or other craft to any buoy, beacon, or sign placed on Lake Pinkston, nor shall any person in any manner hang on with a boat to such buoy, beacon or sign.
(Ord. No. 2002-3, § 1(art. I, § 1), 2-25-2002)

Sec. 58-195. Glass containers.

No person may introduce, carry into or possess, use, dump, break, dispose or throw or abandon any glass container in an area adjacent to the water or into the waters of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. I, § 2), 2-25-2002)

Sec. 58-196. Pollution.

There shall not be dumped, thrown, drained or discharged directly or indirectly into the city water supply any sewage, industrial waste, oil, effluent, waste, gas, liquid, weed killer, herbicide, litter, soil, solid or other matter of a nature or in quantities or in a concentration that by itself or in conjunction with any other matter does or tends to render the waters of the city water supply unfit or undesirable for use as a domestic, agricultural, industrial or commercial source or supply of water, or that does or tends to cause such waters to become unsanitary, odorous, polluted, discolored or contaminated, or that does or tends to render such waters undesirable or unfit for recreational purposes.
(Ord. No. 2002-3, § 1(art. I, § 3), 2-25-2002)

Sec. 58-197. Skiing.

No skiing shall be permitted on any part of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. I, § 4), 2-25-2002)

Sec. 58-198. Jet skis.

The use of jet skis, wave runners, personal recreational water vehicles, and similar motorized craft is expressly prohibited on any part of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. I, § 5), 2-25-2002)

Sec. 58-199. Driving and parking.

It shall be unlawful for any person to operate a motor vehicle on the dam of Lake Pinkston except on the roadway provided across such dam. It shall be unlawful to for any person to park a motor vehicle upon the dam of Lake Pinkston. There are areas adjacent to each of the boat ramps available for parking. Because of the limited area, parking should be limited to short term, and should be in an orderly manner to allow for traffic flow.
(Ord. No. 2002-3, § 1(art. I, § 6), 2-25-2002)

Cross reference—Stopping, standing and parking, § 86-151 et seq.

Sec. 58-200. Camping.

There are no designated camping areas. The logical areas and the areas where most open land is available are on either side of the dam and near the two boat ramps.
(Ord. No. 2002-3, § 1(art. I, § 7), 2-25-2002)

Sec. 58-201. Swimming.

It shall be unlawful for any person to swim in the waters of Lake Pinkston within 400 feet of the raw water intake or the overflow spillway. Swimming in other areas is allowed at one's own risk.
(Ord. No. 2002-3, § 1(art. I, § 8), 2-25-2002)

Sec. 58-202. Alcoholic beverages.

It shall be unlawful for any person to carry or be in possession of alcoholic beverages on properties owned by the city. Such properties include that land adjacent to Lake Pinkston and further extends the distance of 100 feet out into the lake.
(Ord. No. 2002-3, § 1(art. I, § 9), 2-25-2002)

Cross reference—Alcoholic beverages, ch. 6.

Sec. 58-203. Cancellation of lease for violation.

The breach of any of the regulations contained in this article by any lessee of lands belonging to the city shall be grounds for cancellation of the lessee's lease in accordance with the procedure for cancellation set out in the standard lot lease, now used by the city.
(Ord. No. 2002-3, § 1(art. X, § 1), 2-25-2002)

Sec. 58-204. Expulsion and denial of access for violation.

The breach of any of the regulations contained in this article by any person shall be grounds for his expulsion from and the denial to him of access to the property and premises of the city.
(Ord. No. 2002-3, § 1(art. X, § 2), 2-25-2002)

Sec. 58-205. Punishment for violation.

Any person who violates or fails to comply with any of the rules and regulations in this article governing Lake Pinkston shall, upon conviction, be punished by fine not to exceed $200.00. This penal provision shall be cumulative of any and all other legal remedies available and applicable concerning any such violations.
(Ord. No. 2002-3, § 1(art. X, § 3), 2-25-2002)

Secs. 58-206—58-230. Reserved.

DIVISION 2. HUNTING AND FISHING REGULATIONS*

Sec. 58-231. Valid laws.

All valid laws of the state and the United States Government relating to hunting and fishing and water safety shall be in effect at all times on all property owned by the city. No hunting shall be permitted on any Lake Pinkston properties. No pistol or rifle shall be shot, fired or discharged in, on, along, or across Lake Pinkston or in, on, along, or across or upon any property owned by the city, except by duly constituted peace officers, game wardens and employees of the city when in the discharge of their duties.
(Ord. No. 2002-3, § 1(art. II, § 1), 2-25-2002)

Sec. 58-232. Fish seines, nets and traps; trotlines.

Seining, netting and trapping of any fish other than minnows for bait is hereby prohibited. No person shall have in his possession on any property of Lake Pinkston any seine, net or trapping device other than minnow seine. Nonmetallic trotlines are permitted; however, no trotline shall be set within 200 feet of any public dock, pier, beach or any place commonly used by the public for wading, swimming, or where it will obstruct boat lanes.
(Ord. No. 2002-3, § 1(art. II, § 2), 2-25-2002)

Sec. 58-233. Commercial fishing.

No person shall sell or buy or offer to sell or buy or to take or to possess for commercial purposes, fish from the waters of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. II, § 3), 2-25-2002)

***Cross reference**—Animals, ch. 14.

Sec. 58-234. Prohibited bait fish.

No game fish, gold fish, cannibal minnows, Mexican minnows, or fresh water rough fish such as carp, gar, shad, or suckers shall be used as bait in Lake Pinkston.
(Ord. No. 2002-3, § 1(art. II, § 4), 2-25-2002)

Sec. 58-235. Use of bottles, cans or floats in fishing.

No bottles, cans or floats of any kind may be used for the purpose of taking fish unless tied to a stationary object or held by the fisherman.
(Ord. No. 2002-3, § 1(art. II, § 5), 2-25-2002)

Sec. 58-236. Fishing near intake.

No fishing shall be permitted within 400 feet of the raw water intake or overflow spillway of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. II, § 6), 2-25-2002)

Secs. 58-237—58-260. Reserved.

DIVISION 3. BOATS AND DOCKS*

Sec. 58-261. Private pleasure boats only.

Only private boats used for pleasure shall be permitted on the waters of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. III, § 1), 2-25-2002)

Sec. 58-262. Jet boats.

The operation of jet boats is prohibited on Lake Pinkston.
(Ord. No. 2002-3, § 1(art. III, § 2), 2-25-2002)

Sec. 58-263. Type of dock permitted.

Only boat docks or other structures of similar nature, fixed or floating, used for pleasure may be located on, in, or near the waters of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. III, § 3), 2-25-2002)

Sec. 58-264. Commercial use prohibited.

No person may operate boats, barges, rafts, docks, or other similar devices for commercial purposes on the waters of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. III, § 4), 2-25-2002)

***Cross reference**—Maintenance of piers, docks and other structures at Lake Pinkston, § 22-251.

Sec. 58-265. Unsafe structures or craft; life preservers.

Each boat, barge, raft, dock or other similar device constructed, used, or operated on or near the waters of Lake Pinkston found to be unsafe for any reason, shall be repaired or removed within the time limit specified by the duly authorized representative of the city. At all times, while on the waters of Lake Pinkston, each boat, barge, raft or craft shall be equipped with not less than one life preserver of an approved type for each occupant of the boat, barge, raft or craft, provided further that each occupant under 12 years of age of any boat shall have a life preserver fastened to his person.
(Ord. No. 2002-3, § 1(art. III, § 5), 2-25-2002)

Cross references—Notice of unsafe or abandoned structures; remedial action by city, § 22-252.

Sec. 58-266. Watercraft use limited.

No boat, barge, raft or craft shall be loaded with passengers or cargo beyond its safe carrying capacity, taking into consideration weather and normal operating conditions. No boat, barge, raft, or craft having overnight accommodations shall be placed upon or used on the waters of Lake Pinkston unless and until the boat, barge, raft, or craft is equipped with approved sanitary facilities. No such boat or barge shall be used, operated or maintained on the waters of Lake Pinkston as a domicile or place of abode.
(Ord. No. 2002-3, § 1(art. III, § 6), 2-25-2002)

Sec. 58-267. Obstruction of passageways; restricted areas.

(a) No person shall so anchor a boat for fishing or other purposes on any body of water over which the city has jurisdiction in such a position as to obstruct a passageway ordinarily used by other boats.

(b) No person shall operate a boat within a water area which is clearly marked by buoys or some other distinguishing device as a restricted area.
(Ord. No. 2002-3, § 1(art. III, § 7), 2-25-2002)

Sec. 58-268. Navigation rules of the road.

All boats, barges, rafts and other similar devices operated on the waters of Lake Pinkston shall observe all of the rules of the road applicable to inland waterways as set forth by the Bureau of Navigation. Any peace officer, and any special peace officer appointed by the city, shall have the right to require the removal of any boat, barge, raft or similar device from the waters of Lake Pinkston if the boat, barge, raft or device is operated in violation of any of the rules contained in this article, and any person refusing to obey the lawful order of such officials shall be deemed guilty of a violation of this article.
(Ord. No. 2002-3, § 1(art. III, § 8), 2-25-2002)

Sec. 58-269. Discharge of sewage.

It shall be unlawful to operate on Lake Pinkston any boat equipped with a toilet or head unless such toilet or head is arranged to empty into holding tank or other sewage to be discharged into the water of the lake or on land at such point and in such manner that contents will be brought into the lake by natural drainage.
(Ord. No. 2002-3, § 1(art. III, § 9), 2-25-2002)

Sec. 58-270. Underwater boat exhaust.

All power boats, inboard and outboard, used and operated upon the waters of Lake Pinkston shall be equipped with an approved underwater exhaust or with the manufacturer's original type exhaust equipment.
(Ord. No. 2002-3, § 1(art. III, § 10), 2-25-2002)

Sec. 58-271. Reckless driving and speeding.

(a) Every operator of a boat or other craft on Lake Pinkston shall at all times navigate the boat or craft in a careful and prudent manner and at such rate of speed as not to endanger any person or his property.

(b) Reckless navigation of any boat or other craft of Lake Pinkston shall include operating the boat or craft in a manner which necessarily interferes with the free and proper use of the water of the lake or endangers other boats and crafts thereon or endangers any person.

(c) No person shall operate any boat or other craft on Lake Pinkston at a rate of speed greater than will permit, by the exercise of reasonable, care, such boat or other craft, to be brought to a stop within the assured clear distance ahead.
(Ord. No. 2002-3, § 1(art. III, § 11), 2-25-2002)

Sec. 58-272. Operating while under influence.

(a) It shall be unlawful for any person who is under the influence of intoxicating liquor or narcotic drugs or barbiturates or any person who is a habitual user of intoxicating liquor, narcotic drugs or barbiturates, to operate, propel or be in actual physical control of any boat on the waters of Lake Pinkston.

(b) It shall be unlawful for the owner of any boat or any person having such in charge or in control to authorize or knowingly permit the boat to be propelled or operated by any person who is under the influence of intoxicating liquor, narcotic drugs or barbiturates or by any person who is a habitual user of intoxicating liquor, narcotic drugs or barbiturates.
(Ord. No. 2002-3, § 1(art. III, § 12), 2-25-2002)

Cross reference—Alcoholic beverages, ch. 6.

Sec. 58-273. Riding on decks and gunwales.

No person, operating a motorboat on Lake Pinkston, shall allow any person to ride or sit on the gunwales thereof or on the decking over the bow of the craft while underway, nor shall any

person, operating any open motorboat, allow any person to stand in such craft while underway. Nothing in this section shall be construed to mean that passengers or other persons aboard a boat cannot stand on the decking over the bow of the boat to moor the boat or to cast off or for any other necessary purpose.
(Ord. No. 2002-3, § 1(art. III, § 13), 2-25-2002)

Sec. 58-274. Anchoring and accidents.

No person shall leave a boat or any other craft on Lake Pinkston without having the boat or craft dependably fastened to an anchorage, either in the water or upon the land. Such boats or other craft that are not dependably anchored must be removed from the water a sufficient distance to assure that the boat or craft will not float away from its station in the event of rising waters. If the operator of any boat or other craft involved in an accident resulting in injury or death to any person, or in damage to property, he shall so far as he can do so without danger to his own vessel, crew and passengers if any, render to any persons affected by the collision such assistance as may be practicable and give his name, address, full identification of this boat and the name and address of the owner of the boat struck or the operator or occupants of the boats collided with, and shall report such accident immediately to the city police department, city manager or any other person authorized by the city to receive such report.
(Ord. No. 2002-3, § 1(art. III, § 14), 2-25-2002)

Sec. 58-275. Boat ramps, piers, etc.

No boat launching ramp, marina, dock and/or floating fishing pier shall be located within 1,000 feet of the raw water intake or overflow spillway; however, the same shall not be designated by buoys or markers.
(Ord. No. 2002-3, § 1(art. III, § 15), 2-25-2002)

Sec. 58-276. Boathouse and pier construction; approval, maximum projection.

(a) Plans for boathouses and fishing piers must be submitted to the city for approval before construction is begun.

(b) The following limitations and restrictions shall apply to structures constructed in or upon the waters of Lake Pinkston adjacent to any leased or platted lake front lot:

(1) No structure shall be constructed or caused or allowed to be constructed by any Lake Pinkston lot lessee that extends from the lessee's shoreline beyond either imaginary straight line extending into Lake Pinkston from each shoreline corner of the lessee's lot, such imaginary lines being perpendicular (90 degrees) to a straight line through the outside shoreline corners of the lessee's lot.

(2) No structure shall be constructed or caused or allowed to be constructed by any Lake Pinkston lot lessee that extends from the lessee's shoreline beyond either imaginary straight line extending into Lake Pinkston from each shoreline corner of the lessee's

lot, each such imaginary line being perpendicular (90 degrees) to a straight line through the outside shoreline corners of the adjacent Lake Pinkston lot adjoining such shoreline corner of the lessee's lot.

(3) No structure shall be constructed or caused or allowed to be constructed by any Lake Pinkston lot lessee that crosses an imaginary direct straight line extension of either side lot line of such lessee's lot.

(4) No structure shall be constructed or caused or allowed to be constructed by any Lake Pinkston lot lessee that extends more than 50 feet from the normal lake shoreline as identified by the lake's water touching the shoreline when the lake level is at the top of the concrete service spillway situated in Lake Pinkston.

(Ord. No. 2002-3, § 1(art. III, § 16), 2-25-2002)

Sec. 58-277. State license required.

No person shall place, operate or keep any boat or other craft on Lake Pinkston without a current license from the state provided that the state requires the boat or craft to be licensed.
(Ord. No. 2002-3, § 1(art. III, § 17), 2-25-2002)

Sec. 58-278. Adoption of Texas Water Safety Act; penalty for violation.

(a) The Texas Water Safety Act (V.T.C.A., Parks and Wildlife Code § 31.001 et seq.) is hereby adopted as the rules and regulations governing watercraft on Lake Pinkston.

(b) Any person who violates or fails to comply with any provision of the Texas Water Safety Act shall, upon conviction, be punished by fine of not more than $200.00.
(Ord. No. 2002-3, § 1(art. III, § 18), 2-25-2002)

Sec. 58-279. Enforcement of boat safety regulations by game wardens.

The game wardens of the state are hereby authorized to enforce all Lake Pinkston rules and regulations.
(Ord. No. 2002-3, § 1(art. III, § 19), 2-25-2002)

Secs. 58-280—58-300. Reserved.

DIVISION 4. AUTHORITY, RISK, WAIVER

Sec. 58-301. Power to exclude persons in violation of rules.

As an additional remedy and not in repeal of any other provisions of the rules and regulations governing Lake Pinkston set out in this article, the concessionaire, any police officer (general or special), any game warden or any other authorized representative of the city

shall have the power to exclude any person from the surface of the lake or from any property comprising Lake Pinkston, whether leased or not, if such person is in violation of the rules and regulations governing Lake Pinkston set out in this article.
(Ord. No. 2002-3, § 1(art. IV, § 1), 2-25-2002)

Sec. 58-302. Assumption of risk.

The city shall, in no event, be liable to any person on the account of the loss or damage of any property that may be placed in or upon Lake Pinkston, nor shall the city be liable, in any event, to any person on account of personal injuries or loss of life that may be sustained by any person in or upon Lake Pinkston, and any person entering in or upon Lake Pinkston shall do so at his sole risk, and shall not be privileged to enter or remain in or upon such reservoir, save and except under the terms and provisions of this article and any regulations that have been or may hereafter be adopted by the city council, nor shall the city be responsible or liable in such instances as set out in this section.
(Ord. No. 2002-3, § 1(art. IV, § 2), 2-25-2002)

Sec. 58-303. Waiver.

The city council may, upon application and after hearing, waive for a specified length of time such of the terms, provisions and conditions of this article that may be deemed appropriate for the accommodation of special events as may be permitted from time to time and subject to such safety measures as the city council may require.
(Ord. No. 2002-3, § 1(art. IV, § 3), 2-25-2002)

Secs. 58-304—58-320. Reserved.

DIVISION 5. SANITATION

Sec. 58-321. Septic tanks.

Before any 99-year lease lot is used for residential purposes and before any living quarters are placed thereon, each lot shall be provided with a septic system complying to the standards of the current edition of the Construction for Private Sewage Facilities published by the state department of health. Results of the percolation test, conducted by a certified tester, must be submitted to the city's plumbing inspector prior to issuance of a permit.
(Ord. No. 2002-3, § 1(art. V, § 1), 2-25-2002)

Sec. 58-322. Garbage and trash disposal.

All garbage and trash shall be collected and removed from the leased premises at least once weekly and carried away from the leased premises and not dumped upon any property

belonging to the city wherever located, however, all burnable trash may be incinerated as long as no garbage or trash is allowed to enter the lake. All incineration must take place in a proper container, and in accordance with all laws of the state.
(Ord. No. 2002-3, § 1(art. V, § 2), 2-25-2002)

Cross reference—Solid waste, ch. 74.

Sec. 58-323. Keeping animals and fowl.

No animal or fowl shall be maintained or confined on any leased lot except pets belonging to lessee or guests of lessee.
(Ord. No. 2002-3, § 1(art. V, § 3), 2-25-2002)

Cross reference—Animals, ch. 14.

Secs. 58-324—58-340. Reserved.

DIVISION 6. GENERAL RULES FOR USE OF LOTS

Sec. 58-341. Residential use of land; exceptions.

Except for certain areas designated, or to be designated, as public recreation and picnic areas, all of the lands owned by the city surrounding Lake Pinkston are restricted to residential use, except where special written permission is given by the city for other uses.
(Ord. No. 2002-3, § 1(art. VI, § 1), 2-25-2002)

Sec. 58-342. Temporary structures.

No temporary structure of any kind or character shall be permitted to be placed upon any lot in the absence of special written permit thereof, and shall be removed immediately upon notice to do so by the city.
(Ord. No. 2002-3, § 1(art. VI, § 2), 2-25-2002)

Sec. 58-343. Utility easements.

Each lot leased for any purpose is subject to unlimited easement for the construction, operation, and maintenance of all utility facilities for the purpose of serving all of the property owned by the city surrounding Lake Pinkston.
(Ord. No. 2002-3, § 1(art. VI, § 3), 2-25-2002)

Cross reference—Utilities, ch. 90.

Sec. 58-344. Passageways; drainage ditches.

Each lessee is permitted to construct passageways on leased premises for his own personal private use, but any such passage shall be constructed at lessee's expense and shall be constructed and maintained so as to prevent the erosion of the land. No drainage ditch shall be constructed without the prior written consent of the city.
(Ord. No. 2002-3, § 1(art. VI, § 4), 2-25-2002)

Sec. 58-345. Tree cutting.

No trees, in excess of six inches in diameter, shall be cut on any property without the prior written consent of the city.
(Ord. No. 2002-3, § 1(art. VI, § 5), 2-25-2002)

Sec. 58-346. Farming, gardening; erosion.

No farming or truck gardening shall be permitted on any lot on Lake Pinkston nor shall any practice or use of land be permitted that is causing or calculated to cause erosion.
(Ord. No. 2002-3, § 1(art. VI, § 6), 2-25-2002)

Sec. 58-347. Liability for improvements below sea level.

Any improvement of any kind constructed below elevation 312 feet above mean sea level shall be at the risk of lessee and the city shall not be liable for any damage to such improvements caused by inundation or otherwise.
(Ord. No. 2002-3, § 1(art. VI, § 7), 2-25-2002)

Sec. 58-348. Water supply from lake.

Any lessee may use water from Lake Pinkston for normal usage in connection with such leased premises only, provided not over three-fourths horsepower motor pump is used in obtaining such water.
(Ord. No. 2002-3, § 1(art. VI, § 8), 2-25-2002)

Sec. 58-349. Nuisances.

Any lessee creating or maintaining a nuisance on any lease lot or upon the water of Lake Pinkston will be guilty of violating this article. Any lessee shall be responsible for the behavior of his guests accordingly.
(Ord. No. 2002-3, § 1(art. VI, § 9), 2-25-2002)

Sec. 58-350. Execution of leases by city secretary; authorized.

The city secretary is authorized to execute leases on behalf of the city on lake lots of the city situated on Lake Pinkston without the joinder of any other official or officer of this municipal corporation.
(Ord. No. 2002-3, § 1(art. VI, § 10), 2-25-2002)

Sec. 58-351. Lot transfer or assignment—Consent.

All transfers or assignments of leases must have the prior written consent of the city secretary, and an executed copy of the transfer of assignment evidencing such consent shall be filed with the city secretary's office before any transfer or assignment shall be effective as to the city.
(Ord. No. 2002-3, § 1(art. VI, § 11), 2-25-2002)

Sec. 58-352. Same—Fee.

The fee for the voluntary transfer of any lake lot from one owner to another owner shall be $100.00. Voluntary shall not mean the transfer from one spouse to another spouse in the dissolution of the marriage and property settlement, nor shall it mean the transfer that occurs by the death of the registered lot lessee.
(Ord. No. 2002-3, § 1(art. VI, § 12), 2-25-2002)

Sec. 58-353. Same—Form.

The form for assignment of lake lot from one owner to another shall be shown in Exhibit A to Ordinance No. 2002-3, on file in the office of the city secretary.
(Ord. No. 2002-3, § 1(art. VI, § 13), 2-25-2002)

Secs. 58-354—58-370. Reserved.

DIVISION 7. LOT USE AND OCCUPANCY RESTRICTIONS

Sec. 58-371. Definition of city of center lot.

Not more than two lots shall be leased or acquired by any person or members of their immediate family without the prior written consent of the city council. The term "lot (Lake Pinkston lot)" shall mean a lot as described for purposes related to this article, and subject to lease under the terms and conditions of this article, and shall mean the parcels of property being situated between a privately-owned property and the waterline of Lake Pinkston. Due to the periodic changes in the elevations of the water and the varying elevations of the terrain, there is no standard for the distance. This area is typically between elevation 298 FtMSL (normal lake elevation) and elevation 311.4 FtMSL (estimated maximum flood elevation/ average "take line"). The precise dimensions of the lot shall be determined based upon a continuation of the side lot lines of the adjacent private-owned lot from the private lot to the existing water line of the Lake (estimated elevation 298 FtMSL). See figure below.



(Ord. No. 2002-3, § 1(art. VII, § 1), 2-25-2002)
Cross reference—Definitions generally, § 1-2.

Sec. 58-372. Company leased lots; number restricted.

No company, firm or corporation shall lease or acquire more than three lots, which must be consecutive lots, without the prior written consent of the city council.
(Ord. No. 2002-3, § 1(art. VII, § 2), 2-25-2002)

Sec. 58-373. Minimum house square footage; plan approval.

No habitable structure, including primary residence and/or guest house, containing less than 500 square feet of living area, shall be constructed on any Lake Pinkston lease lot. Exterior plans shall be submitted to the city for approval before construction is begun.
(Ord. No. 2002-3, § 1(art. VII, § 3), 2-25-2002)

Sec. 58-374. Bus bodies prohibited.

No bus bodies shall be permitted on any lot.
(Ord. No. 2002-3, § 1(art. VII, § 4), 2-25-2002)

Sec. 58-375. Side line setback.

There shall be no construction closer than six feet from any side line of any lot.
(Ord. No. 2002-3, § 1(art. VII, § 5), 2-25-2002)

Sec. 58-376. Number of residences and boathouses per lot.

Not more than one single-family residence and not more than one boathouse may be constructed on or connected to any one lot. One guest residence, separated from the primary residence, may be constructed upon submission of plan and specifications to the building inspector. Guest residence must conform to minimum square footage and septic system specifications as required of primary residence. No habitable structure or structure with restrooms or sleeping quarters shall be constructed in areas other than the concession area over or upon the waters of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. VII, § 6), 2-25-2002)

Sec. 58-377. Commercial enterprise on residential lot.

All Lake Pinkston lease lots of the city shall be restricted to residential purposes only.
(Ord. No. 2002-3, § 1(art. VII, § 7), 2-25-2002)

Sec. 58-378. Improvement maintenance.

All improvements placed on any lot shall be kept and maintained in a good state of repair at all times.
(Ord. No. 2002-3, § 1(art. VII, § 8), 2-25-2002)

Sec. 58-379. Compliance with law.

The use and occupancy of all lots shall be in accordance with the regulations and ordinances now in effect or hereafter placed in effect by the city governing such use and occupancy as well as those governing activities on and in the water of Lake Pinkston.
(Ord. No. 2002-3, § 1(art. VII, § 9), 2-25-2002)

Sec. 58-380. Restriction amendments.

The city reserves the right to remove any or all restrictions or to add others, in its sole discretion without the consent of any lessee; and from and after the effective dates of such amended restrictions, these restrictions, as so amended from time to time, shall govern the use and occupancy of all lots.
(Ord. No. 2002-3, § 1(art. VII, § 10), 2-25-2002)

Sec. 58-381. Lease form.

All leases of lots for all purposes other than a lease to a concessionaire shall be on the form on file in the office of the city secretary and made a part hereof for all purposes as if copied verbatim herein.
(Ord. No. 2002-3, § 1(art. VII, § 11), 2-25-2002)

Sec. 58-382. Rental fees.

There shall be two categories of rental fees based upon the use or allowable use of the lease property.

(1) *Pier/dock rental.* For lots only used for the construction, maintenance of a pier, dock boathouse or similar structure and/or use as water access or open space:

a. The lease shall cost ..... $ 25.00

b. The annual rental shall be 0.00

(2) *Structure rental.* For lots used or partially used for any purpose other than those described in subsection (1) of this section, then the rates shall be as follows:

a. The lease shall cost $300.00 per acre (prorated for each portion of an acre).

b. The rental rate shall be $25.00 per annum plus five percent of the lease cost (bonus price).

(Ord. No. 2002-3, § 1(art. VII, § 12), 2-25-2002)

Sec. 58-383. Late payment fee.

There is hereby imposed a late payment fee of $250.00 against the lessee of any Lake Pinkston leased lot who fails to pay any annual lease payment or rental or any other fee due in connection with such lease on or before the due date. The late payment fee shall become applicable at the expiration of notification by certified mail to any leaseholder delinquent in payment of any fee due under such lease. This late payment fee hereby imposed shall be

cumulative of the right of the city to cancel and terminate such lease under the terms and provisions thereof for failure to pay any annual lease payment or other fee due under such lease, or any other remedy provided for the city under such lease and/or the ordinances and regulations relating to Lake Pinkston leased lots. Failure to pay any late payment fee applicable in addition to the regular annual lease payment or any other fee, shall cause any such lease to be subject to cancellation and forfeiture under the terms and provisions of the lease agreement for any default or violation of any lease provision.
(Ord. No. 2002-3, § 1(art. VII, § 13), 2-25-2002)

Secs. 58-384—58-400. Reserved.

DIVISION 8. TRAILERS

Sec. 58-401. Locations of trailers and prefabricated structures.

(a) Off-site assembled living quarters, trailer houses, modular homes, etc., will be permitted only in areas where adjacent private lots do not restrict the installation of trailers or prefabricated homes.

(b) All trailer homes placed on or onto lots owned by the city must conform and be certified by the Department of Housing and Urban Development. All trailer homes must be inspected and meet standards prior to placement on any piece of land owned by the city.
(Ord. No. 2002-3, § 1(art. VIII, § 1), 2-25-2002)

Sec. 58-402. Construction on lots restricted.

(a) Any construction on any lot shall be of the type suitable for use only in conjunction with and not independent of any trailer house or mobile home, including such improvements as porches, auxiliary room and similar improvements which have utility use only in connection with the trailer house or mobile home.

(b) In no event shall any constructed improvements pursuant to this section be used other than for storage purposes, except when used in conjunction with a trailer house or mobile home.
(Ord. No. 2002-3, § 1(art. VIII, § 2), 2-25-2002)

Sec. 58-403. Installing limitation.

A trailer house or mobile home must be installed on the lot by the owner within six months of purchase.
(Ord. No. 2002-3, § 1(art. VIII, § 3), 2-25-2002)

Secs. 58-404—58-420. Reserved.

DIVISION 9. MORTGAGES AND FORFEITURES

Sec. 58-421. Definitions.

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

Mortgage means a deed of trust, vendor's lien secured by a deed of trust, mechanic's and materialman's lien contract and any other instrument to secure an indebtedness for purchase price, leasehold improvements or any other type of advanced money for property.

Mortgagee means the contracting party, a nonlessee, who either advances the purchase money, or is a lessee-vendor who retains a vendor's lien in the transfer of the lease, the contractor and his assigns and a mechanic's and materialman's lien contract holder or the party who ultimately advances the money representing the debt.

Mortgagor means the debtor-lessee whether singular or plural.

(b) Each term defined in subsection (a) of this section shall be construed in its broadest sense to cover any conceivable situation where a debt exists and security is obtained by a lien on the lot leasehold and improvements situated thereon.
(Ord. No. 2002-3, § 1(art. IX, § 1), 2-25-2002)

Cross reference—Definitions generally, § 1-2.

Sec. 58-422. Mortgage registration—Procedure.

(a) Any mortgage may be registered with the city as the lessor by the filing with the city secretary of a photocopy or a certified copy of the original recorded mortgage, together with the current address of the mortgagor and the mortgagee, the receipt of which shall be acknowledged by the city by the following letter from the office of the city secretary to the lessee and to the mortgagee or at the address of the parties as shown, which letter shall contain the following language: "Receipt is hereby officially acknowledged by the City of Center of a copy of the instrument of record in Volume _____ Page _____ of the record shown thereon of Shelby County, Texas. This is to certify that the instrument referred to has been duly registered in the official lease file of the City of Center in accordance with Lake Pinkston Rules and Regulations."

(b) Each mortgage to be registered must contain the following language: "Mortgagor hereby conditionally assigns to the mortgagee herein the lease from the City of Center on the lot herein described as additional security for the payment of the debt described herein so long as the mortgagor faithfully pays the debt described herein; however, should the City of Center, the lessor or mortgagor herein, ever declare a forfeiture of such lease for any reason as to the interest of the mortgagor, such assignment conditionally made shall become final and binding

upon mortgagor herein being actuated by the declaration and recordation of the forfeiture by the City of Center as set out in Lake Pinkston Rules and Regulations, without regard to whether or not the payments on the debt herein described are current."
(Ord. No. 2002-3, § 1(art. IX, § 2), 2-25-2002)

Sec. 58-423. Same—Effect.

(a) Every owner of a mortgage properly registered as provided in section 58-422 shall be entitled to any notice to which the lessee of such mortgaged lot be entitled to receive.

(b) In the event of default by the lessee of any of the terms and provisions of the mortgage or other security instrument, the city (subject to the terms and provisions of the lease and all applicable rules and regulations of the city) will recognize the mortgagee as the new lessee whether such mortgagee acquires the lease by the voluntary assignment of such lease by the original lessee in satisfaction of the debt and lien, or by the involuntary assignment of such lease by foreclosure under a deed of trust or by any other legal action; provided all of the terms and provisions of such lease are being complied with by the lessee, mortgagee or other occupant, as the case may be.
(Ord. No. 2002-3, § 1(art. IX, § 3), 2-25-2002)

Sec. 58-424. Same—Required to bind city.

No mortgage or any other instrument affecting a lease between the city as lessor and an individual, firm, or corporation as lessee shall be binding upon the city unless and until the mortgage or other instrument has been registered in accordance with the provisions of this division.
(Ord. No. 2002-3, § 1(art. IX, § 4), 2-25-2002)

Secs. 58-425—58-450. Reserved.

ARTICLE VII. LAKE CENTER

Sec. 58-451. Article not to supersede state law.

No part of this article shall be interpreted as replacing any of the state game and fish laws, and in the event of any conflict therewith the conflicting portion of this article shall be null and void.
(Code 1978, § 14-8)

Sec. 58-452. Penalty for violation.

Any person violating the provisions of this article shall, upon conviction, be subject to the fine set out in section 1-17.
(Code 1978, § 14-10)

Sec. 58-453. Trespassing near water treatment plant.

There shall be no trespassing into the fenced area around the water treatment plant in the Lake Center area.
(Ord. No. 84-13, § 1, 7-9-1984)

Sec. 58-454. Swimming, water skiing, use of certain boat motors.

No swimming, water skiing or boating with motors of the internal combustion type shall be allowed in Lake Center.
(Code 1978, § 14-7)

Sec. 58-455. Hunting and fishing.

(a) *Restricted areas.* No hunting or fishing is allowed in restricted areas of Lake Center. It shall be a violation of this article to hunt or fish, either from the adjoining land surrounding Lake Center or from boats, or by any method, in those areas that are marked "RESTRICTED." Generally these restricted areas shall be within 1,000 feet of the raw water intake valve of the lake and shall be marked with signs.

(b) *Kinds of fishing allowed.* Any person shall fish with artificial bait or live bait only, with pole and line. No trotlines, nets, seines or other types of fishing shall be allowed. No dead baits such as meats, guts, liver, shrimp or any other dead bait of any kind shall be used.

(c) *Persons under 17 years of age.* There shall be exempted from the provision of this section those persons who have not reached 17 years of age, who may fish and hunt provided they are accompanied by an adult.
(Code 1978, §§ 14-2—14-6, 14-9)

Chapters 59—61

RESERVED

Chapter 62

PEDDLERS, SOLICITORS, ITINERANT VENDORS*

Article I. In General

Sec. 62-1. Definitions.
Secs. 62-2—62-30. Reserved.

Article II. Permit

Sec. 62-31. Permit requirement for itinerant vendors and merchants.
Sec. 62-32. Use of public property.
Sec. 62-33. Permits for on-street solicitations.
Sec. 62-34. Fees.
Sec. 62-35. Refusal of application.
Sec. 62-36. Permit for conglomeration of itinerant vendors.
Secs. 62-37—62-60. Reserved.

Article III. Commercial Vendors

Sec. 62-61. Application procedure; contents.
Sec. 62-62. Fee, term.
Sec. 62-63. Bond.
Sec. 62-64. Requirements prior to issuance of permit.
Sec. 62-65. Restrictions on location of operation.
Sec. 62-66. Duration.

*__Cross reference__—Streets, sidewalks and other public places, ch. 78.

__State law references__—Authority to regulate peddlers, V.T.C.A., Local Government Code § 215.075; home solicitation transactions, V.T.C.A., Business and Commerce Code § 39.001 et seq.

ARTICLE I. IN GENERAL

Sec. 62-1. Definitions.

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

Authorized permit means a completed permit form issued by the city, signed by either the city manager or any one of his designees.

Commercial vendor shall mean and be used to collectively refer to door-to-door vendor, temporary vendor and/or transient vendor as defined herein.

Condition prior to occupation shall mean the absence of litter, trash, rubbish, refuse, and garbage.

Door-to-door solicitor/vendor shall mean any person, group, firm, business or organization soliciting donations or sales of items at private residences or generally throughout the city.

Fundraising vendor shall mean any charitable, civic or any group where proceeds will be applied to charity, civic or philanthropic purposes.

Itinerant vendor/merchant shall mean any and all solicitors, peddlers, vendors or merchants who intend to sell merchandise within the city and do not have a business location in a permanent building or structure in full compliance with all zoning, construction and development codes of the city.

Public property means any and all streets, sidewalks, boulevards, alleys, roads, or any public way and all public parks, spaces, grounds or building including the area known as the downtown square.

Shelby County produce vendor shall mean vendors of farm produce, poultry, stock or agricultural products in their natural state, and who actually produce such products on their own premises within the county, whether within the city limits or without the corporate limits of the city.

Temporary vendor/merchant shall mean any person or group of people who establishes a temporary, mobile or transient business venture.

Transient vendor means any such business as may be operated or conducted by persons who may or may not have fixed places of business in places other than the city, or who move stocks of goods, wares or merchandise or samples into and away from the city on an intermittent or short-term basis (i.e. special events or weekend sales).

Exceptions: None of these definitions include or shall be construed to include any person or group of people who make sales to established, permanent businesses in the city in the usual course of business activities. Examples include product line sales agents, product/equipment service person or postal/package delivery.

(Code 1978, § 6-1; Ord. No. 98-5, § 1, 5-26-1998; Ord. No. 2009-16, § 1, 10-12-2009)

Cross reference—Definitions generally, § 1-2.

Secs. 62-2—62-30. Reserved.

ARTICLE II. PERMIT

Sec. 62-31. Permit requirement for itinerant vendors and merchants.

(a) It shall be unlawful for any person or group of people to conduct business as an itinerant vendor/merchant within the corporate limits of the city without express application for and approval of an authorized permit.

(b) Such authorized permit shall be posted in plain site at the vendors/merchants temporary vending site or be produced immediately at the request of any city official.

(c) The permit shall specifically state the classification of the vendor and identify the activity applied for and approved by the issuance of the permit.

(d) Failure to abide by the terms of the permit and the requirements for the specific classification of vendor identified on the permit shall be cause for immediate suspension leading to termination of the permit.

(e) Continuation of operations after suspension or termination of a permit for any reason shall be unlawful and illegal.
(Ord. No. 98-5, § 2, 5-26-1998; Ord. No. 2009-16, § 2, 10-12-2009)

Sec. 62-32. Use of public property.

(a) No authorized permit shall be issued for any vendor/merchant to conduct or operate their business on any public property except as those meeting the description and definitions as:

(1) Shelby County produce vendors;

(2) Fundraising vendors;

(3) Festivals as allowed in section 62-36.

(b) Any person or group who uses public property for the purposes stated in this section shall return the public property to its condition prior to occupation on a daily basis and failure to do so could be cause for refusal of future permits.
(Ord. No. 98-5, § 3, 5-26-1998; Ord. No. 2009-16, § 3, 10-12-2009)

Sec. 62-33. Permits for on-street solicitations.

(a) No person may solicit charitable contributions on a city street or state highway within the city limits without first obtaining a permit from the city secretary.

(b) There shall be no fee to the applicant or the charitable group they represent for an on-street solicitation permit.

(c) The permit shall define the rules and regulations governing on-street solicitations as follows:

(1) Permits shall only be issued to charitable organizations and causes, not for business purposes.

(2) Permits shall only be issued to organizations based within the city, that are composed primarily of residents of Center, primarily hold meetings or have a physical location within the city.

(3) Permits shall only authorize persons over the age of 18 to be on the street for solicitation with the exception of school-related events, under which circumstances persons ages 16 or over may be on the street while under the visual supervision of an adult who is acting as a project sponsor

(4) Permits shall restrict the hours for on-street solicitation to a one-day period between 8:00 a.m. and 5:00 p.m.

(5) Permits shall only be given for authorized areas of town, which are limited to intersections surrounding the downtown square or the intersection of Church/Tenaha.

(6) No more than three permits shall be issued to one organization within the same calendar year.

(7) No more than one permit shall be issued for any one-day period.

(d) The police chief or any law enforcement official representing the City of Center shall have the authority to immediately halt on-street solicitations and revoke a permit if either:

(1) Conditions or any actions of the permit holder are deemed to cause an immediate safety or traffic hazard; or

(2) Upon violation of any permit requirements as stated in subsection (c) above.

(Ord. No. 98-5, § 4, 5-26-1998; Ord. No. 2005-6, §§ 1—4, 7-25-2005; Ord. No. 2005-9, § 1, 9-12-2005; Ord. No. 2009-16, § 4, 10-12-2009)

Sec. 62-34. Fees.

The amount and type of any fee for an authorized permit shall be set by ordinance. No fees will be required of any person or group of persons that section 62-32 does not apply to.

(Ord. No. 98-5, § 5, 5-26-1998)

Sec. 62-35. Refusal of application.

All itinerant vendors' applications are subject to refusal by the city manager or his designee based on the content or intended use of that vendor's services/wares if found to be offensive by a reasonably prudent person.

(Ord. No. 98-5, § 6, 5-26-1998)

Sec. 62-36. Permit for conglomeration of itinerant vendors.

A permit for a conglomeration of itinerant vendors, regardless of classification or combinations of different types of vendors, may be issued to a single, local organization, entity or group for a coordinated event under the following conditions:

(1) The proceeds gained from the permitted event or activity is primarily for charity, civic or philanthropic purposes as identified on the application; and,

(2) The permit entity shall be responsible for obtaining and submitting information required for each vendor at the event not meeting the definition herein of a fundraising vendor, to include at least the business name and sales and use tax ID number.

(3) All permits issued under this section shall require specific approval of the city council.

Exception: The East Texas Poultry Festival and What-A-Melon Festival do not require council approval so long as all other conditions remain in compliance with regulations herein.
(Ord. No. 2009-16, § 5, 10-12-2009)

Secs. 62-37—62-60. Reserved.

ARTICLE III. COMMERCIAL VENDORS*

Sec. 62-61. Application procedure; contents.

(a) Any commercial vendor, peddler or person taking orders for or offering for sale goods, wares, merchandise, photographs, newspapers, magazines or subscriptions to newspapers or magazines, desiring to operate or conduct such business at any place in the city other than the courthouse or public square, shall make a written application to the city secretary at least 14 days prior to the date on which such person intends to begin such business, for a permit so to do.

(b) The permit application shall show:

(1) The name and address of the applicant;

(2) The name and the address of the person, firm or corporation, if any, that he represents;

(3) The kind of goods offered for sale;

(4) Whether such applicant upon such sale or order shall demand, accept or receive payment or deposit of money in advance of final delivery; and

(5) The period of time such applicant wishes to sell or solicit in the city.
(Code 1978, § 6-4; Ord. No. 2009-16, § 6, 10-12-2009)

*__Editor's note__—Ord. No. 2009-16, § 6, adopted Oct. 12, 2009, redesignated the former §§ 62-36—62-38 of art. I as part of a new art. II as set out herein. Said sections have been renumbered as §§ 62-61—62-63 at the discretion of the editor. The historical notation has been retained with the amended provisions for reference purposes.

Sec. 62-62. Fee, term.

The permit fee for a commercial vendor shall be $30.00; provided, however, when any person, firm, company, partnership, corporation or association engages in any activity mentioned in section 62-31 through one or more agents or employees, such person, firm, company, partnership, corporation, or association shall, in addition to the fee of $30.00 mentioned in this section, pay a permit fee of $10.00 for each agent or employee so engaged. All of such permits shall be valid for one year from the date of their issuance. The fees shall be used for the purpose of defraying expenses incident to the issuing of the permits; provided, however, that the permit shall not entitle the holder of the permit to solicit or sell anywhere on the courthouse public square of the city.
(Code 1978, § 6-6; Ord. No. 2009-16, § 6, 10-12-2009)

Sec. 62-63. Bond.

If an applicant for a permit required by this article, upon a sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery, then the application required in section 62-36 shall be accompanied by a bond in the penal sum of $500.00, signed by applicant and signed, as surety, by some surety company authorized to do business in the state, conditioned for the final delivery of goods, wares, merchandise, services, photographs, magazines and newspapers in accordance with the terms of any order obtained prior to delivery, and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the article sold by the principal of the bond, at the time of delivery, and that may be discovered by such purchaser or customer within 30 days after delivery. The bond shall be for the use and benefit of all persons that may make any purchase or give any order to the principal on the bond, or to an agent or employee of the principal. Provided that in case applicant is a person, firm, company, partnership, or association engaging in any activity mentioned in section 62-31 through one or more agents or employees, such person, firm, company, partnership, or association shall be required to enter into only one bond, in the sum of $500.00 as mentioned in this section, which bond shall be made to cover the activities of all its agents and employees.
(Code 1978, § 6-5; Ord. No. 2009-16, § 6, 10-12-2009)

Sec. 62-64. Requirements prior to issuance of permit.

All commercial vendors shall be required prior to issuance of permit and at any time requested by city officials:

(1) Proof of valid Texas Sales and Use Tax Identification Number corresponding to the name provided on the application prior to issuance of any permit.

(2) Written permission of private property owners on which the vendor is operating.
(Ord. No. 2009-16, § 7, 10-12-2009)

Sec. 62-65. Restrictions on location of operation.

All temporary or transient vendors shall be limited and restricted to operate at or on properties and areas identified on the city's zoning map as commercial C-1 or C-2 districts inclusive of the following restrictions:

(1) Within a C-1 district, no consecutive or multiple permits shall be issued to allow operation for more than 90 total days of operation within any 12-month period.

(2) Within a C-2 district, no consecutive or multiple permits shall be issued to allow operation more than 180 total days of operation within any 12-month period.

(3) Relocating to a different location or property does not change the total days of operation counted during a 12-month period so that in no instance shall more than two 90-day permits be issued annually for any vendor meeting these definitions.

(Ord. No. 2009-16, § 8, 10-12-2009)

Sec. 62-66. Duration.

Permits for any commercial vendor shall be valid for a period which shall be the lesser of the duration of the bond required under section 62-38 or 90 days. The expiration date of the permit shall be included and displayed on the face of the permit.

(Ord. No. 2009-16, § 9, 10-12-2009)

Chapters 63—65

RESERVED

Chapter 66

SECONDHAND GOODS

Article I. In General

Secs. 66-1—66-30. Reserved.

Article II. Garage Sales

Division 1. Generally

Sec. 66-31. Definitions.
Sec. 66-32. Exclusions.
Sec. 66-33. Participation in sale by other than permittee.
Secs. 66-34—66-50. Reserved.

Division 2. Permit

Sec. 66-51. Required.
Sec. 66-52. Application—Contents.
Sec. 66-53. Same—Agreement to clean area of sale.
Sec. 66-54. Term.
Sec. 66-55. Issuance, fee.
Sec. 66-56. Number of permits per location per year.
Secs. 66-57—66-90. Reserved.

Article III. Junkyards

Division 1. Generally

Sec. 66-91. Premises to be kept neat; enclosure.
Sec. 66-92. Location.
Secs. 66-93—66-110. Reserved.

Division 2. License

Sec. 66-111. Declared a nuisance unless licensed.
Sec. 66-112. Application fee; issuance; term.
Sec. 66-113. Revocation.

ARTICLE I. IN GENERAL

Secs. 66-1—66-30. Reserved.

ARTICLE II. GARAGE SALES

DIVISION 1. GENERALLY

Sec. 66-31. Definitions.

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

Applicant means a person who applies for a permit, and includes all persons residing at the address of the location where the temporary sale is to be held.

Garage sale means a temporary sale.

Location means the place where a temporary sale is to be conducted.

Other sales means any offering of goods, wares, and/or merchandise for sale to the public, under any name, conducted by a resident from such resident's home.

Temporary sale means an offering of goods, wares and merchandise for sale to the general public, by a resident of the city, as an intermittent activity, and such sale is not the usual and customary source of that resident's livelihood.

Yard sale means a temporary sale.
(Ord. No. 78-23, § 1, 11-27-1978)

Cross reference—Definitions generally, § 1-2.

Sec. 66-32. Exclusions.

This article shall not apply to temporary sales composed entirely of local people banded together for purely civic or charitable purposes and without personal profit to themselves individually. The provisions of this article shall not apply to any organization duly incorporated under the laws of the state, composed of local stockholders holding a nonprofit charter, for the purpose of holding intermittent temporary sales, whose business is advancement of the city industrially, commercially and financially.
(Ord. No. 78-23, § 2(G), 11-27-1978)

Sec. 66-33. Participation in sale by other than permittee.

More than one person may contribute goods, wares and/or merchandise to be offered for sale, whether or not those persons reside at the address of the applicant and sale location. Such contributions of goods or participation in a temporary sale by persons other than the applicant shall not be considered as a permit by those persons to conduct a temporary sale.
(Ord. No. 78-23, § 2(E), 11-27-1978)

Secs. 66-34—66-50. Reserved.

DIVISION 2. PERMIT

Sec. 66-51. Required.

A permit from the city is required for all temporary sales including garage sales, yard sales and other sales.
(Ord. No. 78-23, § 2(A), 11-27-1978)

Sec. 66-52. Application—Contents.

Every person who desires a permit to conduct a temporary sale shall make an application, in writing, to the city. All applications shall contain the following information:

(1) Name and residence address of the applicant;

(2) The beginning and ending dates of the temporary sale;

(3) The general type of goods, wares and/or merchandise to be offered for sale, i.e., furniture, used clothing, etc.;

(4) The hours that such temporary sale shall be conducted each day;

(5) Location of the sale which must be the same as the residence address of the applicant;

(6) What traffic hazards or other problems that the applicant believes may arise.
(Ord. No. 78-23, § 2(B), 11-27-1978)

Sec. 66-53. Same—Agreement to clean area of sale.

Every applicant for a permit required by this division shall agree in writing upon his application to clean the immediate area of the temporary sale, including public streets and rights-of-way, of any and all trash, paper, etc., upon the end of the sale or expiration of the permit. If the applicant fails to remove all trash, paper, etc., then the city will do so, and the applicant agrees to pay the actual costs incurred by the city to clean the area, and/or remove trash, paper, etc.
(Ord. No. 78-23, § 2(F), 11-27-1978)

Sec. 66-54. Term.

All permits issued pursuant to this division shall be valid for no more than three days, and shall be for the same days as shown on the application.
(Ord. No. 78-23, § 2(C), 11-27-1978)

Sec. 66-55. Issuance, fee.

All permits issued pursuant to this division shall be issued upon application and payment of a fee of $2.00 to the city.
(Ord. No. 78-23, § 2(A), 11-27-1978)

Sec. 66-56. Number of permits per location per year.

No more than two permits shall be issued for a temporary sale to be conducted at any one location or address during a 12-month period. The 12-month period shall be from the date of issuance of the first permit to a location.
(Ord. No. 78-23, § 2(D), 11-27-1978)

Secs. 66-57—66-90. Reserved.

ARTICLE III. JUNKYARDS*

DIVISION 1. GENERALLY

Sec. 66-91. Premises to be kept neat; enclosure.

Any person granted a license as provided in this article shall keep the premises used in the operation and maintenance of the business in a neat and orderly condition. The property and premises on which such business is conducted shall be enclosed by a tight board fence or other structure at least ten feet high, which fence or other structure shall be so constructed that no dust or other material may pass through the fence. The fence or other structure shall be kept in a neatly painted condition. No junk, salvage, machinery or other material shall be piled or placed within the fence so as in any manner to protrude above the enclosure. No junk or salvage of any character or parts of machinery of any kind shall be allowed to remain outside such fence or other structure.
(Code 1978, § 6-53)

Sec. 66-92. Location.

It shall be unlawful and a violation of this article for any person to maintain or use any property within the city for any of the purposes mentioned in section 66-111 and no license shall be issued for any such purpose, if such junkyard, salvage yard, dumping ground or other place described in section 66-111 shall be located within a space of 50 feet of the property line of any residence, school building or church house within the limits of the city.
(Code 1978, § 6-54)

Secs. 66-93—66-110. Reserved.

***State law references**—Junkyards, V.T.C.A., Transportation Code § 396.001 et seq.; highway beautification, V.T.C.A., Transportation Code § 391.001 et seq.; junked and abandoned motor vehicles, V.T.C.A., Transportation Code § 683.001 et seq.

DIVISION 2. LICENSE

Sec. 66-111. Declared a nuisance unless licensed.

Any place used or maintained by any person as a junkyard, salvage yard or dumping ground; for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind; for the storing or leaving of wornout, wrecked or abandoned automobiles, trucks, tractors, machinery of any kind or of any of the parts thereof; for the maintenance or operation of such place for the accumulation of rubbish of any description or for the accumulation, storage and sale of salvage material, salvage lumber, salvage bathroom and plumbing fixtures, used pipe and fixtures or any other type of salvage material which is not licensed and maintained and conducted in the manner stated in this article is hereby declared to be a public and common nuisance, being obnoxious and offensive to the inhabitants of the city because of its interference with the comfortable enjoyment of life and property by city inhabitants and its unsanitary condition, and is prohibited within the city limits of the city.
(Code 1978, § 6-51)

Sec. 66-112. Application fee; issuance; term.

Any person desiring to use or maintain any property within the city for any of the purposes mentioned in section 66-111 shall make written application to the city secretary for a license, which application shall set forth the name and address of the applicant and a legal description of the property or premises upon which the business is to be conducted. The city council shall have the power either to grant or reject such application. If the application is granted, a license to operate such business shall be issued by the city secretary upon the payment of a fee of $5.00 per annum. Any license so issued shall expire on January 1 next succeeding the date of its issuance, but may be renewed from year to year in like manner as is provided for the original license.
(Code 1978, § 6-52)

Sec. 66-113. Revocation.

The city council shall have the power to revoke the license provided for in this division at any time for good cause, but only after notice has been given to the owner of the business of a hearing to be held not less than ten days after the service of such notice.
(Code 1978, § 6-55)

Chapters 67—69

RESERVED

Chapter 70

SIGNS*

Sec. 70-1. Definitions.
Sec. 70-2. Exceptions and exemptions.
Sec. 70-3. Penalty.
Sec. 70-4. Nonconforming signs.
Sec. 70-5. Variances.
Sec. 70-6. Sign administrator designated; delegation of authority.
Sec. 70-7. Duties and authority of sign administrator.
Sec. 70-8. Sign erection permits and signs use permits.
Sec. 70-9. Exceptions to permit requirements.
Sec. 70-10. Prohibited signs.
Sec. 70-11. Signs on public property or public utility structures.

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*__Cross references__—Buildings and building regulations, ch. 22; signs in parks, § 58-50; streets, sidewalks and other public places, ch. 78.

__State law reference__—Regulation of signs, V.T.C.A., Local Government Code § 216.001 et seq.

Sec. 70-1. Definitions.

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

Freestanding sign or *ground sign* means any sign supported by one or more columns, poles, uprights or braces in or on the ground and not attached to any building and as defined by the Standard Building Code.

Nonconforming sign means any sign other than those listed by section 70-2 that existed on the effective date of the ordinance from which this chapter derives which violates any provision of this chapter.

Portable sign means any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, wheeled carrier or other nonmotorized mobile structure. A portable sign which has its wheels removed shall still be considered a portable sign under this definition. A portable sign shall be 32 square feet or less in size.

Projecting sign means any sign which is affixed or attached to, and is supported solely by, a building, wall or like structure, which extends beyond the building, wall or like structure, or parts thereof, more than 18 inches, and whose angle of incidence to the building, wall or structure, or parts thereof, is greater than 30 degrees.

Public service sign means a sign which provides a service or message to the public, such as time, temperature and charity appeals.

Sign means any structure, part thereof, or device or inscription which is located upon, attached to, or painted or represented on any land, or on the outside of any building or structure, or an awning, canopy, marquee or similar appendage, or permanently affixed to the glass on the outside of the building or structure, and which displays or includes any numeral, letter, work, model, banner, emblem, insignia, symbol, device, monogram, heraldry, trademark, light or other representation used as or in the nature of an announcement, advertisement, attention arrester, direction, warning or designation of any person, firm, group, organization, corporation, association, place, commodity, product, service, business, profession, enterprise, industry or activity, or any combination thereof. Where the word "sign" is used without further modification, it shall be understood to embrace all signs and replicas regulated in this chapter. Snipe or bandit signs are expressly considered signs by definition.

Snipe or bandit sign means a sign which is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, stakes, fences or other like objects, the advertising matter of which is not applicable to the present use of the premises on which the sign is located.

Temporary sign means any sign constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials with short life expectancies and is not anchored to the ground in a permanent manner. A portable sign shall not be considered a temporary sign.

Wall sign means all flat signs, either of solid face construction or individual letters, symbols or pictures, which are placed against the exterior wall of any building or structure, extending not more than 18 inches from the face of such building or structure, parallel to the building or structure, and having the advertisement on one face only.
(Ord. No. 2000-15, § 2, 12-11-2000)

Cross reference—Definitions generally, § 1-2.

Sec. 70-2. Exceptions and exemptions.

The provisions and regulations of this chapter shall not apply to the following certain classes of signs:

(1) Memorial or historical signs as designated by federal, state or local governments.

(2) Traffic or other municipal signs, legal notices or danger signs posted by federal, state or local governments.

(3) Nonadvertising signs of public utility companies as may be required in their operations in providing services for the health and welfare of the general public, or as required by any law or regulations of the state or any agency thereof.

(4) Directional and street identification signs for public and private developments and businesses denoting the entrance, exit and direction of traffic flow; provided such sign does not exceed four feet in height or 12 square feet in dimension, and does not inhibit traffic flow of pedestrians or of vehicles.

(5) For public or private parks, to give information or regulations.

(6) Street banners erected by authority of the city advertising bona fide public events, such as legal holidays, nonpolitical election instructions, similar occasions or for community appearance purposes.

(7) Civic and church signs. The city council may erect or approve and permit to be erected entrance signs at or near the city limits for the benefit of visitors, on which may be listed institutional names, churches and points of interest. Civic organizations and churches may be permitted to place their insignias thereon. In addition, each church or institution may erect a maximum of four directional signs provided that each does not exceed six square feet.

(8) Flags of the United States, the state or any other political subdivision, or any flag or banner of a bona fide religious, fraternal or charitable organization, or flags of subdivisions or community associations or organizations.

(9) Signs erected by the city as a public service announcement or greeting.

(10) Signs less than 20 square feet in surface area on one side that extend over sidewalks in front of businesses on the area commonly known as the "Square."

(Ord. No. 2000-15, § 1, 12-11-2000)

Sec. 70-3. Penalty.

Any person violating any of the provisions of this chapter shall, upon conviction, be fined not less than $1.00 and not more than the maximum allowed by law. Each day of violation shall constitute a separate offense.
(Ord. No. 2000-15, § 3, 12-11-2000)

Sec. 70-4. Nonconforming signs.

(a) Nonconforming freestanding, ground and projecting signs, which lawfully existed and were maintained on the effective date of the ordinance from which this chapter derives shall be deemed permitted and shall be kept in good repair and visual appearance and no structural alterations shall be made thereto. If more than 75 percent of the total dollar value for replacement of a nonconforming sign is damaged, the sign shall be replaced with a conforming sign rather than repairing the damage.

(b) All other nonconforming signs which are not deemed permitted by this section shall be removed or made to conform 30 days after the effective date of the ordinance from which this chapter derives.
(Ord. No. 2000-15, § 4, 12-11-2000)

Sec. 70-5. Variances.

A relaxation of the terms of this chapter may be permitted where such variance will not be contrary to the public interest and where, because of conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. Each application for a variance shall be in writing and accompanied by a nonrefundable application fee of $25.00. The application shall delineate the location of the proposed sign and the sign's dimensions and shall be accompanied by a site plan. The application shall also be signed by the owner of the property. The sign administrator shall prepare a written report with recommendations. Within 30 days of the application for a variance, it shall be placed on the council agenda for action. If the city council grants the variance, the application fee shall be refunded.
(Ord. No. 2000-15, § 5, 12-11-2000)

Sec. 70-6. Sign administrator designated; delegation of authority.

The city manager shall be the sign administrator charged with administering and enforcing the terms and conditions of this chapter and all other provisions of laws relating to signs. The sign administrator is empowered to delegate the duties and powers granted and imposed upon him by this chapter to other persons serving under the sign administrator.
(Ord. No. 2000-15, § 6, 12-11-2000)

Sec. 70-7. Duties and authority of sign administrator.

(a) *Generally.* The duties of the sign administrator shall include not only the issuance of permits as required by this chapter, but also the responsibility of ensuring that all signs comply with this chapter and any other applicable laws, and that all signs for which a permit

is required do in fact have a permit. The sign administrator shall make such inspections as may be necessary and initiate appropriate action to bring about compliance with this chapter and other applicable law if such inspection discloses any instance of noncompliance.

(b) *Stop work orders.* Upon notice and issuance of a stop work order from the sign administrator, work on any sign that is being conducted shall be immediately stopped. Such notice and order shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, written notice shall not be required to be given by the sign administrator. Following the issuance of a stop work order, the sign administrator shall initiate proceedings to revoke any permit of the lessee issued for the work covered by such stop work order, unless the cause of the stop work order is resolved to the sign administrator's satisfaction. A person commits an offense if he intentionally or knowingly works upon a sign for which a written stop work order was issued by the sign administrator of the city.

(c) *Revocation of permits.* The sign administrator shall have and is hereby granted the power and authority to revoke any and all permits authorized by this chapter for violation of the terms and provisions of this chapter provided that the municipal court judge shall conduct a hearing prior to the revocation of any permit authorized under this chapter to determine the facts incident to the pending revocation. The person whose permit is under consideration shall be given at least ten calendar days' written notice of the hearing and shall be permitted to present relevant facts and legal argument regarding the pending revocation. Following such hearing, the municipal court judge shall consider the merits of the case and shall present a written opinion prior to any action. However, if in the opinion of the sign administrator the health, safety or welfare of the citizens of the city is endangered by any violation of this chapter, the sign administrator may immediately revoke any or all permits authorized by this chapter and shall initiate the necessary hearing as soon as possible thereafter, but in no case later than three business days after the effective date of the revocation unless the affected permittee shall request in writing a later date.
(Ord. No. 2000-15, § 7, 12-11-2000)

Sec. 70-8. Sign erection permits and signs use permits.

(a) *Exceptions.* Sign erection permits shall not be required for portable, temporary or wall signs.

(b) *Sign erection permit requirements.* It shall be unlawful for any person, unless provided otherwise in this section, to erect, place, rebuild, reconstruct or move any sign within the city without first obtaining a sign erection permit. Any person who is convicted of erecting a sign without a sign erection permit shall be subject to the penalty provided within this chapter, in addition, shall be denied the right of obtaining any sign erection permit for a period of 60 days.

(1) *Application.* All applications for erection permits shall be accompanied by plans drawn to scale, which shall include the following:

a. The dimensions of the sign and, where applicable, the dimensions of the wall surface of the building to which it is to be attached.

b. The dimensions of the sign's supporting members.

c. The maximum and minimum height of the sign.

d. The proposed location of the sign in relation to the face of the building in front of which or above which it is to be erected.

e. The proposed location of the sign in relation to the boundaries of the lot upon which it is to be situated.

f. The location of all electrical lines within 30 feet of any part of such proposed sign structure.

(2) *Assurance.* Upon the filing of an application for an erection permit, the plans, specifications and other data shall be .examined by the sign administrator. If it appears that such proposed sign is in compliance with the requirements of this chapter and other laws of the city, the sign administrator shall issue the applicant an erection permit. Sign erection permits shall expire after 180 days from the date of issuance. Failure to begin to erect a permitted sign within 180 days of the granting of the permit shall result in the applicant reapplying for a new permit.

(c) *Sign use permits.*

(1) *Application.* At the time an application is made for an erection permit, an application shall also be made for sign use permit.

(2) *Issuance.* Upon completion of the construction of the sign, the sign administrator shall inspect the sign to determine if it is in conformity with the specifications approved at the time the erection permit was granted. If such sign was constructed in conformity with the specifications approved at the time the erection permit was granted, then the sign administrator shall issue a sign use permit.

(3) *Sign use permit for temporary or portable signs.* An application is to be made for all temporary and portable signs that are included in the provisions of subsection 70-11(d). If the use of the temporary or portable sign as described by the application is in conformance with this chapter, then a permit shall be issued. A garage sale permit shall be deemed a sign permit for the temporary and portable signs used to inform the public about that specific garage sale the garage sale permit is issued for.

(Ord. No. 2000-15, § 8, 12-11-2000)

Sec. 70-9. Exceptions to permit requirements.

A permit shall not be required for the following:

(1) The changing of the advertising copy or message of a painted sign.

(2) The changing of the advertising message or copy or message of an electric sign if such electric sign is specifically designed for the use of replaceable copy.

(3) The electrical, repainting or cleaning maintenance of a sign.

(4) The repair of a sign.
(Ord. No. 2000-15, § 9, 12-11-2000)

Sec. 70-10. Prohibited signs.

(a) No sign or any portion thereof shall project or extend over any public sidewalk, street, alley or other public property including a state right-of-way. A supporting member of a sign shall be located at least three feet from the property line of the property upon which it is situated.

(b) It shall be unlawful for any person to erect, structurally alter, relocate or maintain any sign which creates glare upon a public street or sidewalk or adjacent residential property.

(c) Nonenergized signs may be illuminated from an independent artificial source, provided such illumination is concentrated upon the area of the sign only and does not cause glare upon any street, alley, driveway, parking area or adjacent residential property. No strobe lights or flashing lights will be allowed.

(d) It shall be unlawful for any person to erect, structurally alter or relocate any sign in such a manner as to constitute a hazard to pedestrian or vehicular traffic, or in such a manner as to obstruct free and clear vision, regardless of location, by reason of position, shape, color or movement which may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device. No sign shall make use of any work, phrase, symbol or character in such a manner as to interfere with, mislead or confuse vehicular or pedestrian traffic.

(e) Signs which contain statements, words or pictures of an obscene, indecent or immoral character as will offend public morals or decency.
(Ord. No. 2000-15, § 10, 12-11-2000)

Sec. 70-11. Signs on public property or public utility structures.

(a) *Generally.* It shall be unlawful for any person to erect, maintain or cause to be erected or maintained any sign of any type upon any public property, including, but not limited to, public buildings, streets, parks, bridges, sidewalks, easements or rights-of-way within the city, or on any public utility poles or structures; provided, however, this section shall not apply to a public employee in the regular course and scope of his employment.

(b) *Exception for public athletic facilities.* Public athletic facilities may have signs attached to fences surrounding such facility to give public information or team sponsor advertising. Except for scoreboards, such signs shall not project above the fence line and shall face the athletic facility.

(c) *Subdivision identification signs.* Subdivisions are allowed one permanent identification sign at each entrance. The total sign surface area at each entrance shall not exceed 50 square feet.

(d) *Certain temporary or portable signs.* Temporary or portable signs that inform the public about or direct the public to an event of civic interest, such as parades, organized holiday festivities, special events on the behalf of civic charitable organizations, city permitted garage sales, and the like, are allowed provided that:

(1) A sign use permit shall be obtained prior to the placement of the temporary sign.

(2) Such signs do not exceed 16 square feet in area, with the exception that, in addition, a maximum of four signs measuring greater than 16 square feet but not exceeding 32 square feet may be permitted, and that one sign measuring greater than 32 square feet but not more than 64 square feet may be permitted.

(3) Signs are erected only for a time period not to exceed 30 days before and seven days after the event with the exception of permitted garage sales which shall be erected only for a time not to exceed seven days before and three days after the permitted garage sale.

(Ord. No. 2000-15, § 11, 12-11-2000)

Cross reference—Utilities, ch. 90

Chapters 71—73

RESERVED

Chapter 74

SOLID WASTE*

Article I. In General

Sec. 74-1. Use of containers generally.
Sec. 74-2. Definitions.
Sec. 74-3. Scope.
Sec. 74-4. Penalty for violation.
Sec. 74-5. Charges for collection.
Sec. 74-6. Collection rates.
Sec. 74-7. Regular residential collection.
Sec. 74-8. Residential bulky waste collection.
Sec. 74-9. Commercial collection.
Sec. 74-10. Placement for disposal; covering of transportation vehicles.
Sec. 74-11. Use of plastic bags.
Sec. 74-12. Collection by trucks.
Sec. 74-13. Special collections.
Sec. 74-14. Disposal of heavy dead animals.
Sec. 74-15. Disposal of heavy accumulations.
Sec. 74-16. Disposal of manure, waste oils.
Secs. 74-17—74-40. Reserved.

Article II. Dumpsters

Sec. 74-41. Use of dumpsters.
Sec. 74-42. Authority of city manager relating to the placement of dumpsters.
Sec. 74-43. Designation of location of dumpsters.
Sec. 74-44. Condemnation, confiscation of dumpster.
Sec. 74-45. Unauthorized use of dumpsters.
Sec. 74-46. Accumulation of garbage, refuse at dumpster location.
Sec. 74-47. Disposal standards.

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*__Cross references__—Litter, garbage, etc. at airport, § 18-112; buildings and building regulations, ch. 22; environment, ch. 30; placement of garbage, refuse, rubbish and other materials on city property prohibited, § 30-82; littering prohibited on public property, § 30-83; sweeping litter and waste into gutters, streets, etc., prohibited; exception, § 30-84; manufactured housing, ch. 50; litter control in parks, § 58-49; garbage and trash disposal at docks, § 58-322; utilities, ch. 90.

ARTICLE I. IN GENERAL

Sec. 74-1. Use of containers generally.

No person shall place or deposit litter, garbage, trash or refuse into any garbage can, receptacle or any other garbage collection device that is not owned by, rented or leased to or under the control of such person, without the consent of the person exercising control thereof.
(Ord. No. 98-6, § 6, 5-26-1998)

State law references—Solid waste disposal, V.T.C.A., Health and Safety Code § 361.001 et seq.; Texas Litter Abatement Act, V.T.C.A., Health and Safety Code § 365.001 et seq.

Sec. 74-2. Definitions.

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

Garbage means all putrescible wastes, except sewage and body wastes, including all meat, vegetable and fruit refuse, and carcasses of small dead animals and dead fowl from any premises within the city limits.

Premises means all business houses, boardinghouses, offices, theaters, hotels, restaurants, cafes, eating houses, tourist camps, apartments, sanitariums, roominghouses, schools, private residences, vacant lots and other places within the city limits, where refuse, either garbage or rubbish, accumulates.

Refuse means all solid wastes including garbage and rubbish. Rubbish means cans, bottles, papers, limbs, etc., from any premises within the city limits.
(Ord. No. 82-12, § 1, 11-8-1982)

Cross reference—Definitions generally, § 1-2.

Sec. 74-3. Scope.

(a) The collection of garbage, rubbish or refuse within the city limits is prohibited except as provided in this chapter.

(b) The city shall provide for the collection and disposal of garbage, rubbish and refuse.

(c) The collection of refuse within the city limits by any individual is specifically prohibited except for special collections.
(Ord. No. 82-12, § 2, 11-8-1982)

Sec. 74-4. Penalty for violation.

Any violation of any provisions contained in this chapter shall be punishable by the fine set out in section 1-17. Any violation continuing over a period of days shall be considered a separate offense for each day the violation continues after official notification by the city.
(Ord. No. 82-12, § 17, 11-8-1982)

Sec. 74-5. Charges for collection.

The city shall charge, assess and collect for the collection and disposal of garbage, rubbish and refuse such fees as the city council may set by ordinance which are on file in the city secretary's office.
(Ord. No. 82-12, § 3, 11-8-1982)

Sec. 74-6. Collection rates.

Collection rates for residential, commercial, and large and small industrial/manufacturer customers are set by separate ordinance. The service provided for residents and businesses is defined and governed by specific agreement the city has with Olympic Waste Systems. The monthly charge for garbage collection service shall be assessed to all customers within the city limits who have the service available to them. Sales tax will be added to garbage collection charges as required by state law.
(Ord. No. 2000-11, § 1(4(A)), 12-11-2000)

Sec. 74-7. Regular residential collection.

(a) A residential customer is defined as the actual owner or occupant of the residential unit for which trash service is being provided, and has an active residential water meter. Only waste directly produced by the residential customer will be accepted.

(b) Trash will be picked up at each residence, twice per week, on Monday and Thursday, or Tuesday and Friday, depending on which part of town the residence is located. There is currently no bag limit; however, in order to have trash picked up, all trash, garbage, or debris being disposed of must be bundled (not to exceed three feet by two feet, tightly bound, and not exceeding 40 pounds in weight) or in a container, such as a plastic trash bag, and sealed. If an individual residence places enough bags out for pick-up so that the picking up of all the bags placed would overload the truck, and interfere with the completion of that route, bags containing leaves and other matter that is not subject to putrefaction may be left, temporarily, for pick-up on a subsequent collection day. But in no case may the route person leave bags containing food or other decayable matter.

(c) Any part of the refuse put out for pick-up that is not containerized or bundled when the route driver arrives at the residence will not be picked up. This will include all refuse that has spilled out of the container or bundle that was opened and/or spilled by human or animal activity.

(d) Trash must be at curbside by 7:30 a.m. on the assigned day of pick-up, in order to have it picked up on that day. Bags put out late will remain until the next scheduled route day for that residence, and any spillage will be the responsibility of the resident. Bulky items, that cannot be containerized or bundled, will be picked up by the waste management company, by special arrangement, described in section 74-8, on each second Saturday of every month.

(e) Occasional pick-up schedule changes, for holidays, bad weather, etc., must be anticipated, but will be held to the minimum possible. Every effort will be made to notify all residents of such changes via the local media. These missed days will be advertised and made up by the waste management company. Missed pick-ups and other problems with the delivery of services by the waste management personnel or the company may be addressed directly to the company or to city hall.

(f) Batteries, motor oil, chemicals and pesticides, hazardous waste, tires, paint and paint buckets, medical waste, dead animals, appliances, or other bulky items will not be placed in any dumpster or placed for pick-up. These items must be disposed of by the homeowner, since landfills will not accept them.
(Ord. No. 2000-11, § 1(4(B)), 12-11-2000)

Sec. 74-8. Residential bulky waste collection.

(a) If there is bulky items that must be disposed of by a residential customer (not commercial), this pick-up can be arranged for the second Saturday of each month. Arrangements must be made with the waste management company before 5:00 p.m. on the Thursday prior to the second Saturday desired by the resident. The resident must call 1-800-MRTRASH (1-800-678-7274) between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and before Thursday, 5:00 p.m. prior to the next second Saturday. The waste management personnel will get information from the resident about location, size, and other necessary information about the waste to be picked up. All items to be picked up must be at curbside by 7:00 a.m. on that Saturday.

(b) Items that can be readily picked up and loaded by waste management personnel will be accepted and removed. However, items that are too large in size, or an excessive amount of refuse (these may be arranged for by calling city hall or the waste management company, and explaining the volume involved) will be left and become the responsibility of the resident. Every effort will be made to accommodate requests for pick-up of bulky materials, but reasonableness and practicality of the request will be considered. The disposal of bulky waste generated by someone other than the residential customer is the ultimate responsibility of the residential customer, through means other than second Saturday bulky waste pick-up or the regular, daily garbage service. A partial, but not complete, list of examples of waste that will not be accepted by the waste management company is as follows:

(1) Roofing materials;

(2) Remodeling or construction debris generated by someone hired by the residential customer;

(3) Old carpet that was removed by someone who was hired to install new carpet;

(4) Tree limbs generated by someone hired to cut or trim trees or limbs.

(c) Items that may not be placed for pick-up include batteries, motor oil and filters, chemicals and pesticides, hazardous waste, tires, paint and paint buckets, medical waste, and dead animals. Appliances may be placed, but refrigerators, air conditioners, etc., that contain

CFC's must have attached to the unit a certification by a state licensed person that all CFC's have been removed. In all cases, the item or items left must be manageable by the waste company personnel.

(d) Items that will be accepted include, but may not be limited to, water tanks, furniture, household waste, brush and shrub trimmings, stoves, washing machines, dryers, boxes that one person may lift into a truck, and residential construction debris. Tree trimmings must be cut to no longer than four-foot lengths and be no thicker than ten inches on the larger end.

(e) Small items, such as books, magazines, leaves, etc., must be placed in bags, boxed, or bound up in some manner. Nothing that the landfill would refuse to accept will be picked up by the waste management personnel. Contact the waste management company to determine eligibility of any questionable item.
(Ord. No. 2000-11, § 1(4(C)), 12-11-2000)

Sec. 74-9. Commercial collection.

(a) Trash pick-up at commercial establishments will be done on the same days as residential service is performed in the area of the business. There is a ten bags limit for commercial businesses, for each pick-up date.

(b) Businesses that have rental contracts for dumpsters will arrange for pick-up by the waste management company on a schedule frequent enough to prevent overflow or spillage from the container. Any abuse or unauthorized use of these containers should be reported to the city or the waste management company.

(c) Rules as to acceptable and unacceptable items and procedures will be the same as described in the residential pick-up section. Batteries, motor oil, chemicals and pesticides, hazardous waste, tires, paint and paint buckets, medical waste, dead animals, and refrigerators, air conditioners, or other bulky items will not be placed in any dumpster or placed for pick-up.
(Ord. No. 2000-11, § 1(4(D)), 12-11-2000)

Sec. 74-10. Placement for disposal; covering of transportation vehicles.

(a) Placing any refuse in any street or alley within the city limits or the disposal of such refuse at any place within the city limits except at the city disposal ground is prohibited.

(b) Any vehicle, pickup, truck or trailer carrying refuse to the city landfill or incinerator must have such refuse covered to prevent scattering such refuse along the roadways.
(Ord. No. 82-12, § 6, 11-8-1982)

Sec. 74-11. Use of plastic bags.

(a) Refuse shall be placed in plastic bags meeting city specifications by the person owning, managing, operating, leasing, renting or otherwise in control of any premises except as provided for the use of dumpsters.

(b) Plastic bags may be placed inside containers but are to be at all times securely tied.

(c) It shall be the duty of every person placing garbage in any plastic bag to eliminate, as far as possible, all water and liquid from such garbage.

(d) It shall be the duty of any person in possession or control of any premises to place the plastic bags at curbside for collection. Exceptions for the elderly or handicapped may be granted only upon written application, followed by inspection and approval by the director of public works.

(e) Meddling with plastic bags or in any way pilfering or scattering the contents is prohibited.
(Ord. No. 82-12, § 7, 11-8-1982)

Sec. 74-12. Collection by trucks.

All refuse collection trucks will make collections from the alleys and streets wherever possible, and in no case will such trucks be allowed to enter private property to make collections except where dumpsters are used. Such trucks will not make collections of garbage, rubbish or refuse which has not been placed in accordance with the provisions of this chapter.
(Ord. No. 82-12, § 8, 11-8-1982)

Sec. 74-13. Special collections.

All accumulations of refuse such as tree limbs, leaves, junked appliances, meat refuse, etc., which cannot easily be placed in plastic bags or which may cause mechanical malfunctions of the city garbage truck machinery shall not be collected by the regular collection truck. Such collections shall be by special order and at the expense of the owner.
(Ord. No. 82-12, § 10, 11-8-1982)

Sec. 74-14. Disposal of heavy dead animals.

Heavy dead animals such as cows, horses and mules shall be removed and disposed of at the expense of the owner or person having charge of such animals.
(Ord. No. 82-12, § 11, 11-8-1982)

Sec. 74-15. Disposal of heavy accumulations.

Heavy accumulations such as brush, broken concrete, ashes, sand or gravel, automobile frames, dead trees and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling such matter.
(Ord. No. 82-12, § 12, 11-8-1982)

Sec. 74-16. Disposal of manure, waste oils.

Manure from cow lots, horse stalls, poultry yards, pigeon lots and other animal or fowl pens shall be removed and disposed of at the expense of the person controlling the manure in the manner and by the method directed by the city. Waste oil shall not be dumped into the city sewer system.
(Ord. No. 82-12, § 13, 11-8-1982)

Secs. 74-17—74-40. Reserved.

ARTICLE II. DUMPSTERS

Sec. 74-41. Use of dumpsters.

The city shall at its option provide for the use of dumpsters within the city.
(Ord. No. 82-12, § 5, 11-8-1982)

Sec. 74-42. Authority of city manager relating to the placement of dumpsters.

The city manager shall have the authority to direct the manner of placement of all dumpsters for collection by the solid waste department. Dumpsters shall be placed upon a concrete foundation with an all weather surface access. The customer for which the service is being provided shall be responsible for providing the foundation and access.
(Ord. No. 91-23, § 1, 10-28-1991)

Sec. 74-43. Designation of location of dumpsters.

No garbage shall be collected from any dumpster by any authorized person unless the dumpster is placed as designated by the city manager.
(Ord. No. 91-23, § 2, 10-28-1991)

Sec. 74-44. Condemnation, confiscation of dumpster.

Any collection service location which does not meet the requirements of this article may be condemned by the solid waste department, and upon condemnation the solid waste department shall notify the customer in writing of the deficiencies. The customer shall have 45 days to remedy the situation. Locations note remedied within the 45-day period shall have the dumpster removed and dumpster service discontinued.
(Ord. No. 91-23, § 3, 10-28-1991)

Sec. 74-45. Unauthorized use of dumpsters.

It shall be unlawful for any person to place garbage, refuse, etc., in a dumpster without the written consent of the customer for which the dumpster service is being provided. The city reserves the right to prosecute unauthorized users of dumpsters.
(Ord. No. 91-23, § 4, 10-28-1991)

Sec. 74-46. Accumulation of garbage, refuse at dumpster location.

The customer shall, at his own expense, keep the dumpster location free from the accumulation of garbage and refuse which may in any manner prejudice public health or comfort.
(Ord. No. 91-23, § 5, 10-28-1991)

Sec. 74-47. Disposal standards.

It shall be unlawful for any dumpster customer to utilize a dumpster for the disposal of any waste that may be hazardous or create a nuisance. Dumpsters shall be used for the disposal of garbage only. Garbage shall mean all putrescible waste including particles of food and meat, vegetable offal, kitchen wastes in general, cans, bottles, paper and other containers, paper or any other materials that may contain or have attached thereto any residue of milk, soft drinks, food or other putrescible waste. Garbage shall not mean animal waste, sewage waste, body wastes, industrial waste and the byproducts thereof.
(Ord. No. 91-23, § 6, 10-28-1991)

Chapters 75—77

RESERVED

Chapter 78

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

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Secs. 78-2—78-30. Reserved.

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Sec. 78-31. Penalty for violation.
Sec. 78-32. Contractor's responsibilities.
Sec. 78-33. Concrete and asphalt streets.
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Secs. 78-35—78-50. Reserved.

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Sec. 78-52. Fee.
Secs. 78-53—78-80. Reserved.

Article III. Obstructions in Lateral Ditches, Drains and Gutters

Sec. 78-81. Unlawful to place obstruction in.
Sec. 78-82. Use of bridges, culverts.
Sec. 78-83. Removal.

***Charter reference**—Streets, parks, cemeteries and public grounds, art. X, § 15.

Cross references—Any ordinance creating or relating to specific sewer and paving districts and other specific local improvement districts saved from repeal, § 1-7(4); any ordinance creating and regulating specific loading zones saved from repeal, § 1-7(5); any ordinance regulating speed or parking on designated segments of specific streets and other public ways saved from repeal, § 1-7(6); any ordinance designating segments of specific streets and other public ways as one-way streets saved from repeal, § 1-7(7); any ordinance providing for or regulating traffic devices, signs, or signals at specific places on specific streets saved from repeal, § 1-7(8); any ordinance accepting, dedicating, improving, vacating or otherwise related to any specific street or easement saved from repeal, § 1-7(15); possession, consumption of alcoholic beverages in public places, § 6-2; exhibiting alcoholic beverages, discarding containers in public places, § 6-3; aviation, ch. 18; buildings and building regulations, ch. 22; house moving, § 22-161 et seq.; environment, ch. 30; sweeping litter and waste into gutters, streets, etc., prohibited; exception, § 30-84; floods, ch. 38; manufactured housing, ch. 50; parks and recreation, ch. 58; peddlers, solicitors, itinerant vendors, ch. 62; signs, ch. 70; traffic and vehicles, ch. 86; designation of one-way streets or alleys, § 86-59; stop streets, § 86-101 et seq.; utilities, ch. 90; vehicles for hire, ch. 94.

State law reference—General powers of cities over streets, Vernon's Ann. Civ. St. art. 1175, V.T.C.A., Transportation Code § 311.001 et seq.

Secs. 78-84—78-100. Reserved.

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Sec. 78-102. Definitions.
Sec. 78-103. Permitted use; application and fees.
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Sec. 78-107. Removal, relocation or modification of network nodes in the ROW.
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Sec. 78-109. Attachment to service poles in the public right-of-way.
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Sec. 78-111. Design manual.

ARTICLE I. IN GENERAL

Sec. 78-1. [Filming on city property.]

(a) *Findings of fact.* The findings and recitations set out in the preamble of this ordinance [from which this section is derived] are found to be true and correct, and they are hereby adopted by the city council and made a part hereof for all purposes.

(b) *Filming related fees.*

(1) *Fees for use of city property.* The fees for use of city property in connection with a city-authorized film project are as follows, unless modified or waived for any such specific project by a majority vote of city council:

Activity	*Fee (per Calendar Day)*
Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area	$500.00
Partial non-disruptive use of a public building, park, right-of-way, or public area	$250.00
Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)	$50.00 per block
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)	$25.00 per block
Use of city parking lots, parking areas, and city streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles)	$50.00 per block or lot

(c) *Approving application and filming documents.* The forms of the guidelines for filming in Center, Texas, including the application for commercial filming attached thereto, and the location agreement, maintained in the office of the city secretary, are hereby approved. All references to the application, guidelines and/or location agreement are deemed to be references as approved herewith.

TITLE. FILM PROJECT REQUIREMENTS

These regulations govern 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.

A. Meeting With City

Before filming all or any portion of a movie, television show, commercial, or other film project in the City, the operating executive in charge of the film project, or its

authorized agent, must contact the office of the City Manager to discuss the project's specific filming requirements and the feasibility of filming in the City to be the basis of an application.

B. Application

(a) An applicant that wants to use City-owned property in connection with a film project must complete and submit to the office of the City Secretary an Application for Commercial Filming.

(b) The Application must be submitted to the office of the City Secretary, along with a $25.00 processing fee, on the following schedule: (1) for commercials or episodic television, no fewer than two (2) business days prior to the commencement of filming or any substantial activity related to the project; (2) for feature films and all other projects, no fewer than five (5) business days prior to the commencement of filming or any substantial activity related to the project.

(c) The City Manager may authorize waiver this fee upon proof of an organization's non-profit status or project will be of minimal or negligible impact.

(d) The Applicant shall provide a brief, written description, including the schedule for the proposed production to the owners, tenants and residents of each property in the affected area/neighborhood(s).

(e) 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.

(f) 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 Center 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 $5,000,000 umbrella; and automobile liability in an amount not less than $1,000,000 including bodily injury and property damage.

C. Required Application Materials for Approval

(a) To receive approval of the Application and prior to any production activity commencing on any City-owned property, the applicant shall complete, sign and return to the office of the City Secretary:

(i) Guidelines for Filming in Center, Texas;

(ii) Notification Forms for Impacted Private Properties;

(iii) Location Agreement for use of Public Facilities; and

(iv) Application Form.

(b) Based upon this community feedback, and other appropriate factors considered by the City Manager, the City Manager shall grant or deny the filming application unless conditions or circumstances warrant the submission to the City Council.

(c) A film project for which an Application has been submitted and approved, and for which all required documentation has been fully executed and submitted to the City, is a City-authorized film project for purposes of this Code.

D. City Control of Name and Contextual Usage

The City shall have full control over the use of its name, trademark, logo, public streets and buildings while any are being used, as well as control over the hours of production and the general location of the production. If an applicant will be undertaking any filming on City-owned property, and in order for the City to protect the context in which its name, trademark, logo, public streets and buildings are depicted, the applicant must submit the script (relevant sections for scenes being filmed on location) to the City for general review prior to the City being asked to execute a Location Agreement. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming activity if it is determined to be hazardous to the public health, safety and welfare.

E. Public Safety

(a) 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.

(b) The City Manager, in consultation with the Chief of Police and/or Fire Chief, 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.

F. Public Welfare and Protection

(a) Unless express written permission in advance has been obtained from the City Manager 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 8:00 p.m.
Saturday, Sunday and holidays:	7:00 a.m. to 9:00 p.m.

(b) The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires on-site approval of the City Manager.

G. Use of City Facilities and Equipment

(a) The City Manager may authorize the use of any street, right-of-way, park, or public building, equipment or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Manager may require that any or all of the conditions and/or remuneration herein and as specified on the application be met as a prerequisite to that use.

(b) 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.

(c) The Applicant shall pay for all costs of any Police, Fire, Public Works, or other City personnel assigned to the project (whether or not specifically requested by the production). Remuneration rates for the use of any City equipment, including police cars and fire equipment, will be established 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 City personnel and/or the use of City equipment.

H. Damages to Properties

(a) The Applicant shall pay in full, within ten (10) days of receipt of an invoice, the costs of repair for any and all damage to public or private property, resulting from or in connection with, the production, and restore the property to its original condition prior to the production, or to better than original condition.

(b) The Applicant shall sign indemnification and hold harmless clause to the benefit of the City from any claim in conjunction with the activities of the applicant.

(Ord. No. 2017-14, §§ 1—3, 12-11-2017)

Editor's note—Ord. No. 2017-14, §§ 1—3, adopted Dec. 11, 2017, did not specify manner of inclusion; hence, codification as § 78-1 was at the discretion of the editor.

Secs. 78-2—78-30. Reserved.

ARTICLE II. CONSTRUCTION

DIVISION 1. GENERALLY

Sec. 78-31. Penalty for violation.

(a) Any person found to be violating any provision of this article shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided, upon conviction thereof, shall be subject to the fine set out in section 1-17. Each day in which any such violation shall continue shall be deemed a separate offense.

(c) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned by the city by reason of such violation.
(Code 1978, § 17-4)

Sec. 78-32. Contractor's responsibilities.

Any public utility company, individual or firm shall require its contractor to provide such machinery guards, safe walkways, ladders, bridges, gangplanks, flares and other safety devices as may be needed to protect the public from accidents. The contractor and his sureties shall indemnify and save harmless the city and all of its officers, agents and employees from all suits, actions or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or person's property on account of any negligent act or fault of the contractor, his agents or employees, or on account of the failure of the contractor to provide necessary barricades, warning lights, or signs. The contractor and his sureties will be required to pay any judgment, with costs, which may be obtained against the city growing out of any such damage or injury.
(Code 1978, § 17-1)

Sec. 78-33. Concrete and asphalt streets.

(a) *Description.* The repair of an open cut of concrete or asphalt street shall consist of backfill of ditch with select material, tamping of the material by approved method, and a wearing course of concrete or asphalt as approved by the city and set out more specifically in construction methods set out in subsection (b) of this section.

(b) *Construction methods.*

(1) *Width of ditch.* The ditch shall be of sufficient width so select backfill may be tamped or water soaked along each side of the pipe or casing.

(2) *Backfill.* Backfill at street crossing shall be of select material, wetted if required, placed in six-inch layers and thoroughly compacted by mechanical tamping. This compaction shall be required from 18 feet on either side of the curbline of streets to 18 feet curbline of same. Also compaction shall be continued to the top of backfill. Any street on transverse crossing shall be compacted from right-of-way to right-of-way.

(3) *Replacement of concrete curb and gutter and flexible base.* All concrete shall be class A, and curb and gutter shall conform to the grade and alignment of the curb and gutter removed. Replaced base shall consist of 12 inches of compacted cement stabilized iron ore gravel approved by the city.

(4) *Replacement of monolithic curb and gutter and rigid base.* Concrete, grade and alignment shall be the same as in subsection (b)(3) of this section. If the original street had a concrete wearing surface, then the replacement shall be concrete 12

inches thick and poured to conform to the original street grade. If the removed street had a rigid base with asphalt wearing surface, then the replacement shall be 12 inches of concrete with a compacted asphalt wearing surface of 1½ inches.

(5) *Expansion joints.* Expansion joints shall be one-half-inch premoulded or three-quarter-inch cypress or redwood board and shall be placed in accordance with good engineering practice.

(6) *Concrete curing.* When completed, concrete shall have at least three days of curing by a method approved by the city. Membrane curing compound which complies with the Standard Specifications for Liquid Membrane Forming Compounds for Curing Concrete, ASTM designation C 309 Type 2 white pigmented, may be used.

(7) *Miscellaneous.* If the open cut crossing of a monolithic curb and gutter concrete street is such as to leave a short section to the west of the ditch, then the section shall be removed and replaced to the end of the section or radius of street turnout. The thickness of this concrete shall be the same as the removed concrete and conform to the same grade. Such cuts when necessary shall be done with a concrete saw to a depth of two inches before breaking.

(c) *Street construction defects.* All concrete shall be replaced true in alignment and grade to the removed street. Any or all street crossing work showing defects in alignment or grade within 12 months of completion, shall be removed and replaced or repaired by the public utility company, individual, firm or contractor, as directed by the city.

(d) *Defects in water and sewer lines.* The public utility company, individual, firm or contractor will assume responsibility for defects in sewer or water lines which can be traced to construction during this project regardless of when such defect appears.

(e) *Repair of breaks in water and sewer lines.* Any break by contractor in either water or sewer mains and/or service lines must be repaired by contractor and inspected by city inspectors before it is covered up. If necessary for city crews to repair, then the contractor will be billed for cost plus ten percent for such repairs.

(f) *Altering existing utility lines.* Nothing in this section shall allow the public utility company, individual, firm or contractor to alter existing utility lines without written permission from the responsible official of such line affected.

(g) *Furnishing sewer or water service to adjoining property.* The public utility company, individual, firm or contractor hereby agrees that at any future time when it becomes necessary to alter its conduit to permit the city to furnish sewer or water service to any adjoining property along a route covered by the agreement that the company, individual, firm or contractor will make such alterations at its own expense and will take immediate action when requested to do so by the city.
(Code 1978, § 17-2)

Sec. 78-34. Concrete sidewalks and driveways.

(a) *Description.* This item shall consist of sidewalks and driveways, with or without reinforcing steel composed of Portland cement concrete, constructed as specified in this section on an approved subgrade in conformity with the lines and grades approved by the city.

(b) *Materials.* Concrete used in construction under this item shall consist of Portland cement, fine and coarse aggregate, and water, and shall be proportioned to conform to the requirements for class A concrete. Reinforcing steel, if required, shall be deformed bars conforming to the requirements of ASTM designation A 305. Expansion joint filler and membrane curing compound shall meet the requirements specified in subsection (c) of this section.

(c) *Construction methods.*

(1) The subgrade shall be excavated and shaped to line, grade and cross section, and if considered necessary by the city, shall be of select material and mechanically tamped. The subgrade shall be lightly sprinkled before placing concrete thereon.

(2) Forms shall be of wood or metal, straight, free from warp and of a depth equal to the thickness of the finished work. Forms shall be securely staked to line and grade and maintained in a true position during the depositing on concrete.

(3) Sidewalk shall be 48 inches wide by four inches thick, and shall have a one-half-inch premoulded or three-quarter-inch cypress or redwood board expansion joint every 32 feet or less. Where the sidewalk abuts a curb, concrete step, retaining wall or another concrete walk from residence, approved expansion board of one-inch thickness shall be placed. Similar expansion material shall be placed around all obstructions protruding through sidewalks.

(4) Concrete shall be placed in the forms to the depth specified, spaded and tamped until thoroughly compacted and mortar entirely covers the surface. The top surface shall be floated with a wooden float to a gritty texture. The outer edges and joints shall then be rounded with a suitable tool, formed so as to round the edges to a one-half-inch radius.

(5) Sidewalks shall be marked into separate sections, each four feet in length, by the use of approved jointing tools.

(6) All commercial driveways will be replaced with a minimum of six-inch depth concrete. If the original driveway contains wire or bar reinforcing or is thicker than six inches, then the replacement shall be the depth of the original concrete and shall have a minimum of #3 reinforcing steel on 12-inch centers.

(7) When completed, the sidewalks and driveways shall have a curing period of at least three days by a method approved by the director of public works. Membrane curing

compound which complies with the *Standard Specifications for Liquid Membrane Forming Compounds for Curing Concrete,* ASTM designations C 309 Type 2 white pigmented, may be used.

(8) All sidewalks or driveways removed shall be replaced true to grade and alignment, and shall be replaced in as good condition as the concrete removed. Any or all sidewalks or driveways showing defects anytime after completion shall be removed and replaced or repaired by the public utility company, individual, firm or contractor as directed by the city when such defects can be traceable directly to this project.

(Code 1978, § 17-3)

Secs. 78-35—78-50. Reserved.

DIVISION 2. PERMIT

Sec. 78-51. Required.

A contractor shall give notice to the city at least three days prior to the day that any work is to be performed if such work shall involve the removal of any dirt, concrete or asphalt, or shall in any manner change or affect the then existing condition of any public roadway and any work extending or being performed upon condition of any public roadway and any work extending or being performed upon an area five feet or less in distance on either side of the public roadway within the city limits. Upon such notification, the city secretary shall issue to the contractor a permit to perform the stated work. The three-day notification period may be waived by the city secretary upon a proper showing of extraordinary circumstances.

(Code 1978, § 17-5)

Sec. 78-52. Fee.

A fee of $3.00 shall be paid to the city secretary at such time as a permit required by this article is issued by the city secretary. The sum is charged to defray expenses incurred by the city in issuing the permits. Public utility companies operating within the city limits which are paying a franchise to the city shall be excluded from paying the charge for the permits to be issued.

(Code 1978, § 17-6)

Secs. 78-53—78-80. Reserved.

ARTICLE III. OBSTRUCTIONS IN LATERAL DITCHES, DRAINS AND GUTTERS

Sec. 78-81. Unlawful to place obstruction in.

It shall be unlawful for any person to place any obstruction of any kind in a lateral ditch, drain or gutter along either side of a public street or highway within the territorial limits of the city that will hinder or retard the natural flow of water along the lateral ditch drain or gutter.
(Code 1978, § 17-11)

Sec. 78-82. Use of bridges, culverts.

Any person desiring to make or construct an approach or entrance way to or from any public street or highway to any private lot or property and across any lateral ditch, drain or gutter along the side of any public street or highway within the territorial limits of the city shall be required to place a bridge over the lateral ditch, drain or gutter along the side of the public street or highway or place a culvert within the lateral ditch, drain or gutter along the public street or highway in such a manner as not to obstruct, hinder or retard the natural flow of water along such lateral ditch, drain or gutter.
(Code 1978, § 17-12)

Sec. 78-83. Removal.

It shall be the duty of the director of public works to tear out and remove any obstruction found in any lateral ditch, drain or gutter along either side of any public street or highway within the territorial limits of the city that is reasonably calculated to obstruct, hinder or retard the natural flow of water along the lateral ditch, drain or gutter.
(Code 1978, § 17-14)

Secs. 78-84—78-100. Reserved.

ARTICLE IV. STANDARDS FOR NETWORK SMALL WIRELESS FACILITY SITING, NODES AND NODE SUPPORT POLES IN THE PUBLIC RIGHT-OF-WAY

Sec. 78-101. Purpose and scope.

(a) *Purpose.* The purpose of this article is to establish policies and procedures for the placement of node support poles in the right-of-way and network nodes in the public right-of-way and on service poles within the city's jurisdiction, which will provide public benefits and will be consistent with the preservation of the integrity, safe usage, and visual qualities of the city public right-of-way and the city as a whole.

(b) *Intent.* In enacting this 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 facilities lawfully located in public right-of-way or public property;

(4) The ability of the city to protect the environment, including the prevention of damage to trees;

(5) The character of residential and historic areas, and city parks, in which network nodes may be installed; and

(6) The rapid deployment of network nodes to provide the benefits of wireless services.

(c) *Conflicts with other chapters.* This article supersedes all chapters, parts of chapters or rules adopted prior hereto that are in conflict herewith, to the extent of such conflict.
(Ord. No. 2017-07, § 1, 8-28-2017)

Sec. 78-102. Definitions.

All terms used in this article, not specifically defined herein, have the meaning provided in V.T.C.A., Local Government Code ch. 284.

Applicable law means V.T.C.A., Local Government Code ch. 284.

Applicant means any person who submits an application and is a network provider.

Application means a request submitted by an applicant (i) for a permit to collocate network nodes; or (ii) to install a transport facility; or (iii) approve the installation, replacement or modification of a pole.

City Code means those ordinance provisions relevant to use of the public right-of-way where compliant with applicable law.

Day means calendar day.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the city.

Routine maintenance means (i) work in the public right-of-way that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; (ii) replacing or upgrading a network node or pole with a node or pole that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or (iii) the installation, placement, maintenance, operation, or replacement of micro network nodes that are strung on cables between existing poles or node support poles, in the public right-of-way.

Technical grounds means, in light of prevailing industry and engineering standards, reasons of insufficiency of capacity, safety, reliability and/or generally applicable engineering purposes consistent with applicable law and city Code.
(Ord. No. 2017-07, § 2, 8-28-2017)

Sec. 78-103. Permitted use; application and fees.

(a) *Permitted use.* Collocation of network nodes and the placement of node support poles, meeting the parameters set forth in section 78-105 below and in applicable law, shall be a permitted use. No zoning or land use review shall apply, subject to the requirements in section 78-105.

(b) *Permit required.* No person shall place a network node, transport facility or node support pole in the public right-of-way, without first filing a permit application and obtaining a permit therefore, except as otherwise provided in this chapter.

(c) *Permit application.* All permit applications filed pursuant to this chapter shall be on a form, paper or electronic, provided by the city. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(d) *Application requirements.* The permit application shall be made by the network provider or its duly authorized representative and shall contain the following:

(1) The applicant's name, address, telephone number, and e-mail address.

(2) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application.

(3) Construction and engineering drawings and information confirming that the construction will be consistent with city Code.

(e) *Routine maintenance and replacement.* A permit application shall not be required for: (i) routine maintenance; or for (ii) the replacement of a node with another node that is substantially similar.

(f) *Information updates.* Any amendment to information contained in a permit application shall be submitted in writing to the city within 30 days after the change necessitating the amendment.

(g) *Application fees.* All applications for permits pursuant to this chapter shall be accompanied by a fee of $500.00 for up to five network nodes addressed in the same application, $250.00 for each additional node in the same application; and a fee of $1,000.00 for each node support pole.
(Ord. No. 2017-07, § 3, 8-28-2017)

Sec. 78-104. Action on permit applications.

(a) *Review of applications.* The city shall review applications for network nodes, node support poles and transport facilities in light of their conformity with applicable law and city Code and shall issue such permits on nondiscriminatory terms and conditions subject to the following requirements:

(1) Within 30 days of receiving an application for a network node or node support pole, or ten days for a transport facility, the city shall determine and notify the applicant

whether the application is complete; or if incomplete, the city must specifically identify the missing information in such notification. There shall be no fee charged for completion and resubmittal of an application.

(2) The city shall make its final decision to approve or deny a complete application no later than (i) 21 days after receipt of a complete application for a transport facility, (ii) 60 days after receipt of a complete application for a network node; and (iii) 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 78-104, the application shall be deemed approved.

(5) An applicant seeking to collocate network nodes may, at the applicant's discretion, file a consolidated application and receive permits for up to 30 network nodes. Provided however, the city's denial of any node within a single application shall not affect other nodes submitted in the same application. The city shall grant permits for any and all nodes in a single application that it does not deny, subject to the requirements of this section.

(b) *Review of eligible facilities requests.* Notwithstanding any other provision of this chapter, the city shall approve and may not deny applications for eligible facilities requests within 60 days according to the procedures established under 47 CFR 1.40001(c).
(Ord. No. 2017-07, § 4, 8-28-2017)

Sec. 78-105. Network nodes in the public right-of-way; maximum height; other requirements.

(a) *Maximum size of permitted use.* Collocation of permitted use network nodes in the public right-of-way shall be subject to the size limitations specified in V.T.C.A., Local Government Code § 284.003.

(b) *Undergrounding provisions.* A network provider shall comply with nondiscriminatory undergrounding requirements, including Code sections, chapter 78, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval. This requirement or restriction shall not be interpreted to prohibit a network provider from replacing an existing structure.

(c) *Historic areas and design districts.* Subject to the permit application approval time frames in section 78-104, a network provider must obtain advance approval from the city before collocating new network nodes or installing new node support poles in any areas zoned or designated as a historic district or as a design district if the district has decorative poles. Such installations shall be subject to the design and aesthetic standards of such areas.

(d) *Installation in municipal parks and residential areas.* A network provider may not install a new node support pole in a public right-of-way without the city's discretionary, nondiscriminatory, written consent of the zoning official and/or city manager if the public right-of-way is located in a municipal park or is adjacent to a street or thoroughfare that is 1) not more than 50 feet wide; and 2) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions. A network provider shall comply with private deed restrictions and other private restrictions when installing network nodes in parks and residential areas.

(e) *Installation in municipal parks.* A network provider may not install a new node support pole in a municipal park. No above-ground appurtenances including poles, nodes, supports or other structures shall be installed inside the boundaries of dedicated public park property nor installed on any existing poles, field lights, fixtures, structures or other facilities within any city park. All equipment shall be outside the park property in the public right-of-way of a street, alley or other easement as determined by deed and official property records. Allowable locations adjoining parks shall be confirmed in writing by the city manager based upon these official property records.

(f) *Zoning.* A network provider seeking to construct, replace or modify a pole or node in the public right-of-way that exceeds the height or size limits contained in this section, shall be subject to applicable zoning requirements.
(Ord. No. 2017-07, § 5, 8-28-2017)

Sec. 78-106. Effect of permit.

(a) *Authority granted.* A permit from the city authorizes an applicant to undertake only certain activities in accordance with this chapter, and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the public right-of-way.

(b) *Time of installation.* A network provider shall begin the installation for which a permit is granted not later than six months after final approval and shall diligently pursue the installation to completion. Provided, however, the city may place a longer time limit on completion or grant reasonable extensions of time as requested by the network provider.

(c) *Right to occupy.* Once a network provider has collocated a network node or placed a node support pole pursuant to a permit, the provider shall be permitted to continue to maintain such collocation or such pole unless required to remove or relocate under the terms of this chapter.

(d) *Interference with network nodes.* City will not grant a permit to any person to install any network node or other wireless facility if the city knows or has reason to know that such person's use of such network node of other wireless facility may in any way adversely affect or interfere with the use and operation of an existing and operational network node for which the city has previously issued a permit.
(Ord. No. 2017-07, § 6, 8-28-2017)

Sec. 78-107. 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 right-of-way whenever the city has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any city improvement in or upon, or the operations of the city in or upon, the public right-of-way.

(b) *Emergency removal or relocation of facilities.* The city retains the right and privilege to disconnect or move any network node located within the public right-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the city shall notify the network provider and allow the network provider an opportunity to move its own facilities prior to the city disconnecting or removing a facility and shall notify the network provider after disconnecting or removing a network node or node support pole.

(c) *Abandonment of facilities.* Upon abandonment of a network node or node support pole within the public right-of-way, the network provider shall notify the city within 90 days. Following receipt of such notice, the city may direct the network provider to remove all or any portion of a network node or node support pole if the city, or any of its departments, determines, subject to city Code, that such removal is necessary to protect public health, safety and welfare.
(Ord. No. 2017-07, § 7, 8-28-2017)

Sec. 78-108. Public right-of-way rate.

(a) *Annual rate.* Once a network provider has installed and made operational a network node in the public right-of-way, network provider shall pay to the city compensation for use of the public right-of-way in the amount of $250.00 annually per node in the city public right-of-way.

(b) *Cease payment.* A network provider is authorized to remove its facilities at any time from the public right-of-way and cease paying the city compensation for use of the public right-of-way following removal and notification to the city of such removal.
(Ord. No. 2017-07, § 8, 8-28-2017)

Sec. 78-109. Attachment to service poles in the public right-of-way.

A network provider shall be permitted to attach network nodes to city-owned service poles, consistent with applicable law and city Code and subject to the requirements specified herein.

(1) *Permits.* A network provider shall obtain a permit, pursuant to the terms of this chapter, prior to collocating network nodes on service poles.

(2) *Make ready.* Network provider shall be responsible for costs for make ready work on city service poles to which provider seeks to place a network node.

(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.

(5) *Service pole attachment fee.* The rate to collocate a network node on a service pole in the public right-of-way shall be $20.00 per pole per year. Subject to the provisions of section 78-110, such compensation together with the application fee and the public right-of-way rate specified in section 78-108 shall be the sole compensation that the network provider shall be required to pay to the city.

(6) *Cease payment.* A network provider is authorized to remove its facilities at any time from a service pole in the public right-of-way and cease paying the attachment fee to the city upon notification to the city that the facilities have been removed.

(Ord. No. 2017-07, § 9, 8-28-2017)

Sec. 78-110. Transport facilities.

Installation of transport facilities, including applicable compensation to the city for such facilities, shall be governed by V.T.C.A., Local Government Code § 284.055.

(Ord. No. 2017-07, § 10, 8-28-2017)

Sec. 78-111. Design manual.

A network provider shall comply with the city's design manual, if any, in place on the date a permit application is filed in relation to work for which the city has approved a permit application. The city's design manual may not conflict with applicable law and must be competitively neutral.

(Ord. No. 2017-07, § 11, 8-28-2017)

Chapters 79—81

RESERVED

Chapter 82

TAXATION*

Article I. In General

Secs. 82-1—82-30. Reserved.

Article II. Real Property Taxes

Sec. 82-31. Council to appoint members to county tax appraisal district board.
Sec. 82-32. Filing suit for delinquent taxes.
Sec. 82-33. Penalty for delinquent taxes.
Sec. 82-34. Exemption for elderly.
Sec. 82-35. Exemption of certain real property.
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*__Charter reference__—Tax administration, art. VI.

__Cross references__—Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness saved from repeal, § 1-7(1); any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget saved from repeal, § 1-7(2); administration, ch. 2.

__State law reference__—Local taxation, V.T.C.A., Tax Code § 301.001 et seq.

ARTICLE I. IN GENERAL

Secs. 82-1—82-30. Reserved.

ARTICLE II. REAL PROPERTY TAXES*

Sec. 82-31. Council to appoint members to county tax appraisal district board.

Pursuant to V.T.C.A., Tax Code § 6.03, the city council shall appoint two members to the county tax appraisal district board to serve two-year terms. If a vacancy occurs, the city council shall appoint a person to fill the vacancy for the remainder of the current term.

State law references—Property Tax Code, V.T.C.A., Tax Code § 1.01 et seq.; assessment ratios prohibited, V.T.C.A., Tax Code § 26.02.

Sec. 82-32. Filing suit for delinquent taxes.

On June 30 of each year, the city attorney shall file suit for all delinquent taxes, after giving due notice to the delinquent taxpayer in writing of the amount of taxes that he owes.
(Code 1978, § 7-3)

State law reference—Suit to collect delinquent tax, V.T.C.A., Tax Code § 933.41.

Sec. 82-33. Penalty for delinquent taxes.

Ad valorem taxes that remain delinquent on July 1 of the year in which they become delinquent shall incur an additional penalty to defray costs of collection, such penalty to be in the amount of 15 percent of the amount of taxes, penalty and interest due the city, which fee shall be an authorized collection expense and charge.
(Ord. No. 86-7, § 1, 8-25-1986)

State law reference—Contract with attorney to collect delinquent tax, V.T.C.A., Tax Code § 6.30(c).

Sec. 82-34. Exemption for elderly.

The exemption for persons age 65 and over is $5,000.00.
(Ord. No. 2000-11, § 1(8), 12-11-2000)

Sec. 82-35. Exemption of certain real property.

(a) Real property within the taxing jurisdiction of the city is hereby exempted from property taxes of the city provided that:

(1) The property is used exclusively for charitable functions listed in V.T.C.A., Tax Code § 11.18; and

*__State law reference__—Property tax, V.T.C.A., Tax Code § 1.01 et seq.

(2) The organization owning the property has:

a. Received a determination letter from the comptroller of public accounts stating that the organization is engaged primarily in performing functions listed in V.T.C.A., Tax Code § 11.18(d); and

b. Filed an exemption request with the chief appraiser of the county appraisal district; and

(3) The chief appraiser of the county appraisal district has determined that the property is in conformance with the requirements of this section, V.T.C.A., Tax Code § 11.18, and all other related laws of the state.

(b) This section shall apply to any organization and property qualifying for the exemption granted under this section.
(Ord. No. 2002-4, §§ 1, 2, 3-25-2002)

State law reference—Authority to exempt, V.T.C.A., Tax Code § 11.18.

Sec. 82-36. When ad valorem taxes due.

The ad valorem taxes levied by the city council each year shall become due on the receipt of the tax bill for which the levy is made, and may be paid up to and including the following January 31 without penalty; but, if not so paid, such taxes shall become delinquent on February 1.
(Code 1978, § 7-11)

Sec. 82-37. Delinquency penalty.

(a) A delinquent tax incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of 12 percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent.

(b) If a person who exercises the split-payment option provided by V.T.C.A., Tax Code § 31.03 fails to make the second payment before July 1, the second payment is delinquent and incurs a penalty of 12 percent of the amount of unpaid tax.

(c) A delinquent tax accrues interest at a rate of one percent for each month or portion of a month the tax remains unpaid.
(Code 1978, § 7-11)

State law reference—Similar provisions, V.T.C.A., Tax Code § 33.01.

Secs. 82-38—82-70. Reserved.

ARTICLE III. PERSONAL PROPERTY TAX

Sec. 82-71. Taxation of tangible personal property.

The city shall tax all tangible personal property as defined in section i-j to Article VIII of the Texas Constitution and in V.T.C.A., Tax Code § 11.251.
(Ord. No. 89-15, 11-27-1989)

State law reference—Authority to adopt, V.T.C.A., Tax Code § 11.251(i).

Secs. 82-72—82-100. Reserved.

ARTICLE IV. SALES AND USE TAX*

Sec. 82-101. Retention of tax.

The city by majority vote of the city council hereby votes to retain the taxes authorized by the Local Sales and Use Tax Act, V.T.C.A., Tax Code § 321.105, on the receipts from the sale, production, distribution, lease or rental of and the use, storage or other consumption of gas and electricity for residential use, as authorized by V.T.C.A., Tax Code § 321.105.
(Ord. No. 79-1, § 1, 2-26-1979)

State law reference—Authority to adopt, V.T.C.A., Tax Code § 321.105.

Sec. 82-102. Tax on telecommunication services.

(a) A tax is hereby authorized on all telecommunications services sold within the city. For purposes of this section, the sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.

(b) The application of the exemption provided for in V.T.C.A., Tax Code § 321.210 is hereby repealed by the city as authorized by V.T.C.A., Tax Code § 321.210.

(c) The rate of tax imposed by this section shall be the same as the rate imposed by the city for all other local sales and use taxes.
(Ord. No. 87-8, § 1, 4-27-1987)

State law reference—Authority to adopt, V.T.C.A., Tax Code § 321.201.

Secs. 82-103—82-130. Reserved.

***Editor's note**—A one percent sales and use tax was approved by referendum on April 1, 1968. An additional one-fourth percent was approved on January 15, 1994. A sales tax of one-fourth percent and one-half percent for economic development was approved by referendum on January 15, 1994 (one-fourth percent), August 10, 1996 (one-half percent).

State law references—Local sales and use tax, V.T.C.A., Tax Code § 321.001 et seq.; development corporations for certain areas, Vernon's Ann. Civ. St. art. 5190.6, § 4B.

ARTICLE V. HOTEL OCCUPANCY TAX*

Sec. 82-131. Definitions.

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

Consideration means the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

Hotel means any building in which the public may, for a consideration, obtain sleeping accommodations. The term "hotel" shall include hotels, motels, tourist homes, houses, courts, lodginghouses, inns, roominghouses and other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums or nursing homes.

Occupancy means 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 and if the occupant's use, possession or right to use or possession extends for a period of less than 30 days.

Occupant means anyone, who, for a consideration uses, possesses or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

Permanent resident means any occupant who has or shall have the right to occupancy of any room or sleeping space or facility in a hotel for at least 30 consecutive days during the current calendar year or preceding year.

Person means any individual, company, corporation or association owning, operating, managing or controlling any hotel.

Quarterly period means the regular calendar quarters of the year, the first quarter being composed of the months of January, February and March, the second quarter being the months of April, May and June, the third quarter being the months of July, August and September, and the fourth quarter being the months of October, November and December.

Tax assessor-collector means the tax assessor-collector of the city.
(Ord. No. 78-22, § 1, 1-22-1979; Ord. No. 84-8, § 1, 5-14-1984)

Cross reference—Definitions generally, § 1-2.

Sec. 82-132. Powers of tax assessor-collector.

The tax assessor-collector shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied in this article, and shall upon reasonable notice

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***State law reference**—Hotel occupancy tax authorized, V.T.C.A., Tax Code § 351.001 et seq.

have access to books and records necessary to enable him to determine the correctness of any report filed as required by this article and the amount of taxes due under the provisions of this article.
(Ord. No. 78-22, § 7, 1-22-1979; Ord. No. 84-8, § 7, 5-14-1984)

Sec. 82-133. Levy.

A tax is hereby levied upon the cost of occupancy of any sleeping room furnished by any hotel, where the cost of occupancy is at the rate of $2.00 or more per day. The tax shall be equal to seven percent of the consideration paid by the occupant of such room, space or facility to such hotel, exclusive of other occupancy taxes imposed by other governmental agencies effective as of June 1, 1984.
(Ord. No. 78-22, § 2, 1-22-1979; Ord. No. 84-8, § 2, 5-14-1984)

Sec. 82-134. Exemptions.

(a) No tax levied in this article shall be imposed upon a permanent resident.

(b) No tax levied in this article shall be imposed upon an occupant of any room or space rented from a corporation or association organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
(Ord. No. 78-22, §§ 3, 4, 1-22-1979; Ord. No. 84-8, §§ 3, 4, 5-14-1984)

Sec. 82-135. Collection.

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in section 82-133.
(Ord. No. 78-22, § 5, 1-22-1979; Ord. No. 84-8, § 5, 5-4-1984)

Sec. 82-136. Reports; payments.

Every person required in section 82-135 to collect the tax imposed by this article shall file a report with the city showing the consideration paid for all room occupancies in the reporting period, the amount of tax collected on such occupancies, and any other information as the city may reasonably require. Such person shall pay the amount of tax collected from occupants during the period of the report at the time of filing the report.

Those properties required in section 82-135 collecting less than $500.00 per month or less than $1,500.00 per quarter for a calendar quarter must remit and report tax due on the 20th day of the month following the end of the quarter. Properties collecting and remitting amounts greater must file monthly returns by the 20th day of the following month. If the 20th falls on a weekend or holiday, the return is due the next business day.

Penalties under section 82-137 shall be enforced on payments not remitted by the last day of the month for which the report and payment is due.
(Ord. No. 78-22, § 6, 1-22-1979; Ord. No. 84-8, § 6, 5-14-1984; Ord. No. 2014-11, § 1, 9-22-2014)

Sec. 82-137. Violations; penalties.

If any person shall fail to collect the tax imposed in this article, shall fail to file a report as required in this article, shall fail to the pay the tax assessor-collector the tax as imposed when the report for payment is due, or shall file a false report then such person shall be subject to the fine set out in section 1-17. In addition, such person who fails to remit the tax imposed by this article within the time required shall forfeit five percent of the amount due as a penalty, and after the first 30 days shall forfeit an additional five percent of such tax; provided, however, that the penalty shall never be less than $1.00. Delinquent taxes shall draw interest at the rate of six percent per annum beginning 60 days from the date due on the tax imposed by this article.
(Ord. No. 78-22, § 8, 1-22-1979; Ord. No. 84-8, § 8, 5-14-1984)

Chapters 83—85

RESERVED

Chapter 86

TRAFFIC AND VEHICLES*

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***Cross references**—Any ordinance providing for or regulating traffic devices, signs, or signals at specific places on specific streets saved from repeal, § 1-7(8); motor vehicles at airport, § 18-141 et seq.; junked and abandoned vehicles, § 30-151 et seq.; law enforcement, ch. 46; offenses, ch. 54; traffic control in parks, § 58-47; streets, sidewalks and other public places, ch. 78; vehicles for hire, ch. 94.

State law references—Uniform act regulating traffic on highways, V.T.C.A., Transportation Code subtitle C; act uniform throughout the state, V.T.C.A., Transportation Code § 542.201; powers of local authorities, V.T.C.A., Transportation Code § 542.201 et seq.

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ARTICLE I. IN GENERAL

Sec. 86-1. Definitions.

The words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in V.T.C.A., Transportation Code § 541.001 et seq. except where the context clearly indicates a different meaning.

Cross reference—Definitions generally, § 1-2.

Sec. 86-2. Obedience to chapter.

It is unlawful for any person to do any act forbidden or fail to perform any act required in this chapter.

Sec. 86-3. Obedience to police officers and school crossing guards.

(a) No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer invested by law with the authority to direct, control or regulate traffic.

(b) No person shall willfully fail or refuse to comply with any lawful order or direction to stop and yield to pedestrians given by any school crossing guard while in the performance of his duties in a designated school crossing zone.

State law reference—Similar provisions, V.T.C.A., Transportation Code § 542.501.

Sec. 86-4. Application of chapter to drivers of government vehicles, road crews, etc.

(a) The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, or any city, county, town or other political subdivision of this state, subject to such specific expectations as are set forth in this chapter with reference to authorized emergency vehicles.

(b) Except as otherwise provided by law, unless specifically made applicable, the provisions of this chapter shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from work.

State law reference—Similar provisions, V.T.C.A., Transportation Code §§ 542.002, 542.004.

Sec. 86-5. Application of chapter to person propelling pushcarts, riding animals, etc.

Every person propelling any pushcart or riding any animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions which by their very nature can have no application.

State law reference—Similar provisions, V.T.C.A., Transportation Code § 542.003.

Sec. 86-6. Penalty for violations.

Any person violating the provisions of this chapter shall be fined up to $200.00.
(Ord. No. 96-10, § 2, 7-8-1996)

Sec. 86-7. Noise.

(a) It shall be unlawful for any person to play a device which produces and projects sound, music or anything audible in or from a motor vehicle, which sound, music or anything audible can be heard by the unaided ear at a distance greater than 50 feet from the source of the sound, music or anything audible within the corporate limits of the city.

(b) Any person found to be in violation of this section shall be subject to a fine, for the first offense, of not more than $50.00, or less than $25.00; for every repeat offense thereafter in which such person shall be found to be in violation shall be subject to a fine of not more than $200.00 or less than $25.00, for every offense such person is in violation.
(Ord. No. 93-10, §§ 1, 2, 6-28-1993)

Sec. 86-8. Jake brakes.

(a) No person shall operate (or allow someone else to operate) an internal combustion engine powered vehicle on any posted public roads within the city while said vehicle is using an engine brake (or jake brake) without an exhaust muffler sufficient to prevent excessively loud noises by said vehicle, except during emergency operation.

(b) The city manager is hereby directed to ensure signs are installed at appropriate locations within the city rights-of-way prohibiting the use of engine braking exhaust systems except during emergency operations as set forth in this section.
(Ord. No. 2009-21, § 2, 11-23-2009)

Secs. 86-9—86-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

DIVISION 1. GENERALLY

Sec. 86-31. General duties of chief of police relative to traffic.

It shall be the duty of the chief of police to conduct analyses of traffic accidents and to devise remedial measures, to conduct investigations of traffic conditions and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by this chapter and other traffic ordinances.

*__Cross reference__—Administration, ch. 2.

Sec. 86-32. Record of traffic convictions.

The judge of the municipal court shall keep a full record of every case in which a person is charged with any violation of this chapter or of any other law regulating the operation of vehicles in highways.

Secs. 86-33—86-50. Reserved.

DIVISION 2. TRAFFIC CONTROL SIGNS, SIGNALS, DEVICES AND MARKINGS

Sec. 86-51. Generally.

All traffic-control signs, signals, and devices installed or erected in the city shall conform to the manual and specifications approved by the state highway and public transportation

commission. All signs and signals required under this chapter 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.
(Code 1978, § 18-41; Ord. No. 80-14, § 1, 12-8-1980)

State law reference—Traffic control signals, V.T.C.A., Transportation Code § 544.001 et seq.

Sec. 86-52. Installation by director of public works.

(a) The city council shall by ordinance direct that the director of public works shall have the duty of erecting or installing upon, over, along or beside any highway, street or alley signs, signals and markings, or cause the signs, signals and markings to be erected, installed or placed in accordance with this division and consistent with the manual approved by the state highway and public transportation commission. Such traffic control devices shall be installed immediately or as soon as such specific device, sign or signal can be procured.

(b) Whenever the director of public works has erected and installed any official traffic control device, signal or sign at any location in the city or has caused the device, signal or sign to be done under his direction in obedience to this division and the manual, he shall thereafter file a report with the city secretary in writing and signed officially by the director of public works, stating the type of traffic control device, sign or signal, and when and where the device, sign or signal was erected and installed. The city secretary shall file and maintain such report of the director of public works among the official papers of the office of the city secretary.
(Ord. No. 80-14, § 6, 12-8-1980)

Sec. 86-53. Prima facie evidence of authorized installations.

It being unlawful for any person other than the director of public works acting pursuant to an ordinance of the city to install or cause to be installed any signal, sign or device purporting to direct the use of the street or the activities on those streets of pedestrians, vehicles, motor vehicles or animals, proof, in any prosecution for a violation of this division or any traffic ordinance of the city that any traffic control device, sign, signal or marking was actually in place on any street shall constitute prima facie evidence that the device, sign, signal or marking was installed by the director of public works pursuant to the authority of this division and of the ordinance directing the installation of such device, signal or marking.
(Ord. No. 80-14, § 7, 12-8-1980)

Sec. 86-54. Necessity of devices.

No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

Sec. 86-55. Authority of director of public works to install; ratification of existing devices.

(a) The director of public works, with approval of the city council, shall have authority to erect and place, or to have erected and placed, official traffic control signs, markings, and other devices placed on streets and other public ways of the city, to regulate, warn, and guide traffic thereon. Such signs, markings, and other devices, and the placing thereof, shall conform with state law and with state regulations regarding uniform traffic signs, and shall have the respective meanings and effects prescribed therefor by state law and regulations. The director of public works, with approval of the city council, may remove or alter, or have removed or altered, any such traffic control sign, marking, or other device so erected and placed, and also any such official traffic control sign, marking, or other device already in place when this Code goes into effect.

(b) All official traffic control signs, markings, and other devices already erected and in place when this Code goes into effect are hereby approved, and shall continue hereafter as official traffic control signs, markings, and other devices of the city, with the respective meanings and effects prescribed by state law and regulations, until otherwise provided in accordance with subsection (a) of this section or by resolution or ordinance of the city council.

Sec. 86-56. Obedience.

The driver of any vehicle, motor vehicle or animal shall obey the instructions of any official traffic control device, sign or signal applicable thereto placed in accordance with this chapter, unless otherwise directed by a traffic police officer, subject to the exceptions granted the driver of an authorized emergency vehicle permitted by this chapter.
(Ord. No. 80-14, § 2, 12-8-1980)

Sec. 86-57. Designation of stop streets and erection of stop signs.

(a) The city council may designate through roadways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and the director of public works shall erect stop signs at one or more entrances to such intersection.

(b) Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.

State law reference—Authority of city to designate stop intersections, V.T.C.A., Transportation Code § 542.202.

Sec. 86-58. Yield right-of-way signs.

The director of public works, as authorized by the city council from time to time, may install and maintain yield right-of-way signs at intersections.

State law reference—Authority of city to designate yield intersections, V.T.C.A., Transportation Code § 542.202.

Sec. 86-59. Designation of one-way streets or alleys.

The city council may designate any street or alley under his jurisdiction for one-way traffic and the director of public works shall erect and maintain appropriate signs giving notice thereof at every intersection where movement of traffic in the opposite direction is prohibited.

Cross reference—Streets, sidewalks and other public places, ch. 78.

State law reference—Authority of city to designate one-way streets, V.T.C.A., Transportation Code § 542.202.

Sec. 86-60. One-way traffic patterns.

The following one-way traffic patterns are established:

Brooks Street, from the intersection of such street with Greer Street in a southerly direction from such intersection, thereafter in a westerly direction and thence in a northerly direction to the intersection of such street with Bolton Street.

Hicks Street, from the intersection with Jennings Street eastward to the intersection of Hicks Street with Matlock Street.

Jennings Street, from the intersection of such street with Matlock Street northward to the intersection of such street with Garrett Street.

Matlock Street, from the intersection of such street with Hicks Street northward to the intersection of such street with Jennings Street.

Porter Street, from the intersection of such street and Weaver Street eastward to the intersection of such street and Cora Street (State Highway 7).

Weaver Street, from the intersection of such street and Tenaha Street (State Highway 87) northward to the intersection of such street and Porter Street.

(Ord. No. 85-3, § 1, 4-8-1985; Ord. No. 96-10, § 1, 7-8-1996)

Secs. 86-61—86-80. Reserved.

DIVISION 3. SPEED LIMITS

Sec. 86-81. Safe speed required.

(a) No person shall drive a vehicle on a street at a speed greater than is reasonable and prudent under the circumstances then existing.

(b) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(c) The driver of every vehicle shall, consistent with the requirements of subsection (b) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

State law reference—Authority to establish speed limits, V.T.C.A., Transportation Code § 545.356.

Sec. 86-82. Special speed limitations.

(a) No person shall operate any motor-driven cycle at any time mentioned in V.T.C.A., Transportation Code § 545.361 at a speed greater than 35 miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of 300 feet ahead.

(b) No person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than a maximum of ten miles per hour.

(c) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in this section.

(d) No person may operate on a public highway at a speed greater than 30 miles per hour any self-propelled machinery specifically designed or especially adapted for applying plant food materials or agricultural chemicals and not designed or adapted for the sole purpose of transporting the materials or chemicals, unless the machinery is registered under V.T.C.A., Transportation Code § 502.001 et seq.

State law reference—Similar provisions, V.T.C.A., Transportation Code § 545.361.

Sec. 86-83. Speed limits generally.

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

(1) *Vehicle* is defined and means the same as in V.T.C.A., Transportation Code § 541.001 et seq., known as the Uniform Act Regulating Traffic on Highways.

(2) *School* means public or private schools.

(3) *School days* means those days when pupils are in regular attendance at the public or private schools for which speed zones are marked.

(4) *State roads and highways* means any U.S. or state numbered route, highway, or farm-to-market road that speed laws are under the jurisdiction of the state.

(5) *Private street* means all streets or driveways intended for use by any vehicle that are not "state roads and highways" or "city streets and roads."

(6) *City streets and roads* means all public streets and roads under the maintenance and jurisdiction of the city that are not "state roads and highways" or "private streets."

(b) *Driving reasonable speed.* No person shall drive a vehicle on a street at a speed greater than is reasonable and prudent under the circumstances then existing.

(c) *General speed limit except where otherwise posted.* No person shall operate or drive any vehicle on any city street or road at a greater rate of speed than 25 miles per hour, unless signs are erected designating another speed in accordance with this section.

(d) *School zones.*

(1) School zones on city streets and roads as designated by the chief of police shall be further designated as such by signs or other public designations.

(2) It shall be unlawful for any person to operate or drive any motor or other vehicle upon a city street or road signed and designated as a school zone as provided in this section between the hours of 7:00 a.m. and 5:00 p.m., or such portion of these hours as designated by posted sign, on school days, in excess of 15 miles per hour.

(e) *Speed limit on private streets.* It shall be unlawful for any person to drive in excess of 25 miles per hour on any private street within the city.
(Ord. No. 98-17, §§ 1—5, 11-9-1998)

Sec. 86-84. Speed limits on specific highways.

No person shall drive on the following highways at a speed greater than indicated as follows:

F.M. 699: For traffic beginning at its intersection with S.H. 87 to its intersection with Logansport Street a distance of 0.535 mile, the speed limit shall be 30 miles per hour in either direction.

F.M. 699: From its intersection with Logansport Street to a point approximately 155 feet north of the A.T. & S.F. Railroad Crossing a distance of 0.345 mile, the speed limit shall be 40 miles per hour in either direction.

F.M. 699: From a point approximately 155 feet north of the A.T. & S.F. Railroad Crossing to the north city limits a distance of 0.170 mile, the speed limit shall be 50 miles per hour in either direction.

State Highway 7: From the west Center city limit to a point approximately 2,165 feet eastward, a distance of 0.410 miles, the speed limit shall be 65 miles per hour in either direction.

State Highway 7: From a point approximately 0.410 miles east of the west Center city limit to a point approximately 0.600 miles east, the speed limit shall be 55 miles per hour in either direction.

State Highway 7: From a point approximately 1.01 miles east of the west Center city limit to a point approximately 0.350 miles east, the speed limit shall be 45 miles per hour in either direction.

State Highway 7: From a point approximately 1.36 miles east of the west Center city limit to a point approximately 1 mile east, the speed limit shall be 30 miles per hour in either direction.

State Highway 7: From a point approximately 2.36 miles east of the west Center city limit to a point approximately .550 miles east, the speed limit shall be 45 miles per hour in either direction.

State Highway 7: From a point approximately 2.91 miles east of the west Center city limit to the east Center city limit, a distance of .800 miles, the speed limit shall be 55 miles per hour in either direction.

State Highway 87: Beginning at the Center west city limits (mile point 14.598) to intersection with U.S. Highway 96 (mile point 15.019) a distance of 0.421 mile the speed limit shall be 55 miles per hour in either direction.

State Highway 87: From its intersection with U.S. Highway 96 (mile point 15.019) to its intersection with Fair Drive (mile point 15.560) a distance of 0.541 mile the speed limit shall be 45 miles per hour in either direction.

State Highway 87: From its intersection with Fair Drive (mile point 15.560) to its intersection with Pearl and Carroll Streets (mile point 15.873) a distance of 0.313 mile the speed limit shall be 40 miles per hour in either direction.

State Highway 87: From its intersection with Pearl and Carroll Streets (mile point 15.873 to its intersection with Nicholson Street (mile point 16.150) a distance of 0.277 mile the speed limit shall be 35 miles per hour in either direction.

State Highway 87: From its intersection with Nicholson Street (mile point 16.150) to its intersection with Railroad Avenue (mile point 17.040) a distance of 0.890 mile the speed limit shall be 30 miles per hour in either direction.

State Highway 87: From its intersection with Railroad Avenue (mile point 17.040) to a point approximately 750 feet east of McKee Street (mile point 17.533) a distance of 0.493 mile the speed limit shall be 35 miles per hour in either direction.

State Highway 87: From a point approximately 750 feet east of McKee Street (mile point 17.533) to a point 500 feet east of Loop 500 (mile point 18.066) a distance of 0.533 mile the speed limit shall be 50 miles per hour in either direction.

State Highway 87: From a point approximately 500 feet east of Loop 500 (mile point 18.066) to the Center east city limits (mile point 18.269) a distance of 0.203 mile the speed limit shall be 55 miles per hour in either direction.

State Highway 87: For traffic moving in either direction beginning at the west city limits (mile point 14.578) to its intersection with U.S. Highway 96 (mile point 15.019) a distance of 0.429 mile, the speed limit shall be 55 miles per hour.

U.S. Highway 96: From the North Center City Limits to a point approximately 2,529 feet southward, a distance of 0.479 miles, the speed limit shall be 50 miles per hour in either direction.

U.S. Highway 96: From a point approximatley 0.479 miles south of the North Center City Limits to a point approximately 1.985 miles southward, the speed limit shall be 40 miles for hour in either direction.

U.S. Highway 96: From a point approximately 2.464 miles south of the North Center City Limits to the South Center City Limits, a distance of 1.216 miles, the speed limit shall be 55 miles per hour in either direction.
(Ord. No. 85-10, 10-15-1985; Ord. No. 88-4, 4-25-1988; Ord. No. 89-5, 5-8-1989; Ord. No. 2006-21, 9-25-2006; Ord. No. 2017-08, 8-28-2017)

Secs. 86-85—86-100. Reserved.

DIVISION 4. STOP STREETS*

Sec. 86-101. Placement of stop signs.

Stop signs shall be placed at the following locations and a person driving a motor vehicle on the following streets and approaching in either direction at such intersections and railroad tracks, shall stop the vehicle before entering such intersections or crossing such railroad tracks, and shall not proceed into such intersections or across such tracks until he can do so with safety.

Anderson Street, both sides, at its intersection with Bolton Street.

Carroll Street, both sides, at its intersection with High School Street.

Center Street, both sides, at its intersection with Fannin Street.

Collier Street, (northbound only) at its intersections with Fox Street.

Cora Street, at its intersections with Louisiana Street and Logansport Street.

Elliott Street, at its intersections with Austin Street.

Fannin Street, both sides, at its intersection with Center Street.

Fannin Street, both sides, at its intersection with Thomas Street.

Florence Street, both sides, at its intersection with the railroad tracks.

Fox Street, (westbound only) at its intersection with Collier Street.

George Ihlo Drive, both sides, at its intersection with Payne Street.

*__Cross reference__—Streets, sidewalks and other public places, ch. 78.

High School Street, both sides, at its intersection with Carroll Street.

Logansport Street, both sides, at its intersection with the railroad tracks.

Payne Street, both sides, at its intersection with George Ihlo Drive.

Pecan Street, both sides, at its intersection with Center Street.

Pecan Street, both sides, at its intersection with Newman Street.

Pecan Street, both sides, at its intersection with Thomas Street.

Thomas Street, both sides, at its intersection with Fannin Street.

Weaver Street, southeast corner, where such street turns from a northerly direction to the east and on the northwest side of the same intersection.

(Ord. No. 86-11, §§ 2, 3, 9-8-1986; Ord. No. 92-13, §§ 2—4, 4-27-1992; Ord. No. 93-4, §§ 2, 3, 2-22-1993; Ord. No. 93-8, §§ 2, 3, 4-12-1993; Ord. No. 94-36, § 2, 9-26-1994; Ord. No. 95-2, §§ 2, 3, 3-1-1995; Ord. No. 97-8, § 2, 8-25-1997; Ord. No. 2006-1, § 1, 1-9-2006; Ord. No. 2010-7, § 1, 5-24-2010; Ord. No. 2013-7, § 1, 6-8-2013; Ord. No. 2018-02, § 1, 5-14-2018)

Secs. 86-102—86-120. Reserved.

DIVISION 5. TURNING MOVEMENTS*

Sec. 86-121. Streets on which U-turns are prohibited.

It shall be unlawful for any person operating a vehicle to make a U-turn while operating a vehicle on the following streets:

Child Street.

Fair Drive.

Kennedy Street.

Malone Drive.

(Ord. No. 595, § 1, 4-19-1977; Ord. No. 85-11, § 2, 10-15-1985)

Sec. 86-122. Prohibiting turns at intersections.

(a) The chief of police is hereby authorized, subject to approval by the city council, to determine those intersections at which drivers of vehicles shall not make a right or left turn, and shall place proper signs at such intersection. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the prohibition shall be plainly indicated on the signs or they may be removed when such turns are permitted.

***State law reference**—Authority of city to regulate or prohibit turns, V.T.C.A., Transportation Code § 542.202.

(b) Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of such signs.

State law reference—Authority of city to regulate or prohibit turns, V.T.C.A., Transportation Code § 542.202.

Secs. 86-123—86-150. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING*

DIVISION 1. GENERALLY

Sec. 86-151. Parallel and angle parking.

(a) No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the righthand wheels of the vehicle within 18 inches of the curb or edge of the roadway, except as otherwise provided in this section. On one-way streets, vehicles may be parked on the left side of the street, with the lefthand wheels within 18 inches of the curb or edge of the roadway, unless signs prohibit parking.

(b) Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(c) Whenever parking spaces are marked by lines on the pavement, whether for parallel or angle parking, a vehicle must be parked entirely within the lines of the parking space.

(d) The city council shall determine upon which streets angle parking shall be permitted and the director of public works shall mark by signs such streets, but such angle parking shall not be indicated upon any federal aid or state highway within this city unless the state highway engineer has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any railway tracks.

State law reference—Authority to permit angle parking, V.T.C.A., Transportation Code § 545.303(C).

***Cross references**—Any ordinance regulating speed or parking on designated segments of specific streets and other public ways saved from repeal, § 1-7(6); driving and parking at Lake Pinkston Mann-Pinkston Reservoir, § 58-199; taxicabs parking on streets, § 94-35.

State law references—Authority to regulate stopping, standing or parking of vehicles, V.T.C.A., Transportation Code § 542.202; stopping, standing or parking generally, V.T.C.A., Transportation Code § 545.301 et seq.

Sec. 86-152. No parking areas.

No parking areas, as they exist at the time this Code goes into effect, are hereby confirmed and ratified. From time to time, as traffic conditions require, the council by ordinance may change, abolish, modify and create parking meter zones and no parking areas.
(Code 1978, § 18-2)

Sec. 86-153. Parking on outer perimeter of city square.

(a) It is the purpose of this section to allow two hours of free parking on the outer perimeter of the square of the city and to limit the use of a single parking space to that period of time.

(b) It shall be unlawful and a violation of this section for a motor vehicle to be parked in a parking space upon the outer perimeter of the square of the city for a period in excess of two hours.

(c) Each violation of this section shall be a separate offense carrying a penalty and fine of $0.50 if paid on the same day of the violation, and otherwise shall be $2.50. Fines shall be payable at the city police station.
(Ord. No. 79-3, §§ 1—3, 6-11-1979)

Sec. 86-154. No parking zones.

The following described areas shall be designated as "No Parking" zones and no parking shall be allowed at any time in these designated areas. Parking violations shall be dealt with according to current law and city ordinances:

Childs Street and the south side of *Henrietta Street* adjoining Portacool Park.

Cora Street, north side, for 40 feet on each side of its intersection with Porter Street.

Henrietta Street, north side, across from the Center Mini Park.

Nacogdoches Street, beside the school during the hours of 7:30 to 8:30 a.m. and 2:30 to 3:30 p.m. on weekdays. This no parking zone will be the area lying between the signs so designating such zone.

Park Hill Lane.

San Augustine Street, east side, from Fields Street to Austin Street.

San Augustine Street, west side, from Austin Street to approximately 200 feet south of Houston Street.

San Augustine Street, west side, from Austin Street to Parker Street.

State Highway 87, east side, within 250 feet either side of the entrance into the McDonald's Restaurant.

Union Street, from the intersection of Union Street (running north) and Union Street (running west) to the entrance to Westview Cemetery.

U.S. Highway 96, east side, from a point approximately 220 feet north of Sanders Street to a point approximately 250 feet northward of that point.

State Highway 96, east side, from the intersection of Timpson Street to the intersection with Cass-Caid Drive.

State Highway 96, east side, south for 75 feet on each side of its intersection with San Augustine Street.

U.S. Highway 96, west side, from a point approximately 150 feet south of Lillian Street to a point approximately 600 feet south of Lillian Street.

State Highway 96, west side, from the intersection of Roughrider Drive to a point across from the intersection with Cass-Caid Drive.

U.S. Highway 96, from its intersection with State Highway 87 to a point approximately 1,200 feet southward.

(Ord. No. 86-4, § 2, 7-14-1986; Ord. No. 88-1, 3-28-1988; Ord. No. 89-14, 11-13-1989; Ord. No. 89-16, 11-27-1989; Ord. No. 92-23, 11-9-1992; Ord. No. 93-27, 12-13-1993; Ord. No. 2001-3, § 1, 9-24-2001; Ord. No. 2004-16, § 1, 12-13-2004; Ord. No. 2006-11, § 1, 6-12-2006; Ord. No. 2007-5, § 1, 5-14-2007; Ord. No. 2014-5, § 1, 6-23-2014; Ord. No. 2017-04, § 2, 5-22-2017; Ord. No. 2018-3, § 1, 7-23-2018)

Sec. 86-155. Restricted parking area on school days.

It shall be unlawful for any person to park between the hours of 9:00 a.m. and 3:00 p.m. on school days on either side of Malone Drive, that section of Kennedy Street between Tenaha Street (Highway 87) and Payne Street, and that section of George Ihlo Drive between Carroll Street and Kennedy Street.

(Ord. No. 95-4, § 1, 3-27-1995)

Sec. 86-156. Parking adjacent to commercial enterprises on west half of Runnels Street.

It shall be lawful for vehicles to park on the west half of Runnels Street while adjacent commercial enterprises are open for business to the general public provided that vehicles may be parked in such location if the owner of the vehicle or the owner's designated operator is available on the site of the commercial enterprise and could move the vehicle immediately if an emergency situation occurred.

(Ord. No. 2000-9, § 1, 10-9-2000)

Sec. 86-157. Fire lanes.

(a) The following areas shall be redesignated by the city as fire lanes:

Alley connecting Tenaha Street and Porter Street, located approximately one-half way between Logansport Street and Church Street.

Banks Street, from Austin Street to its end.

Carnahan Street, from Banks Street to Church Street.

Jackson Street, from Pecan Street to Porter Street.

Kennedy Street, north side, from its intersection with Malone Drive to the Eastern most boundary of the Center Independent School District property line.

Parker Street, from San Augustine Street to Runnels Street.

Porter Street, from Logansport Street to Cora Street.

Rogers Street, from Porter Street to Weaver Street.

Rogers Street, from Shelbyville Street to Porter Street.

Runnels Street, from Austin Street to Houston Street.

(b) It shall be unlawful for any person to block or obstruct or cause to be blocked or obstructed, any area or part thereof, designated in subsection (a) of this section as a fire lane.

(c) Any blocking or obstruction of such fire lane, or part thereof, with the exception of attended commercial vehicles, shall be deemed a violation of this section.

(Ord. No. 93-12, §§ 1—3, 6-28-1993; Ord. No. 94-35, § 1, 9-26-1994)

Cross references—Parking near fires; fire lines, § 34-6.

Sec. 86-158. Parking in Center City Square.

(a) Any vehicle found parked in the area of the city known as the "Square," which has been left there for the purpose of creating a sale of that vehicle, and has been left there after 10:00 p.m. or placed there before 6:00 a.m. shall be in violation of this section. "For Sale" vehicles which are towed conveyances, such as boats, trailers, and inoperable automobiles, shall be in violation of this section if left on the "Square" at any hour of the day. Exception to this section may be granted to a person parking a motorized vehicle in this area for the express purpose of employment by or transacting business with an establishment that is located on the "Square."

(b) The following definitions are hereby declared to be used for this section:

(1) *Center City Square* means the vehicle parking slots which lie on and inside the one block area between the outer extremities of Shelbyville, San Augustine, Austin, and Nacogdoches streets.

(2) *Owner* means any person, company, or corporation owning, keeping, or holding themselves as owner of a vehicle, which has displayed on or in the vehicle any sign or indication that the vehicle is for sale, trade, or barter.

(3) *Vehicle* means any motorized or towed conveyance, subject to registration pursuant to the Texas Certificate of Title Act V.T.C.A., Transportation Code § 501.001 et seq., including outboard motors, motorboats, and trailers, whether or not it is registered.

(c) When vehicles are found parked on the Center City Square, the city police may call a tow truck to remove vehicle to a location of the towing agency's choice. The owner of the towed vehicle must pay towing and reasonable storage fees to the towing agency, in order to recoup his vehicle. Should the owner refuse, or be unable to pay these fees, he may be fined up to $200.00 plus $25.00 per day for each day the vehicle remains in the custody of the towing agency. Should the owner be unable or refuse to pay stated fines, the vehicle shall be considered an abandoned vehicle. Notification to the owner that the car has been impounded will be made within ten days of impoundment, by the city manager, or his representative, via certified letter, to the owner of record. If the certified letter notifying the owner of record is undeliverable, notice will be published in a local newspaper of general circulation that the towing agency has the vehicle, and that the owner must contact the city police department in order to recoup his property.
(Ord. No. 2000-13, §§ 1—3, 12-11-2000)

Sec. 86-159. Loading zone designated.

(a) The city council has determined a necessity of a loading zone at the intersection of Logansport Street and Tenaha Street, and determined it to be in the interest of public welfare and safety to designate a certain area on Logansport Street in the city as a loading zone.

(b) The designation of such loading zone will provide access for the loading and unloading of commercial trucks in connection with business operations conducted in the general vicinity and area of such loading zone.

(c) The following described area shall be designated as a loading zone:

Beginning at the intersection of Logansport Street and Tenaha Street and extending for a distance of 90 feet in a Northerly direction from the aforesaid intersection and such loading zone to extend from the curb of Logansport Street outward a distance of eight feet.

(d) It shall be unlawful for any person to block or obstruct or cause to be blocked or obstructed the area designated in this section as a loading zone, except while in the actual process of loading or unloading a truck or other vehicle in connection with the conduct of a business in the city.

(e) Any blocking or obstruction of such loading zone, or any part thereof, except as provided in this section, shall be deemed a violation of this section.

(f) Any person who violates any of the provisions of this section shall, upon conviction, be punished by a fine of not more than $200.00, and each and every day of continuing violation of this section shall constitute a distinct and separate offense.

(g) Violation of any of the terms or provisions of this section by any corporation or association shall subject the officers or agents, effectively in charge of the business or such corporation or association to a penalty provided in this section.

(h) In addition to the penal remedy in this section, the city attorney shall, upon the direction of the city council, institute any appropriate action or proceeding, including actions for injunctions to prevent, restrain, correct or rebate any act, conduct, work, business, practice or use which is a violation of law under this section.
(Ord. No. 84-14A, §§ 1—8, 8-13-1984)

Secs. 86-160—86-180. Reserved.

DIVISION 2. HANDICAPPED PERSONS

Sec. 86-181. Locations designated.

(a) The following locations are designated in the downtown square area as handicapped parking spaces:

(1) On the south side of the square, on Austin Street at the middle of the block, at the first location on the east side of the alley in front of what is now Beall's Department Store;

(2) On the east side of the square, on the north side of Austin Street, on the corner of Austin and San Augustine;

(3) On Shelbyville Street, on the north side of the square, in the middle of the block, at the first location on the west side of the alley, in front of what is now Roger's Drug Store;

(4) On the west side of the square, on Nacogdoches Street, on the corner of Nacogdoches and Austin.

(b) Exhibit A to Ordinance No. 84-6, a graphic of the square showing these locations, is on file at the office of the city secretary and made a part of this division as if set out in full.
(Ord. No. 84-6, § 2, 4-9-1984)

Sec. 86-182. Private parking lots.

Private property owners are encouraged to designate spaces for handicapped parking on private parking lots. Parking spaces, designated in accordance with standards established in Vernon's Ann. Civ. St. art. 6675a-5e.1 will be enforced by the police department.
(Ord. No. 84-6, § 3, 4-9-1984)

Secs. 86-183—86-210. Reserved.

ARTICLE IV. TRUCKS

Sec. 86-211. 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:

Destination of origin shall mean and include any place for business, commercial, or public delivery or pick up involving the vehicle or truck; any place of mechanical, maintenance or tire service to be performed upon the vehicle or truck; or the place of business for the vehicle or truck, or the place of business owning, leasing, or renting said vehicles or trucks.

Local vehicle or truck shall mean any vehicle or truck with a rated capacity of one and one-half tons or more according to the manufacturer's classification, or equivalent thereof, travelling within or through the city limits of the City of Center and has a destination or origin within the city limits of the City of Center.

The Square shall mean the area of traffic circulation which is adjacent to the grounds of the historic Shelby County Courthouse.

Through vehicle or truck shall mean any vehicle or truck with a rated capacity of one and one-half tons or more according to the manufacturer's classification, or equivalent thereof, travelling within and through the city limits of the City of Center and does not have a destination of origin within the city limits of the City of Center.
(Ord. No. 2000-12, § 2, 12-11-2000; Ord. No. 2015-04, § 2, 8-11-2015)

Cross reference—Definitions generally, § 1-2.

Sec. 86-212. Designation of through vehicle and truck traffic route.

The through vehicle and truck traffic route for all trucks and vehicles with a rated carrying capacity of one and one-half tons or more according to the manufacturer's classification, or the equivalent thereof, shall be State Loop 500 and US Highway 96. All through vehicles and trucks shall at all times utilize the through truck route.
(Ord. No. 95-11, § 1, 6-26-1995; Ord. No. 2000-12, § 3, 12-11-2000; Ord. No. 2015-04, § 3, 8-11-2015)

Sec. 86-213. Use of through truck route; exception.

Local vehicles and trucks with a rated carrying capacity of one and one-half tons or more according to the manufacturer's classification, or the equivalent thereof, shall utilize the through truck route at all times. The specific intent of this section is for all local vehicles and trucks to avoid the area of the Square. The only exceptions for this section are emergency and utility trucks and vehicles that are making a pick up or delivery to a site on the Square.
(Ord. No. 2000-12, § 4, 12-11-2000; Ord. No. 2015-04, § 4, 8-11-2015)

Sec. 86-214. Weight limitation on public streets; exceptions.

It shall be unlawful for anyone to operate a commercial motor vehicle, truck, tractor, truck-tractor, truck-trailer, or semi-trailer or any combination thereof on any public street, alley or right-of-way of the city with a registered weight exceeding 35,000 pounds except on the following sections of highways, roads, and streets: US Highway 96, Texas State Highway 7, Texas State Highway 87, FM 2788, FM 699, FM 138, FM 2468, FM 2974, all portions of Texas State Loop 500.
(Ord. No. 2000-12, § 5A, 12-11-2000; Ord. No. 2015-04, § 5A, 8-11-2015)

Sec. 86-215. Traveling on shortest routes when origin or destination not on allowed highways.

Section 86-214 of this article shall not apply to vehicles that have a point of origin or destination that is not located on a section of highway, road, or street included in section 86-214. However, all such vehicles that have a point of origin or destination within the city shall travel by the shortest route (least required distance to travel) to and from the nearest highway, street, or road listed in section 86-214 as exceptions to the weight limit of 35,000 pounds. It shall be unlawful for the operator of any such vehicle to depart from, or return to, the above said allowed street, highway, or road by using any city street or road which is not the shortest route (least required distance to travel).
(Ord. No. 2000-12, § 5B, 12-11-2000; Ord. No. 2015-04, § 5B, 8-11-2015)

Sec. 86-216. Parking of certain vehicles prohibited.

It shall be unlawful for any person to park any vehicle, trailer, or combination thereof, that exceeds 21 feet in length or has a weight exceeding 22,500 pounds on any portion of any city street, right-of-way, or alley for more than a one-hour period (cumulative) per day.
(Ord. No. 2000-12, § 6A, 12-11-2000)

Sec. 86-217. Parking on more than six feet of the width of driving surface prohibited.

It shall be unlawful for any person to park any vehicle, trailer, or combination thereof, in such a manner as to occupy more than six feet of the width of the driving surface of any street right-of-way, or alley for more than a one-hour period (cumulative) per day.
(Ord. No. 2000-12, § 6B, 12-11-2000)

Sec. 86-218. Penalty for violation.

Any person, firm, or corporation violating the provisions of this article on conviction shall be fined in accordance with state law or section 1-17 of the Code of Ordinances.
(Ord. No. 2000-12, § 7, 12-11-2000; Ord. No. 2015-04, § 6, 8-11-2015)

Secs. 86-219—86-250. Reserved.

ARTICLE V. DANGEROUS OR HAZARDOUS MATERIALS*

Sec. 86-251. Definition.

For the purpose of this article, the term "hazardous and dangerous materials" are defined as including the following:

Explosive materials means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture or device is otherwise specifically classified. Common compounds of this classification are organic nitrates, perchlorates, peroxides, fulminates, oxides, hydrides and others. Nitroglycerine (dynamite) TNT, hydrogen peroxide, ammonium nitrate and ketone peroxides are examples of this classification.

Flammable materials means the materials which constitute this general classification are those petroleum products or derivatives which are capable of being burned in the presence of air or oxygen when they are exposed to a flame, spark or any other form of ignition, including natural gas, liquefied petroleum gas, napthas, gasolines, oils and other flammable petroleum products which have not been specifically listed in this definition. These materials can be gaseous, liquid or solid, or combinations of these.

Toxic, poisonous and corrosive materials means materials in this classification can consist of gases, liquids and solids. The degree of toxicity can range from slight to deadly. Corrosive materials range from mildly active to materials capable of causing deep chemical burns. Examples of toxic materials are:

(1) *Gases:* Carbon monoxide, hydrogen sulfide, sulfur dioxide, ammonia, hydrogencyanide, chlorine, bromine, fluorine and others;

(2) *Liquids:* Hydrocyanic acid, carbolic acid, oxalic acid, formic acid, benzene, toluene, aniline, nitrobenzene and others;

(3) *Solids:* Arsenic and arsenic compounds, tellurides, beryllium compounds, organic drugs and others;

(4) *Corrosive materials:* Include hydrochloric acid, nitric acid, sulphuric acid, carbolic acid, chlorine, phosphorus, lime caustic and others.

Radioactive materials means materials in this classification are all of those which emit alpha, beta or gamma radiation. Radium, cobalt-60, carbon14, strontium-90, and all radioactive isotopes are common examples of this classification which might be encountered in the city.

(Ord. No. 88-11, § 1, 8-22-1988)

Cross reference—Definitions generally, § 1-2.

*__Cross reference__—Environment, ch. 30.

Sec. 86-252. Dangerous materials formed by chemical reaction.

There are many materials which represent no particular disposal difficulty provided they are kept from contact with other materials with which they might react forming a dangerous reaction product. Calcium carbide reacts with water forming lime and acetylene, and explosive gas. Sodium, potassium and calcium materials react with water forming hydrogen, an explosive gas when mixed with air. Cyanide salts (used in metal cleaning) form deadly hydrogen cyanide gas when reacted with organic and inorganic acids. All materials reacting with commonly encountered substances to form dangerous materials are considered to be in this class.
(Ord. No. 88-11, § 1, 8-22-1988)

Sec. 86-253. Hazardous and dangerous materials routes.

The following described traffic routes shall be designated as hazardous and dangerous materials routes within the city and shall be properly identified:

Loop 500 from U.S. Highway 96 South to State Highway 7 East.

State Highway 7 west from the city limits to U.S. Highway 96.

State Highway 87 north from the city limits to U.S. Highway 96.

State Highway 87 south from the city limits to Loop 500.

U.S. Highway 96 south from the city limits to U.S. Highway 96 North city limits.
(Ord. No. 88-11, § 2, 8-22-1988)

Sec. 86-254. Transportation of dangerous or hazardous materials restricted to specific routes; exceptions.

Except for entities with a place of business in the city carrying the product outside the city, or foreign businesses making a local delivery, or parked on any public street or any residential area within the city limits and engaged in the delivery or unloading of a product to a place of business, it shall be unlawful for any person to drive or cause to be driven, or operate or maintain any vehicle to transport any dangerous or hazardous material but not expressly limited to, over any street or alley within the city except those routes designated in section 86-253.
(Ord. No. 88-11, § 3, 8-22-1988)

Sec. 86-255. Enforcement of article.

The fire marshal, fire department and police department shall, in connection with their duty, imposed by law, diligently enforce the provisions of this article.
(Ord. No. 88-11, § 4, 8-22-1988)

Chapters 87—89

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Chapter 90

UTILITIES*

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State law reference—Public Utilities Regulatory Act, V.T.C.A., Utilities Code § 11.001 et seq.

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ARTICLE I. IN GENERAL

Sec. 90-1. Definitions.

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

Active meter accounts means current utility charges which are to be assessed for all city utility services available to such account location, with the exceptions as follows:

(1) Poultry plants that own wastewater treatment plants permitted by state and/or federal regulatory agency.

(2) Meters at locations to water livestock only.

(3) Meters at locations to water lawns or operate sprinkler system only.

(4) Meters at locations to provide water only to ice plant.

(5) Meters at locations to provide water only to wash vehicles on car lots.

(6) Any other meter location that is verified to be a water only account and such verification approved by the city manager and documented in the customer's utility file at city hall.

Bulk water sale means the sale of water on a nonregular basis by means of the installation of a meter at a specified location by the city.

Customer rate classification means the classification by which current utility rates and charges will be assessed for each customer (account) in accordance with one of the following rate classifications:

(1) *Residential or commercial* means all customers (accounts) that are not classified as a large or small industrial/manufacturer customer or a wholesale customer.

(2) *Large or small industrial/manufacturer* means a customer (account) that requests such classification and is a facility that can show some type of tangible product that is produced for sale or resale. The large industrial/manufacturer customers (accounts) utilize more than 5,000,000 gallons of water a month. Any other industrial/manufacturer customer (account) shall be considered the small classification.

(3) *Wholesale* means a customer (account) that purchases water for the purpose of resale as allowed to do so by all applicable State rules and regulations.

Inside/outside city rates means rates which are to be based on the point of service.

(1) The rate for services provided inside the city limits are shown in this schedule of rates and fees.

(2) The rate for service provided outside the city limits shall be double the rate for the same service provided inside the city limits and are not shown in this schedule of rates and fees.

(3) Property outside the city limits of the city that is exempt from assessment/payment of county and school ad valorem property taxes and is occupied by a church or a federal, state or local government agency shall be charged for city services at the same rate as customers located within the city limits.

(4) Rural water supply corporations (wholesale customers) shall be charged for city services at that rate and not double the rate. All wholesale customers shall be approved by the city council prior to service.

Meters means:

(1) *Water meter* means an apparatus approved by the city for measuring the flow of water.

(2) *Individual meter* means a water meter serving one living unit, that is not a multiunit complex.

(3) *Master meter* means a water meter that serves a multiunit complex.

Point of service means the point of service for city water, sewer and garbage collection services is defined as the location of the residence and/or business receiving the service, not the location of the city water meter, sewer tap, etc.

Primary sewer taps means four-inch sewer taps that will be servicing a parcel or tract of land as identified by the county appraisal district that do not have any existing sewer service and will not require a street cut a total distance greater than 36 feet.

Primary water taps means three-quarter-inch water taps that will be servicing a parcel or tract of land as identified by the county appraisal district that do not have any existing water service and will not require a street cut total distance greater than 36 feet.

Taps means:

(1) *Water tap* means the physical connection of a water meter or water line to the city water lines.

(2) *Sewer tap* means the physical connection to a city sewer line to which a private sewer line can be attached.

Units means:

(1) *Living unit* means an individual area for human habitation containing sleeping, eating, and bathroom facilities designed to sustain a person or persons on a permanent basis. This does not include motels, hospitals, old age homes or other such establishments.

(2) *Multiunit complex* means:

a. A dwelling or structure, or a group of dwellings or structures containing two or more living units on one site under one ownership. This would include but not be limited to duplexes, triplexes, apartments, housing projects and mobile home parks.

b. A group of dwellings or structures containing one or more living units and one or more nonresidential or commercial establishments, on one site, under one ownership, at which the commercial establishment is within a separate building or structure.

c. Rural water supply corporations (wholesale customers) are not considered to be multiunit complexes as defined in the provisions of this section. Each separate rural water system is to be treated as an individual customer.

The city reserves and maintains the right to enter upon the premises of a multiunit complex to inspect and prevent the existence of unsafe or unsanitary plumbing methods.

(3) *Institutional complex* means a commercial establishment providing areas for human habitation not designed to sustain a person or persons on a permanent basis. This would include but not be limited to motels, hotels, hospitals, old age homes and other such establishments.

(Ord. No. 82-4, § 1, 4-12-1982; Ord. No. 2000-11, § 1(1), 12-11-2000)

Cross reference—Definitions generally, § 1-2.

Sec. 90-2. Provision of city services outside the city limits.

The provision of all city services outside the city limits, including sewer and garbage, as they may be available, are allowed, within the same guidelines as are required for those services provided within the city limits.

(Ord. No. 2000-11, § 1(3), 12-11-2000)

Sec. 90-3. Responsibilities of director of utilities.

The city manager shall appoint a director of utilities who shall be in charge of the water and sewer systems, including all engines, pumps, reservoirs, pipes, pipelines and all other machinery, meters, and property pertaining thereto. The director of utilities shall have general supervision of all employees of the waterworks and sewer systems, and shall make all repairs on the systems deemed necessary. The director of utilities shall attend to and control the water supply and at all times see to the sufficiency thereof. The director of utilities shall be subject at all times to city ordinances, rules and regulations.

(Code 1978, § 16-1)

Charter reference—Appointment of directors of departments, art. V, § 4

Sec. 90-4. Fees.

All rates and fees for utilities shall be on file in the city secretary's office at city hall.

Sec. 90-5. Unlawful acts.

It shall be unlawful for any person to do, commit or assist in committing any of the following things or acts in the city:

(1) Interfere with, destroy, deface, impair, injure, or wantonly force open any gate or door; or in any way whatsoever destroy, injure or deface any part of any engine, house, reservoir, or building, or appurtenances pertaining to the waterworks system of the city;

(2) Open or close any fire hydrant or stopcock connected with the water system or remove any cover of a meter box or gate valve shutoff without permission of the superintendent, except in case of fire and then under the supervision of the officers of the fire department;

(3) Place any telegraph, telephone, or electric light pole or any obstruction whatsoever within five feet of a fire hydrant;

(4) Resort to any fraudulent device or arrangement for the purpose of procuring water for himself or others from private connections or premises contrary to the city regulations or ordinances;

(5) Connect or permit the extension of a private line to the property of another or to another building on the same property without first obtaining a regular permit from the city;

(6) Cover or conceal from view any water valve, meter box, or any water valve box;

(7) Remove or tamper with any water meter or water meter box;

(8) Turn on the water supply to any building or to any supply pipe that has been turned off for nonpayment of monthly water charge or for the violation of any rule or ordinance governing the waterworks system of the city.

(Code 1978, § 16-2)

Sec. 90-6. Utility deposits.

(a) *Generally.* A deposit is required for city utility service, per meter, for all customers both inside and outside the city limits are as set by council, except as provided for temporary utility service. If rental units have a history of tenants that are delinquent or still owe on accounts, the city may require the service be placed in the owner's name with appropriate deposits. A service address or person requesting service which has a bad credit history with the city or an account that is anticipated to have large charges, larger deposits may be required. Agencies of the state or the United States Government whose payments are provided through the comptroller of the state or the U.S. Treasury shall not be assessed a utility deposit when requesting to establish a city utility account.

(b) *Temporary water / sewer service.* The city requirement for a utility deposit for each meter account shall provide an exception for temporary water/sewer service, for clean-up purposes only, as follow: (Ref. Administrative Policy Memo 86-17)

(1) Owners of multiple rental units may place a deposit with the city and leave it "on vacation" to guarantee payment of the billing of temporary service.

(2) Owners/managers of apartment complexes which have an office account, for which a deposit is on file, may by letter agree for their existing deposit to guarantee payment of the billing of temporary service.

(3) Temporary service will be limited to no more than seven calendar days service. The charge for this service shall include the city's administrative fee plus charges for water/sewer for the minimum plus usage. No garbage charge shall be made.

(c) *Rates for inspection.* Rates for inspection and/or clean up accounts service on for maximum period of seven days are as set by council.
(Ord. No. 2000-11, § 1(5), 12-11-2000)

Sec. 90-7. Failure to pay for service.

In addition to sanctions provided by article III of this chapter, the city is entitled to exercise sanctions provided for the other ordinances of the city for failure to pay the bill for water and sanitary sewer service when due.
(Code 1978, § 16-123)

Sec. 90-8. Penalty for violation.

Any plumber, person, contractor, corporation, firm or any employee of any of these who shall violate any of the rules, regulations or provisions of this chapter or any part or portion thereof, by an act either of omission or commission, or cause the violation to be done, shall, upon conviction, be punished by a fine as set out in section 1-17 or shall be barred from making or causing to be made any connections with the water system or sewer system of the city. Each violation of each part or any part of this chapter shall constitute a separate offense. Where such violation is a continued act or permitted to continue each day after official notification by the city shall constitute a separate offense and be punished accordingly.
(Code 1978, § 16-8; Ord. No. 82-4, § 9, 4-12-1982)

Sec. 90-9. Reimbursement for damages.

In addition to penalties for violations assessed upon conviction of violations of section 90-5, the party convicted for any such damage shall fully reimburse the city for any expenses incurred in repairing the damage, in addition to the fines or penalties assessed under section 90-8.
(Ord. No. 2002-17, 12-9-2002)

Secs. 90-10—90-30. Reserved.

ARTICLE II. WATER

DIVISION 1. GENERALLY

Sec. 90-31. Application.

It shall be unlawful for any plumber, person, firm, corporation, contractor, or any employee of these to make connection to the mains or pipes of the waterworks system or the

sewer system of the city without first making application to the city, stating fully the several uses for which water is wanted, giving name of the owner, number of lot and block, if any, name of street and house number. Upon payment of the tapping charge, the director of utilities shall make or have made the necessary connections.
(Code 1978, § 16-3)

Sec. 90-32. Water conservation and emergency water management plan.

The water conservation and emergency water management plan adopted by the city is not printed herein but is on file in the city secretary's office.
(Ord. No. 2003-5, 7-28-2003; Ord. No. 2003-17, § 1, 12-8-2003; Ord. No. 2005-16, § 1, 11-14-2005; Ord. No. 2010-2, § 1, 1-11-2010; Ord. No. 2010-4, § 1, 1-25-2010)

Sec. 90-33. Backflow prevention devices.

All connections deemed a potential health hazard shall have installed a reduced-pressure principal backflow prevention assembly (RPBA or RPZ) device prior to the initiation of water service or upon notice from an appropriate utility system official that a potential health hazard exists.

(1) *Potential health hazards.*

a. All connections servicing a business, commercial or industrial structure shall be deemed a potential health hazard unless the following additional exceptions are applicable:

1. Existing metered service connections: Current active meter accounts as of the date of this adoption unless:
   (i) Continuous service is interrupted;
   (ii) Any change, modification or use of the structure requiring a customer service inspection under TAC 290.46(j); or,
   (iii) The service is not identified by the plumbing inspector, TCEQ or customer service inspector as a premises listed in TAC 290.47(f).
2. Any service connection may be determined to be exempt by the plumbing inspector or appropriate utility system official only upon:
   (i) Receipt a complete customer service inspection report in full compliance with the regulations and requirements of TAC 290.46(j) prior to initiation of service.
   (ii) Documented compliance by inspection with the requirement(s) for installation of all backflow assemblies or devices identified as necessary in the submitted CSI report.
   (iii) No further changes, adjustments or alterations of use at the premises without additional customer service inspection report.

(Ord. No. 2019-10, §§ 2, 3, 7-22-2019)

Secs. 90-34—90-50. Reserved.

Sec. 90-51. Water taps; fees.

(a) For the payment of the water tap fee, city crews will install one three-quarter-inch water tap and one three-quarter-inch water meter, and will extend a three-quarter-inch water line a distance of 100 feet or to the property line, whichever is less. The city does not connect the meter to the private line; this must be done by a licensed plumber at the customer's expense. The meter remains the property of the city.

(b) Water tap fees charged are as set by council.

(1) Three-quarter-inch water tap: Charge is on file in the city secretary's office.

(2) Larger than three-quarter-inch water tap or three-quarter-inch taps that are not primary water taps: Based on the cost of labor, equipment and materials in excess of the cost of a three-quarter-inch tap plus the cost of all repairs to all street cuts associated with the tap.

(Ord. No. 2000-11, § 1(2(A)) 12-11-2000)

Sec. 90-52. Water meters.

(a) Water meters shall be installed only after the approval of the city's plumbing inspector or designated representative, and the payment of all the applicable fees and deposits.

(b) Only one water meter will be installed for each water tap fee paid.

(c) Individual meters are required for each living unit wherein the occupant is responsible for the payment on the city utility bill.

(d) A master meter is required for a multiunit complex where the owner of the complex is responsible for the payment of the city utility bills.

(e) The owner of a multiunit complex may, with the city's approval, install water lines and individual meters to the city's specifications at his cost. All meters and the lines leading to them become the property of the city upon their installation and acceptance by the city, and a permanent easement will be granted to the city for their proper maintenance. The water lines from the meter to the living units remain the property and responsibility of the owner.
(Code 1978, §§ 16-4—16-7; Ord. No. 82-4, § 3, 4-12-1982; Ord. No. 2000-11, § 1(5), 12-11-2000)

Sec. 90-53. Water rates.

(a) Water rates for residential, commercial, large and small industrial/manufacturer, and wholesale customers are set by separate ordinance.

(b) Water purchased in bulk quantities shall be billed at a charge as set by council per thousand gallons with a minimum charge as set by council per load. Bulk water sales at point of service outside the city limits shall be billed at a charge based as set by council per thousand with a minimum charge as set by council.

(c) Rural water systems shall pay the same monthly charge as customers inside the city limits.

(d) A customer (account) declares the appropriate rate classification in accordance with the definitions of this chapter. A customer (account) may change their rate classification only once in any 12-month period.

(e) The owner of the property served by the water tap determines the size of the meter appropriate for service needs. If the property owner requests a downsized water meter for an existing water tap, that customer account will be billed at the requested smaller meter size for the next full billing period. Requests for downsizing a water meter for an existing tap will be at no charge or expense to the owner of the property served by the water tap until January 1, 2002.
(Ord. No. 2000-11, § 1(2(C)), 12-11-2000)

Sec. 90-54. Billing.

The city's utility billing will be calculated based on the reading of the water meter and in accordance with the current fee schedule of the city in the following manner:

(1) *Individual meters.* Individual meters will be billed for water, sewer and garbage based on the individual usage of each meter as is currently the city's practice.

(2) *Master meters.* Except as provided in this article, each multiunit complex utilizing a master meter will be billed for a minimum water charge and a minimum sewer charge for each living unit in the complex, regardless of occupancy. A minimum garbage charge for each living unit will be billed unless the owner chooses to participate in the city's dumpster program.

For each multiunit complex completed after January 1, 1985, which utilizes a master meter utility charges for a period of six months or until all living units are physically occupied if less than six months, following the date such multiunit complex is available

for occupancy shall be made on the number of living units physically occupied. In no event shall the length of time such billing is made on actual physical occupancy exceed six months.

(3) *Section 1-F category 2 multiunit complexes.* Section 1-F category 2 multiunit complexes shall be billed according to the city's fee schedule in the same manner as Section 1-F category 1 multiunit complexes, but with the billing based on the combined number of living units and separate commercial establishments instead of only the number of living units.

(4) *Mobile home parks.* For mobile home parks, where the number of living units on the site may vary, the minimum charges will be based on the number of living units located on the site at the time the master meter is read.

(5) *Credit for minimum usage.* Credit for minimum usage will be given for each living unit in the complex.

(6) *Excess water usage.* Water usage in excess of the amount included in the minimum bill will be billed in accordance with the current city fee schedule including all other applicable fees based thereon.

(7) *Construction account billing.* When an account is opened to serve a location during construction of a house or a business, the account will be billed for all services available at the location. The garbage collection fee will be adjusted off the bill during the construction period only if the service is not being used and the bill is paid. Notification of such a situation must be made to the city utility clerk and verification of nonuse made by city staff. The responsibility to notify rests with the customer. Problems incurred are to be resolved by the city manager. Maximum billing to be considered: six monthly billings.

(Code 1978, § 16-5; Ord. No. 82-4, § 4, 4-12-1982; Ord. No. 85-4, § 2, 9-9-1985; Ord. No. 2000-11, § 1(2(B)(6)), 12-11-2000)

Sec. 90-55. Inspections of multiunit complexes.

The city reserves and maintains the right to enter upon the premises of a multiunit complex to inspect and prevent the existence of unsafe or unsanitary plumbing methods.
(Ord. No. 82-4, § 5, 4-12-1982; Ord. No. 85-4, § 3, 9-9-1985)

Sec. 90-56. Removal of water meter locks; charges for damages or removal of lock.

(a) It shall be unlawful for any person to remove or attempt to remove locks placed by the city on its water meters, except authorized personnel of the city.

(b) A charge which is on file in the city secretary's office shall be made when a lock on a city water meter is damaged or removed and that a bill shall be sent by the city water department to the property owner or person responsible for the city utility account; or when an unpaid bill exists for the utility account, such fee shall be added to and shall become a part of the unpaid bill which shall be sent to the responsible party.
(Ord. No. 86-1, §§ 1, 2, 2-10-1986)

Secs. 90-57—90-90. Reserved.

ARTICLE III. SEWERS*

DIVISION 1. GENERALLY

Sec. 90-91. Definitions.

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

Approving authority means the city manager or his duly authorized representative.

BOD, denoting biochemical oxygen demand, means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

COD, denoting chemical oxygen demand, means measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater expressed in milligrams per liter as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Control manhole means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Garbage means 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.

Grab sample means an individual sample collected in less than 15 minutes.

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

***Cross reference**—Any ordinance creating or relating to specific sewer and paving districts and other specific local improvement districts saved from repeal, § 1-7(4).

State law reference—General authority to enact rules regulating sewage disposal, V.T.C.A., Water Code § 26.176.

Industrial waste charge means the charge made on those persons who discharge industrial wastes into the city's sewerage system.

Inspector means the director of utilities or his duly authorized representative.

Milligrams per liter, mg/l, means the same as parts per million and is a weight-to-volume ratio. The milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal domestic wastewater means wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 200 mg/l and BOD is not more than 200 mg/l.

Oil and grease means hydrocarbons, fatty acids, soaps, fats, waxes, oils and any other material that is extractable by Freon from an acidified sample and expressed in mg/l.

Overload means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

pH means the reciprocal of the logarithm (base 10) of the hydrogen ion concentration expressed in grams per liter.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works means all facilities for collecting, pumping, treating and disposing of sewage.

Sewer means a pipe or conduit for carrying sewage.

Slug means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

Standard methods means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and

Wastewater as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

Storm drain, sometimes termed as "storm sewer," means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

Stormwater means rainfall or any other form of precipitation.

Suspended solids means solids measured in mg/l that either float on the surface of or are in suspension in water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

To discharge means to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions.

Trap means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Unpolluted wastewater means water containing:

(1) No free or emulsified grease or oil;

(2) No acids or alkalis;

(3) No phenols or other substances producing taste or odor in receiving water;

(4) No toxic or poisonous substances in suspension, colloidal state or solution;

(5) No noxious or otherwise obnoxious or odorous gases;

(6) Not more than ten mg/l each of suspended solids and BOD; and

(7) Color not exceeding 50 units as measured by the Platinum-Cobalt method of determination as specified in *Standard Methods.*

Waste means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

Wastewater means a combination of the water-carried waste from residences, business buildings, institutions and industrial establishments, together with any groundwaters, surface waters and stormwaters that may be present.

Wastewater service charge means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Watercourse means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

(Code 1978, §§ 16-21—16-59)

Cross reference—Definitions generally, § 1-2.

Sec. 90-92. Sewer tap fees.

(a) For the payment of a sewer tap fee, city crews will install a sewer tap and will extend a four-inch sewer line a distance of 100 feet or to the property line whichever is less. The city does not connect the sewer tap to a private line; this must be done by a plumber at the customer's expense.

(b) Sewer tap fees charged are as set by council.

(1) Four-inch primary sewer tap: On file in the city secretary's office.

(2) Larger than four-inch sewer tap or four-inch sewer taps that are not primary sewer taps: Based on the cost of labor, equipment and materials in excess of the cost of a four-inch tap plus the cost of all repairs to all street cuts associated with the tap.

(Ord. No. 2000-11, § 1(3(A)), 12-11-2000)

Sec. 90-93. Sewer rates.

(a) The monthly charge for sewer service shall be assessed to all residents where the city sewer system is not being used but sewer service is available within 300 feet thereof.

(b) If the customer already has a city approved private sewer system installed when sewer becomes available, monthly charge for sewer service shall be waived for a period of four years.

(c) Residential, commercial and industrial/manufacturer customers shall receive a monthly charge for sewer service as set by council. The city manager or his designated representative shall determine the charge based on the type and volume of industrial sewer being treated. Rates for an "institutional complex" shall be a $5.75 minimum plus one-half of the water bill each month, with no maximum. (Exception: E. L. Bruce is charged a fixed rate of .0872 × water bill.)

(Ord. No. 2000-11, § 1(3(B)), 12-11-2000)

Sec. 90-94. Fixed sewer rates.

Tyson/Holly Farms shall pay a fixed rate of $100.00 per month for sewer service provided to the office/restroom area of its facility being discharged into the city sewer system on Shelbyville Street.

(Ord. No. 2000-11, § 1(3(C)), 12-11-2000)

Sec. 90-95. Temporary sewer service.

For provisions regarding temporary sewer service see subsection 90-6(b)(3).

(Ord. No. 2000-11, § 1(3(D)), 12-11-2000)

Sec. 90-96. Private sewer systems.

When city sewer service is not available, before the city will provide water service, a permit to construct a private sewer system must be designed and installed with the approval of the applicable state regulatory agency. This permit requires an application and a permit for a fee of $5.00.
(Ord. No. 2000-11, § 1(3(E)), 12-11-2000)

Sec. 90-97. Reserved.

Editor's note—Ord. No. 2014-15, § 2, adopted Nov. 10, 2014, repealed § 90-97 which pertained to user charge systems, and derived from Ord. No. 83-2, § 1, adopted Jan. 10, 1983.

Secs. 90-98—90-120. Reserved.

DIVISION 2. PUBLIC SEWERS

Sec. 90-121. When connection required.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city is hereby required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after the date of official notice to do so, provided that the public sewer is within 100 feet of the property line.
(Code 1978, § 16-64)

Sec. 90-122. Privies, septic tanks, etc.

Except as provided elsewhere in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
(Code 1978, § 16-63)

Sec. 90-123. Prohibited deposits generally.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city any human or animal excrement, garbage or other objectionable waste.
(Code 1978, § 16-61)

Sec. 90-124. Discharges to natural outlets.

It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sewage or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this article.
(Code 1978, § 16-62)

Sec. 90-125. Prohibited discharges generally.

(a) No person may discharge to public sewers any waste which by itself or by interaction with other wastes may:

(1) Injure or interfere with wastewater treatment processes or facilities;

(2) Constitute a hazard to humans or animals; or

(3) Create a hazard in receiving waters of the wastewater treatment plant effluent.

(b) All discharges shall conform to requirements of this article.
(Code 1978, § 16-101)

Sec. 90-126. Chemical discharges.

(a) No discharge to public sewers may contain:

(1) Cyanide greater than two mg/l;

(2) Fluoride other than that contained in the public water supply;

(3) Chlorides in concentrations greater than 250 mg/l;

(4) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;

(5) Substances causing an excessive chemical oxygen demand (COD);

(6) Strong acid, iron pickling wastes, concentrated plating solutions whether neutralized or not;

(7) Objectionable or toxic substances exerting an excessive chlorine requirement to such degree that any such material received in the composite wastewater at the wastewater treatment works exceed the limits established by the approving authority for such materials;

(8) Obnoxious, toxic or poisonous solids, liquids or gases in quantities sufficient to violate the provisions of subsection 90-125(a); or

(9) Substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit (zero degrees and 65 degrees Celsius).

(b) No waste, wastewater or other substance may be discharged into public sewers which has a pH lower than 5.5 or higher than 9.5, or any other corrosive property capable of causing damage or hazard to structures, equipment and personnel at the wastewater facilities.

(c) 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.

(d) No waste, wastewater or other substance may be discharged into public sewers which contains in excess of 100 mg/l oil and grease unless (i) the discharger can demonstrate that the oil and grease are of animal or vegetable origin in which case the maximum limit for oil and grease shall be 400 mg/l, (ii) the discharger shall pay a surcharge as specified by section 90-141.
(Code 1978, § 16-102)

Sec. 90-127. Heavy metals and toxic materials.

(a) No discharges may contain concentrations of heavy metals greater than amounts specified in subsection (b) of this section.

(b) "Grab sample quality" means the concentration of an individual sample of effluent collected in less than 15 minutes. The allowable concentrations of each of the hazardous metals stated in terms of milligrams per liter for discharge to inland waters are as follows:

Metal	*Average*	*Not To Exceed 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	0.10	0.25	1
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	0.01
Mercury	0.00*	0.00*	0.00*
*Mercury shall be at the minimal analytical level for standard tests			
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	0.5	1.00	2.50

(c) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes and other applicable provisions.

(d) Prohibited heavy metals and toxic materials include, but are not limited to:

(1) Antimony;

(2) Beryllium;

(3) Bismuth;

(4) Cobalt;

(5) Molybdenum;

(6) Tin;

(7) Uranyl ion;

(8) Rhenium;

(9) Strontium;

(10) Tellurium;

(11) Herbicides;

(12) Fungicides; and

(13) Pesticides.

(Code 1978, § 16-103; Ord. No. 79-7, § 1, 8-13-1979; Ord. No. 2014-15, § 1, 11-10-2014)

Cross reference—Environment, ch. 30.

Sec. 90-128. Garbage.

(a) No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimension are prohibited.

(b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 horsepower metric) or greater.
(Code 1978, § 16-104)

Sec. 90-129. Stormwater and other unpolluted drainage.

(a) No person may discharge to public sanitary sewers:

(1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;

(2) Unpolluted cooling water;

(3) Unpolluted industrial process waters; or

(4) Other unpolluted drainage.

(b) In compliance with V.T.C.A., Water Code § 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.
(Code 1978, § 16-105)

Sec. 90-130. 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.
(Code 1978, § 16-107)

Sec. 90-131. Temperature of discharge.

No person may discharge liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour, or a combined total increase of plant influent temperature to 110 degrees Fahrenheit.
(Code 1978, § 16-106)

Sec. 90-132. Impairment of facilities.

(a) No person may discharge into public sewers any substance capable of causing:

(1) Obstruction to the flow in sewers;

(2) Interference with the operation of treatment processes or 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:

(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 1,000 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.

(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 waste unfit for stream disposal or industrial use.

(f) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size including but not limited to:

(1) Ashes;

(2) Cinders;

(3) Sand;

(4) Mud;

(5) Straw;

(6) Shavings;

(7) Metal;

(8) Glass;

(9) Rags;

(10) Feathers;

(11) Tar;

(12) Plastics;

(13) Wood;

(14) Unground garbage;

(15) Whole blood;

(16) Paunch manure;

(17) Hair and fleshings;

(18) Entrails;

(19) Paper products, either whole or ground by garbage grinders;

(20) Slops;

(21) Chemical residues;

(22) Paint residues; or

(23) Bulk solids.

(Code 1978, § 16-108)

Sec. 90-133. Authority to enter property.

(a) The approving authority and other duly authorized employees of the city bearing 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 the company to maintain safe conditions, the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the sampling operation.

(d) The approving authority and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter all private properties through which the city holds a negotiated easement for the purposes of:

(1) Inspection, observation, measurement, sampling or repair;

(2) Maintenance of any portion of the sewerage system lying within the easements; 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.

(e) No person acting under authority of this section may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers.
(Code 1978, § 16-118)

Sec. 90-134. Approving authority requirements.

(a) If discharges or proposed discharges to public sewers may deleteriously affect wastewater facilities, processes, equipment or receiving waters; create a hazard to life or health; or create a public nuisance, the approving authority shall require pretreatment to an acceptable condition for discharge to the public sewers, control over the quantities and rates of discharge, and 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:

(1) It determines that a discharge or proposed discharge is included under subsection (a) of this section; and

(2) The discharger does not meet the requirements of subsection (b) of this section.
(Code 1978, § 16-109)

Sec. 90-135. Approving authority review and approval.

(a) If pretreatment or control is required, the approving authority shall review and approve design and installation of equipment and processes.

(b) The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.

(c) Any person responsible for discharges requiring pretreatment flow-equalizing or other facilities shall provide and maintain the facilities in effective operating condition at his own expense.
(Code 1978, § 16-110)

Sec. 90-136. Traps.

(a) Discharges requiring a trap include:

(1) Grease or waste containing grease in excessive amounts;

(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:

(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.
(Code 1978, § 16-111)

Sec. 90-137. Building sewers.

Any person responsible for discharge through a building sewer carrying industrial wastes shall, at his own expense and as required by the approving authority:

(1) Install an accessible and safely located control manhole;

(2) Install meters and other appurtenances to facilitate observation sampling and measurement of the waste; and

(3) Maintain the equipment and facilities.
(Code 1978, § 16-112)

Sec. 90-138. Sampling and testing.

(a) Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb and property.

(b) Examination and analyses of the characteristics of waters and wastes required by this article shall be:

(1) Conducted in accordance with the latest edition of *Standard Methods*; and

(2) Determined from suitable samples taken at the control manhole provided or other control point authorized by the approving authority.

(c) BOD and suspended solids shall be determined from composite sampling.

(d) Oil and grease and pH shall be determined from grab sampling.

(e) The city may select an independent firm or laboratory to determine flow, BOD, suspended solids, and oil and grease.

(f) The city is entitled to select the time of sampling at its sole discretion so long as at least annual samples are taken except where oil and grease problems are suspected, in which case weekly samples shall be taken.
(Code 1978, § 16-113)

Sec. 90-139. Payment and agreement.

(a) Persons making discharges of industrial waste shall pay a charge to cover the cost of collection and treatment.

(b) When discharges of industrial waste are approved by the approving authority, the city or its authorized representative shall enter into an agreement or arrangement providing:

(1) Terms of acceptance by the city; and

(2) Payment by the person making the discharge.
(Code 1978, § 16-114)

Sec. 90-140. Industrial waste charge and added costs.

(a) If the volume or character of the waste to be treated by the city does not cause overloading of the sewage collection, treatment or disposal facilities of the city, then prior to approval, the city and the person making the discharge shall enter into an agreement which provides that the discharger pay an industrial waste charge to be determined from the schedule of charges.

(b) If the volume or character of the waste to be treated by the city requires that wastewater collection, treatment or other disposal facilities of the city be improved, expanded or enlarged in order to treat the waste, then prior to approval, the city and the person making the discharge shall enter into an agreement which provides that the discharger pay in full all added costs the city may incur due to acceptance of the waste.

(c) The agreement entered into pursuant to subsection (a) of this section shall include but not be limited to:

(1) Amortization of all capital outlay for collecting and treating the waste, including new capital outlay and the proportionate part of the value of the existing system used in handling and treating the waste; and

(2) Operation and maintenance costs including salaries and wages, power costs, costs of chemicals and supplies, proper allowances for maintenance, depreciation, overhead and office expense.

(Code 1978, § 16-115)

Sec. 90-141. Reserved.

Editor's note—Ord. No. 2014-15, § 2, adopted Nov. 10, 2014, repealed § 90-141 which pertained to schedule of charges, and derived from the 1978 Code, § 16-116.

Sec. 90-142. Reserved.

Editor's note—Ord. No. 2014-15, § 2, adopted Nov. 10, 2014, repealed § 90-142 which pertained to adjustment of charges, and derived from the 1978 Code, § 16-117.

Sec. 90-143. Authority to disconnect service.

(a) The city may terminate water and wastewater disposal service and disconnect an industrial customer from the system when:

(1) Acids or chemicals damaging to sewer lines or treatment processes are released to the sewer causing rapid deterioration of these structures or interference with proper conveyance and treatment of wastewater;

(2) A governmental agency informs the city that the effluent from the waste treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer:

a. 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;

b. Is discharging 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 service when due;

d. Repeats a discharge of prohibited wastes to public sewers.

(b) If service is disconnected pursuant to subsection (a)(2) of this section, the city shall:

(1) Disconnect the customer;

(2) Supply the customer with the governmental agency's report and provide the customers with all pertinent information; and

(3) Continue disconnection until such time as the industrial customer provides additional pretreatment or other facilities designed to remove the objectionable characteristics from his industrial wastes.

(Code 1978, § 16-119)

Sec. 90-144. Notice of violation.

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. The time limit shall not exceed 90 days.
(Code 1978, § 16-120)

Sec. 90-145. Continuing prohibited discharges.

No person may continue discharging in violation of this article beyond the time limit provided in the notice of violation.
(Code 1978, § 16-121)

Sec. 90-146. Penalty for violation.

(a) A person who make prohibited discharges, whether cited with a notice or not, whether such notice contains a reasonable time limit for correction or not, upon conviction, shall be punished by a fine as set out in section 1-17.

(b) In addition to proceeding under authority of subsection (a) of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person continuing prohibited discharges.
(Code 1978, § 16-122)

Secs. 90-147—90-170. Reserved.

DIVISION 3. PRIVATE SEWAGE DISPOSAL

Sec. 90-171. When connection permitted.

Where a public sanitary sewer is not available under the provisions of section 90-121, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.
(Code 1978, § 16-71)

Sec. 90-172. Permit for construction.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the director of utilities. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the director of utilities. A permit fee of $5.00 shall be paid to the city at the time the application is filed.
(Code 1978, § 16-72)

Sec. 90-173. Inspection of system.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the inspector. The inspector shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the inspector when the work is ready for final inspection, and before any underground portions are covered.
(Code 1978, § 16-73)

Sec. 90-174. Specifications.

The type, capacities, locations and layout of a private sewage disposal system shall comply with all recommendations of the state department of public health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 8,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
(Code 1978, § 16-74)

Sec. 90-175. Operation and maintenance.

The owner shall operate and maintain the private sewage disposal facility in a sanitary manner at all times at no expense to the city.
(Code 1978, § 16-76)

Sec. 90-176. Abandonment.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 90-121, a direct connection shall be made to the public sewer in compliance with this article; and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, cleaned of sludge and filled with clean bank run gravel or dirt.
(Code 1978, §§ 16-75, 16-78)

Sec. 90-177. Health officer may make additional requirements.

No statement contained in this division shall be construed to interfere with any additional requirements that may be imposed by the health officer.
(Code 1978, § 16-77)

Secs. 90-178—90-200. Reserved.

DIVISION 4. PARTIAL SEWER SERVICE

Sec. 90-201. Conditions for provision of service.

(a) Partial sewer service shall be provided to a designated area where in the opinion of the city, such service is economically and physically feasible.

(b) The provision of partial sewer service to a designated area shall be subject to the acquisition by the city of all necessary easements and rights-of-way.
(Ord. No. 80-6, §§ 1, 6, 8-11-1980)

Sec. 90-202. Majority of residents must agree to subscribe to service.

The city shall provide partial sewer service for the disposal of liquid overrun from septic tanks where a majority of residents, but not less than five such residents, within a designated area agree in writing to subscribe to such partial service.
(Ord. No. 80-6, § 2, 8-11-1980)

Sec. 90-203. Discontinuance of property tax discount.

Upon the furnishing of partial sewer service, the ad valorem property tax discount for such residential customers shall be discontinued.
(Ord. No. 80-6, § 4, 8-11-1980)

Sec. 90-204. Fees and charges.

(a) Any residential customer desiring partial sewer service shall be responsible for all appropriate tap fees and service charges as set out in the applicable city ordinances.

(b) Any residential customer desiring partial sewer service shall be responsible for all charges incurred in the preparation of a tie-in line across the customer's property and for all usual and customary charges for materials and labor incurred in the extension of the main lines any distance in excess of 100 feet from the existing line.

(c) The charge for partial sewer service shall be the approved minimum rate per month for residential customers within the designated area.
(Ord. No. 80-6, §§ 3, 5, 6, 8-11-1980)

Secs. 90-205—90-230. Reserved.

DIVISION 5. BUILDING SEWERS AND CONNECTIONS

Sec. 90-231. Compliance with building and plumbing codes.

The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code provisions, or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
(Code 1978, § 16-86)

Cross reference—Building code, § 22-31 et seq.

Sec. 90-232. Permit to open, connect with, etc., public sewer.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining written authorization from the director of utilities.
(Code 1978, § 16-81)

Sec. 90-233. Expense to be borne by owner.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
(Code 1978, § 16-83)

Sec. 90-234. Separate building sewers.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
(Code 1978, § 16-84)

Sec. 90-235. Old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the director of utilities, to meet all requirements of this article.
(Code 1978, § 16-85)

Sec. 90-236. Elevation of connection.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by any approved means and discharged to the building sewer.
(Code 1978, § 16-87)

Sec. 90-237. Connection of roof downspouts, drains, etc.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
(Code 1978, § 16-88)

Sec. 90-238. Barricading, lighting of excavations; restoration of public property.

All excavations for building sewer installation shall be adequately guarded by barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
(Code 1978, § 16-91)

Sec. 90-239. Notification of director of utilities; connection charge.

The applicant for the building sewer permit shall notify the director of utilities when the building sewer is ready for connection to the public sewer. The connection shall be made by the city and its representative at the rate shown in the fee schedule on file in the city office. (Code 1978, § 16-90)

Secs. 90-240—90-270. Reserved.

ARTICLE IV. BILLING PROCEDURE

Sec. 90-271. General billing procedures.

(a) The city shall have one billing cycle per month. All bills shall be billed on the last day of each month and become due on or before 8:00 a.m. of the first work day following the expiration of ten calendar days from the billing date.

(b) Any account which is not paid in full on or before 8:00 a.m. of the first work day following the expiration of ten calendar days from the billing date shall become delinquent and a ten percent penalty charge shall be added to such bill.

(c) Service for any account which is not paid in full on or before 8:00 a.m. of the first work day following the expiration of ten calendar days from the due date of such account shall be discontinued and such service shall not be restored until payment in full is received for the delinquent account and the reconnect fee.

(d) Failure to pay any portion of the city utility bill shall render the entire bill delinquent.

(e) Agencies of the state or the U.S. Government whose payments are provided through the office of the comptroller of the state or the U.S. Treasury shall not be assessed a penalty for late payment as provided in subsection (b) of this section.

(f) Utility services for hospitals, nursing homes or other businesses or residences where such utility services are necessary to the preservation of human life shall not be disconnected for the failure to make timely payment as provided in this section; provided however, that the necessity of such services for the preservation of human life shall be verified by the person or persons responsible for such account to the city manager. Nothing contained in this section shall be construed as a waiver by the city of the collection of the charges and penalties provided in this section for the late payment of utility fees.

(g) Payments received by mail shall be considered current or delinquent based upon the date of the postmark thereon.

(h) Errors on the bill must be reported to the city billing office within 45 days of the date of the bill, after which an adjustment may not be made. If the customer feels that their bill is incorrect, they should immediately contact the city billing office. If the problem is then unresolved, the customer should request a conference with the city finance director, who will

meet with them to resolve the dispute. A conference can be arranged by telephone, but the customer must appear in person for the meeting. Should the customer have questions or desire to request such a meeting, they are to come to city hall or call during regular office hours.
(Ord. No. 2000-11, § 1(6), 12-11-2000)

Sec. 90-272. Administrative fee.

The administrative fee is nonrefundable and is charged when a new city utility account is opened, when an account is transferred, or when an account is activated after being placed on "vacation." The fee per transaction is set by council.
(Ord. No. 2000-11, § 1(7(A)), 12-11-2000)

Sec. 90-273. Broken lock fee.

A broken lock fee shall be assessed to the property owner or person responsible for the city utility account who causes breakage to a lock on a city water meter by attempting to turn on the water without authorization or payment of required fees.
(Ord. No. 2000-11, § 1(7(B)), 12-11-2000)

Sec. 90-274. Curb stop replacement fee.

A fee shall be assessed to the property owner or private plumber who causes damage or breakage to a city water meter curb stop by attempting to turn off the water without express authorization by the city.
(Ord. No. 2000-11, § 1(7(C)), 12-11-2000)

Sec. 90-275. Payment agreements.

(a) A fee shall be assessed to any utility account making arrangements for an extension past the cut-off date. The extension may not exceed the last day of the month. Further extensions may only be made by the finance director or city manager and for extreme extenuating circumstances. Further extensions will be for a maximum of five days into the next month.

(b) Utility accounts will be limited to four payment agreements per calendar year (January—December).

(c) Failure to pay any portion of the payment agreement or meet the agreed upon terms will be cause for disconnection of services and finalizing the account. The deposit will be applied to the outstanding balance. To resume services, the entire bill, penalties and new deposit must be paid.

(d) Any payment agreement not met resulting in disconnection of services will be considered a risk account. All risk accounts will be required an additional $50.00 added to the deposit making the total deposit $100.00 before reconnection occurs. There will also be an additional $9.00 nonrefundable transaction fee to reopen the account.
(Ord. No. 2000-11, § 1(7(D)), 12-11-2000)

Sec. 90-276. Reconnect fee.

City utility bills not paid in full ten calendar days past the due date of the city's billing cycle shall be charged a reconnect fee based on the following:

(1) Prior to payments being updated in the city's computer, there will be no fee.

(2) After payments are updated in the computer, a $5.00 fee will be due.

(3) When a cutoff work order has been printed but has not left city hall, an additional $5.00 fee will be due. (Total fee of $10.00)

(4) When a cutoff work order has left city hall, but service has not been disconnected, an additional $5.00 fee will be due. (Total fee of $15.00)

(5) When the water service has been disconnected, an additional $5.00 fee will be due. (Total fee of $20.00)

(6) When circumstances dictate that city hall contact a particular customer before disconnection of service, the call shall be made at the procedural step in subsection (4) of this section. The reconnect fee shall be assessed at $20.00 and shall then be reduced by an adjustment according to the steps in this section.

(7) After business hours reconnect fees shall be doubled the regular fee.

(Ord. No. 2000-11, § 1(7(E)), 12-11-2000)

Sec. 90-277. Returned check fee.

A fee of $25.00 per item shall be charged to any customer whose check or other order of withdrawal is returned by any financial institution for any reason not the fault of the city.
(Ord. No. 2000-11, § 1(7(F)), 12-11-2000)

Sec. 90-278. Utility delinquent penalty.

City utility bills not paid in full ten calendar days past the billing date of the city's billing cycle shall be assessed a ten percent penalty.
(Ord. No. 2000-11, § 1(7(G)), 12-11-2000)

Chapters 91—93

RESERVED

Chapter 94

VEHICLES FOR HIRE*

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Article II. Taxicabs

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*__Cross references__—Vehicles for hire at airport, § 18-144; streets, sidewalks and other public places, ch. 78; traffic and vehicles, ch. 86.

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ARTICLE I. IN GENERAL

Secs. 94-1—94-30. Reserved.

ARTICLE II. TAXICABS

DIVISION 1. GENERALLY

Sec. 94-31. Definition.

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

Taxicab means any automobile carrying passengers for hire, excepting motor buses or motor coaches operated by bus lines over designated routes in and through the city.
(Code 1978, § 19-1)

Cross reference—Definitions generally, § 1-2.

Sec. 94-32. Display of permit number on taxicab.

Every holder of a permit granted under the terms of this article shall have and keep painted, in a color contrasting with the color of the vehicle, on each side of the vehicle used as a taxicab, the words, "TAXI PERMIT NO. _____," filling in the blank with the figures and letters denoting the serial number of his permit. The letters and figures shall not be less than five inches high.
(Code 1978, § 19-10)

Sec. 94-33. Fares.

(a) The fare to be charged for the transportation of passengers by taxicab shall be reasonable and subject to regulation by the city council.

(b) If the holder of any permit to operate a taxicab business or any taxicab driver shall charge any member of the public a sum of money for the use of a taxicab in excess of that stipulated in the permit under which the taxicab is operated, such excess charge shall be cause for cancellation by the city council of such permit.
(Code 1978, § 19-11)

Sec. 94-34. Transporting persons for illegal purposes.

It shall be unlawful for the driver of a taxicab knowingly to transport, offer to transport, aid or assist in transporting, directly or indirectly, any person in, on, over or through the streets, alleys or public ways of the city by means of a taxicab for the purpose of lewdness, assignation, prostitution or for any other unlawful purpose.
(Code 1978, § 19-16)

Sec. 94-35. Parking on streets.

It shall be unlawful for the holder of any permit issued under the terms of this article or the agent, servant or employee of such permittee to park or leave standing any taxicab on the streets of the city, except while loading or unloading passengers into and from such taxicab. (Code 1978, § 19-17)

Cross reference—Stopping, standing and parking, § 86-151 et seq.

Secs. 94-36—94-60. Reserved.

DIVISION 2. PERMITS

Sec. 94-61. Required.

(a) It shall be unlawful for any person to drive or operate a taxicab within the city without first having applied for a taxicab business permit and obtained such permit from the city, which permit may be issued by the city under such reasonable regulations as may be from time to time made by the city council.

(b) It shall be unlawful for any person, directly or indirectly, to engage in the taxicab business in the city without a lawful permit as provided in this section.
(Code 1978, §§ 19-14, 19-15)

Sec. 94-62. Filing, contents of application.

Before any person shall conduct a taxicab business in the city he shall file with the city secretary an application to the city council of the city for a permit to conduct such business. The application shall state the following:

(1) The name, usually trade description, equipment, motor number, state license number, rated horsepower, and factory number of the automobile to be used in such business, and the year in which each automobile was manufactured;

(2) The applicant's name, place of residence, length of residence, sex, age, customary occupation, the character and value of his assets, and whether any other person owns any interest in the business, and what person owns any title or interest in any automobile to be used by the applicant in the conduct of the taxicab business for which such permit is requested;

(3) The stand at which each automobile will remain when not in actual service;

(4) The rated seating capacity of each taxicab to be used by the applicant;

(5) The person who will be in active charge and control of the taxicab business;

(6) The amount of all fares proposed to be charged to the public if such permit is granted;

(7) If the applicant is a corporation, the name and place of residence of all of the officers of such corporation, the person who will be in active charge of the taxicab business, the amount of its capital stock and in active charge of the taxicab business, the amount of

its capital stock and the amounts thereof fully paid up, the character and value of its assets, its liabilities, and the security therefor; and such corporation shall file with its application a duly certified copy of its charter and bylaws, and if it is a foreign corporation, a duly certified copy of its permit to do business in the state.

(Code 1978, § 19-2)

Sec. 94-63. Investigation of application; approval, denial of permit.

(a) When an application for a permit to operate a taxicab business is filed with the city secretary, it shall be his duty to call the attention of the city council thereto at the next meeting of the council. The council shall make or cause to be made investigations, including any hearings deemed desirable as to whether or not the public convenience and necessity require the issuance of such permit, and whether or not the applicant is fit to conduct such business. The council may investigate the fitness of the officers and stockholders of any corporation making such application; shall give weight and due regard to, among other things:

(1) Probable permanence and quality of this service offered by the applicant;

(2) The financial responsibility of the applicant;

(3) The experience of the applicant in the transportation of passengers;

(4) The character and number of taxicabs to be used;

(5) The character and location of depots and terminals proposed to be used;

(6) The familiarity of the person to be in active charge and control of the taxicab business with the streets, driving hazards and traffic regulations of the city; and

(7) Whether public necessity or convenience requires additional taxicab service.

(b) Upon consideration of the application, the city council may grant or refuse to grant the permit, as in its discretion may seem to be to the best interest of the citizenship of the city and public in general. No permit to operate a taxicab business shall be granted pursuant to this division unless, in the judgment and discretion of the city council, the public convenience and necessity require that the permit be granted.

(Code 1978, § 19-3)

Sec. 94-64. Familiarity with streets, driving hazards, etc.

(a) If the applicant for any taxicab business permit is an individual, before any permit is granted to him to operate a taxicab business, it shall be shown that such individual is a bona fide resident of the county, and is thoroughly familiar with the streets, driving hazards and traffic regulations of the city.

(b) If the applicant for a permit is a partnership or a corporation, before any permit is granted, it must be shown that the person who will be in active charge and control of the affairs of the partnership or corporation is a bona fide resident of the county and is thoroughly familiar with the streets, driving hazards and traffic regulations of the city.

(Code 1978, § 19-5)

Sec. 94-65. Fee.

At the time of issuance of a taxicab business permit, the permittee shall pay to the city the sum of $50.00 per car per year, prorated to April 1. Thereafter $50.00 per car per year shall be due on April 1 of each year.
(Code 1978, § 19-7)

Sec. 94-66. Priority for issuance.

If there are more applicants for permits required by this division than the public convenience and necessity require to be issued, permits shall be issued first to those persons presently engaged in the taxicab business in the city, provided such persons meet the requirements provided and set forth in this division, and second, to those persons who are not now engaged in the taxicab business within the city.
(Code 1978, § 19-21)

Sec. 94-67. Procedure for issuance; contents.

(a) Each permit for the conduct of a taxicab business in the city shall be issued and signed by the mayor, attested by the city secretary, and sealed with the seal of the city. It shall be dated on the date of its issuance; shall bear a serial number; shall show the name and address of the permittee and that the permittee has been authorized by the city council to conduct a taxicab business in the city until the expiration date shown thereon; and that the permit is subject to cancellation at any time by the city council. The permit shall be countersigned by the permittee and shall evidence the agreement on the part of the permittee to pay the sums of money mentioned in this division, and in all things comply with all applicable laws and regulations regarding the business for which the permit is issued.

(b) Each permit shall show the number of vehicles operated under such permit and a description of each vehicle.

(c) Each permit shall show the maximum amount that may be charged the public for the use of each taxicab.
(Code 1978, § 19-4)

Sec. 94-68. Insurance.

Every holder of a permit to conduct a taxicab business in the city shall, at all times during the life of such permit, keep each and every vehicle operated by him under his permit insured by a company authorized to do business in the state for at least the minimum amount required by the state for passenger vehicles. Such policies or certificates of insurance shall be approved by the city council and filed and left with the city secretary. The policy of insurance shall not be cancelled or surrendered, except after ten days' written notice to the city secretary. Failure to procure and file the policy of insurance by the permittee as required by this section, or failure to keep insurance in full force, shall immediately forfeit and make null and void such permit, and all rights under such permit shall at once cease.
(Code 1978, § 19-9)

Sec. 94-69. Additional vehicles.

If at any time the holder of a taxicab business permit shall desire to use any additional vehicles and has his application for such permit granted, he shall furnish to the city secretary the same information regarding such additional vehicles as is required in this article regarding those covered by the original permit, and shall pay to the city secretary the fee as provided in this division.
(Code 1978, § 19-6)

Sec. 94-70. Taxicab driver's permit.

It shall be unlawful for any holder of a permit to operate a taxicab business to allow or permit any person who does not hold a valid taxicab driver's permit from the city to drive or operate any taxicab on the streets or other public ways of the city.
(Code 1978, § 19-12)

Sec. 94-71. Assignability.

No permit issued under the provisions of this division shall be assignable.
(Code 1978, § 19-8)

Sec. 94-72. Forfeiture.

In the event of infraction of any provision of this article by the holder of any permit issued pursuant to this division, or by anyone under the control or direction of such permittee, the infraction shall be cause for forfeiture of such permit by the city council.
(Code 1978, § 19-19)

Sec. 94-73. Nonuse.

Nonuse of any permit granted pursuant to this division or failure on the part of the holder of any permit granted pursuant to this division to use or exercise the rights, privileges and franchises granted in such permit or to comply with the duties prescribed in this article for a period of 30 days, shall ipso facto operate as a cancellation of the permit and the permit shall thereupon become null and void and of no effect.
(Code 1978, § 19-20)

Secs. 94-74—94-100. Reserved.

ARTICLE III. WRECKERS

Sec. 94-101. Definitions.

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

Motor vehicle means every vehicle which is self-propelled.

Owner means any person who holds the legal title of a motor vehicle or who has the legal right of possession thereof or the legal right to the vehicle.

Street means any street, alley, public place, square or highway within the corporate limits of the city.

Vehicle means every device in or by which any person or property is or may be transported or drawn upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks, and shall include trailers and semitrailers.

Wrecker means any motor vehicle used for the purpose of towing or removing disabled or wrecked vehicles.

Wrecker business means the business of towing or removing disabled or wrecked vehicles on the public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade or purchase such disabled or wrecked vehicles.

Wrecker company means any person engaged in the wrecker business.

Wrecker rotation list means the rotation list of companies prepared and used as provided in section 94-108.

Wrecker selection form means the form for selection of wrecker companies, prepared and used as set out in section 94-108.
(Code 1978, § 6-61)

Cross reference—Definitions generally, § 1-2.

Sec. 94-102. Penalty for violation.

(a) Any person, either by himself or by agent, who shall do any act or thing prohibited by the terms of this article, or in any way violate the provisions thereof, shall be subject to the fine set out in section 1-17.

(b) 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, but any exception made in this article may be urged as a defense by any person charged by such complaint.
(Code 1978, § 6-76)

Sec. 94-103. Provisions to be cumulative.

This article shall be cumulative of all laws of the state and the United States governing the subject matter of this article.
(Code 1978, § 6-75)

Sec. 94-104. Permits.

(a) *Required to engage in wrecker business.* Every person desiring to engage in the wrecker business for hire in the city shall make application in writing, on a form provided for that purpose, to the chief of police for a permit to engage in the wrecker business. Such application

shall contain the name, address, telephone number, the number and types of wrecker equipment operated, the true owner of the company concerned, and a statement that the applicant does or does not desire to appear on the wrecker rotation list. Every application, when filed, shall be sworn to by the applicant and accompanied by an inspection fee in the sum of $10.00 for each wrecker proposed to be operated. This fee shall not be returned to the applicant.

(b) *Required for each vehicle.* In addition to a permit authorizing a person to engage in the wrecker business for hire, there shall also be issued a permit for each approved wrecker vehicle owned by the permittee. Each permit for a wrecker vehicle shall state that such wrecker has been inspected and approved under direction of the chief of police, and shall be affixed securely to the inside of the windshield of the appropriate wrecker vehicle. No person shall operate a wrecker for hire on the public streets of the city unless a permit to engage in the wrecker business has been issued to the owner of such wrecker. No permit shall be transferable, and every permit shall expire at midnight on December 31 of the calendar year in which issued.

(c) *Qualifications.* No permit authorizing the operation of a wrecker business, and no permit authorizing the operation of a wrecker on the streets of the city shall be issued:

(1) Unless every wrecker proposed to be used by the applicant complies with the following minimum requirements:

a. Each wrecker shall be not less than three-quarters of a ton in size and be equipped with booster brakes.

b. Each wrecker shall be equipped with a power or hand operated winch, winchline and boom, with a factory-rated lifting capacity, or city-tested capacity, of not less than 5,000 pounds, single-line capacity.

c. Each wrecker shall have a revolving emergency light on top of the cab.

d. Each wrecker shall carry as standard equipment a fire extinguisher, wrecking bars, broom and shovel.

(2) Unless the applicant shall procure and keep in full force and effect a policy of public liability and property damage insurance issued by a casualty insurance company authorized to do business in the state and in the standard form approved by the state board of insurance with the insured provision of the policy including the city as insured, and the coverage provision insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a wrecker of such company and providing that the amount of recovery on each wrecker shall be in limits of not less than the minimum requirement for passenger vehicles set out by the state.

(d) *Issuance.* The chief of police shall issue a permit to engage in the wrecker business to all applicants complying with the provisions of this article and shall issue a permit to all wreckers of such applicant so complying.

(Code 1978, §§ 6-62—6-64)

Sec. 94-105. Following ambulances, police cars.

No person shall follow in a motor vehicle any ambulance or police car which is traveling on a public street in response to report of an automobile collision or accident in the city.
(Code 1978, § 6-66)

Sec. 94-106. Driving wrecker near scene of accident.

No person shall drive a wrecker to or near the scene or situs of an accident or collision on the streets of the city unless such person has been called to the scene by the police department of the city. Provided, that, when it is necessary to prevent death or bodily injury to any person involved in an accident or collision, the prohibition of this section shall not be applicable.
(Code 1978, § 6-67)

Sec. 94-107. Solicitation of business.

No person shall solicit in any manner, direct or indirectly, on the streets of the city, the business of towing any vehicle which is wrecked or disabled on a public street in the city regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing the vehicle. Proof of the presence of any person engaged in the wrecker business or the presence of any wrecker or motor vehicle owned or operated by any person engaged in the wrecker business, either as owner, operator, employee or agent, on any public street in the city, at or near the scene or situs of a wreck, accident or collision within one hour after the happening of a wreck, accident or collision, shall be prima facie evidence of a solicitation in violation of this section.
(Code 1978, § 6-68)

Sec. 94-108. Wrecker selection form.

The chief of police shall cause a wrecker selection form to be prepared which shall:

(1) Contain a statement by the owner of the disabled vehicle designating in blank spaces therein the wrecker company, one authorized under this article to engage in the wrecker business, where he desires to remove the disabled vehicle and the place to which he desires the vehicle removed;

(2) Contain a statement authorizing any police officer to call the designated wrecker company to remove the disabled vehicle;

(3) Contain a statement in the alternative that the owner has no preference as to a wrecker company and authorizing any police officer to call the wrecker company next in line on the wrecker rotation list maintained at police headquarters, and a statement that he desires the vehicle to be removed to the place designated by him in a blank space therein; and

(4) Provide space for signature of the owner of the vehicle.
(Code 1978, § 6-69)

Sec. 94-109. Designation of wrecker company by owner of vehicle.

When a police officer investigating an accident determines that any vehicle which has been involved in a collision or accident upon a public street in the city is unable to proceed safely under its own power, or when the owner thereof is physically unable to drive such vehicle, such officer shall request the owner to designate on a wrecker selection form the wrecker company the owner desires to remove the vehicle. Such designation by the owner shall be indicated on the form by writing in the blank space provided, the name of the company selected, and the form when completed shall be signed by the owner. The police officer shall give a copy of the authorization thus made on the form to the owner and shall retain for record the original thereof. The police officer shall place such original in a well bound book in the police department provided for that purpose. When the owner has designated the wrecker company desired, the police officer shall communicate that fact immediately to police department headquarters, and it shall be the duty of the officer receiving such information at headquarters to call the designated company to send a wrecker to the scene of the accident or collision.
(Code 1978, § 6-70)

Sec. 94-110. Selection of wrecker company from wrecker rotation list.

(a) If the owner of a vehicle involved in an accident or collision is physically unable to designate the wrecker company desired, or refuses to designate one, the investigating officer shall communicate that fact immediately to police department headquarters. The police department shall keep a wrecker rotation list, in alphabetical order, of all wrecker companies which:

(1) Have been issued a permit;

(2) Have applied to be on such list; and

(3) Maintain 24-hour wrecker service.

(b) Upon receiving the first communication the police officer receiving such communication at police headquarters shall call the first wrecker company on the list to tow the disabled vehicle and remove the disabled vehicle from the public streets of the city and carry the disabled vehicle to the place of business of the local dealer selling the kind of vehicle disabled. On each succeeding communication of the inability or refusal of the owner to designate a wrecker, the next company on the list shall be called, and a proper notation of each such call shall be made on the master list.
(Code 1978, § 6-71)

Sec. 94-111. Recommendation of wrecker business, repair service by police officer.

No police officer investigating or present at the scene or situs of any wreck, accident or collision on a public street shall, directly or indirectly, either by word, gesture, sign or

otherwise, recommend to any person the name of any particular person engaged in the wrecker service or repair business; nor shall any such police officer influence or attempt to influence in any manner the decision of any person in choosing or selecting a wrecker or repair service.
(Code 1978, § 6-72)

Sec. 94-112. Wrecker driver to clear street.

It shall be the duty of the driver of each wrecker that picks up a wrecked or disabled vehicle for the purpose of towing the wrecked or disabled vehicle away to clear the street of any and all debris, parts or glass.
(Code 1978, § 6-73)

State law reference—Removal of glass, etc., from wrecked or damaged vehicle from highway, V.T.C.A., Transportation Code § 600.001.

Sec. 94-113. Schedule of fees.

(a) *Towing fees.* Permit holders are authorized under this article to charge the following towing fees for nonconsensual towing:

(1) *Light duty wreckers.* A charge not to exceed $100.00 for the non consensual towing of any vehicle from one point on a street to another location within the corporate limits of the city or to the wrecker company storage facility.

(2) *Heavy duty wreckers.* A charge for the use of a heavy duty wrecker shall not exceed $250.00 per hour of towing such vehicle from one point on a street to another location within the corporate limits of the city, or to the wrecker company storage facility, as a police pull. No heavy-duty wrecker shall be used necessary for such pull and is approved by a police officer at the scene.

(3) *Extra equipment/labor.*

a. In the event the permit holder is required to rent or lease a piece of equipment, which is not required in the normal operation of a wrecker business, the actual cost for lease or rental of such equipment/labor may be passed on to the vehicle owner. Permit holders may charge an additional fee not to exceed $35.00 for the use of a dolly in the loading and towing of a vehicle, when such device is required.

b. A charge not to exceed $80.00 per hour may be assessed by permit holders who are required to wait at the scene of an accident or disabled vehicle tow, for any period beyond one hour performing a nonconsensual tow, the calculation of such time beginning one hour from the permit holder's arrival at the quarter-hour.

c. An additional fee of $50.00 may be assessed by permit holders who are required to tow a vehicle in a nonconsensual tow beyond the point of the initial destination, as designated by the person owning or legally controlling the towed vehicle.

d. An additional fee of not more than $150.00 per hour may be charged for additional clean-up at the scene resulting from an accident. Said fee shall be billed in increments not greater than one-half-hour and shall match the service time reported to police dispatch for time on scene.

e. An itemized bill will be provided to the vehicle owner, detailing all charges for the use of additional equipment or for additional labor.

(4) *No other charges.* Permit holders shall charge no fees for the nonconsensual towing of vehicles except as authorized by this section.

(b) *Definitions.*

Light duty tow truck. A motor vehicle equipped with a mechanical device used to tow, winch or otherwise move another vehicle and which is registered as a tow truck under the provisions of the Texas Transportation Code and said vehicle has a manufacturer's gross vehicle rating of not less than 10,000 pounds and not more than 47,999 pounds, has a single rear axle with a minimum of four functional rear tires

Heavy duty tow truck. A motor vehicle equipped with a mechanical device used to tow, winch, or otherwise move another vehicle and which is registered as a tow truck under the provisions of V.T.C.A., Transportation Code ch. 643, as amended and said vehicle has a manufacturer's gross vehicle rating of not less than 48,000 pounds.

(c) *Rates posted with chief of police.* Each wrecker company on rotation must post their rates for towing services with the chief of police.
(Code 1978, § 6-74; Ord. No. 2006-13, § 1, 8-14-2006)

Chapter 98

ZONING

Sec. 98-1. Zoning regulations adopted by reference.

Sec. 98-1. Zoning regulations adopted by reference.

(a) The City of Center Zoning Regulations, attached to Ordinance Number 2006-22 and considered included as a part of this Code as if incorporated fully herein, are approved and adopted as the regulations governing land use and zoning within the city.

(b) The City of Center Zoning Map, dated October 23, 2006 and considered included as a part of this Code as if incorporated fully herein, is approved and adopted as the zoning map for all properties within the city.
(Ord. No. 2006-22, 10-23-2006)

CODE COMPARATIVE TABLE

1978 CODE

This table gives the location within this Code of those sections of the 1978 Code, as updated through January 27, 1978, which are included herein. Sections of the 1978 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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6-6	62-37	14-17	58-191
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6-66—6-74	94-105—94-113	16-64	90-121
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6-76	94-102	16-75	90-176

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16-119—16-122	90-143—90-146
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CODE COMPARATIVE TABLE

ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1978 Code, as updated through January 27, 1978, which are included herein. Ordinances adopted prior to such date were incorporated into the 1978 Code, as supplemented. This table contains some ordinances which precede January 27, 1978, but which were never included in the 1978 Code, as supplemented, for various reasons. Ordinances adopted since January 27, 1978, and not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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79-1	2-26-1979	1	82-101
79-3	6-11-1979	1—3	86-153
79-7	8-13-1979	1	90-127
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80-17	12- 8-1980	1	22-221
		2—7	22-223—22-228
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		art. IV, § 2	18-144
		art. IV, § 3, art. IV, § 4	18-142, 18-143
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81-11	11- 9-1981	art. I, § 1	18-61
		art. III, § 1	18-62
		art. III, § 2	18-66
		art. III, § 3—art. III, § 12	18-102—18-111
		art. III, §§ 13, 15	18-64
		art. III, § 14	18-63
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83-3	1-24-1983	1—4	34-101—34-104
83-9	8- 8-1983	art. I, § 1	18-61
		art. III, § 1	18-62
		art. III, § 2	18-66
		art. III, § 3—art. III, § 12	18-102—18-111
		art. III, §§ 13, 15	18-64
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84-13	7- 9-1984	1	58-1
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85-3	4- 8-1985	1	86-60
85-4	9- 9-1985	2, 3	90-54, 90-55
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86-1	2-10-1986	1, 2	90-56
86-4	7-14-1986	2	86-154
86-7	8-25-1986	1	82-33
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88-11	8-22-1988	1	86-251, 86-252
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93-10	6-28-1993	1, 2	86-7
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94-25	8- 8-1994	1—3	30-231—30-233
94-35	9-26-1994	1	86-157
94-36	9-26-1994	2	86-101
95-2	3- 1-1995	2, 3	86-101
95-4	3-27-1995	1	86-155
95-11	6-26-1995	1	86-212
95-17	10-23-1995	1—4	18-173
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98-8	5-26-1998	1	34-132
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		1(art. III, § 1)—1(art. III, § 19)	58-261—58-279
		1(art. IV, § 1)—1(art. IV, § 3)	58-301—58-303
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2002-7	6-10-2002	1	14-62
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		2	Added	30-124(c)
		3		30-123
		4		30-124(a)
2003-15	11-10-2003	1—7	Added	Adopt. ord., p. xi
2003-17	12- 8-2003	1		90-32
2003-18	12- 8-2003	1	Added	18-251—18-261
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2004-8	6-14-2004	1—3	Added	58-5
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2004-16	12-13-2004	1		86-154
2005-4	4-25-2005	1	Added	50-5(6)
2005-6	7-25-2005	1—4		62-33
2005-9	9-12-2005	1		62-33(c)(3)
2005-16	11-14-2005	1		90-32
2005-21	12-12-2005	1—5	Added	2-172
2006-1	1- 9-2006	1		86-101
2006-9	5- 8-2006	1, 4	Added	22-2
2006-10	5-22-2006			2-31
2006-11	6-12-2006	1		86-154
2006-13	8-14-2006	1		94-113
2006-21	9-25-2006			86-84
2006-22	10-23-2006	1, 2	Added	98-1
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2007-5	5-14-2007	1		86-154
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		1.d	Added	38-63(l)
		1.e	Added	38-85
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		5	Added	14-94
2008-6	8-25-2008	1—7	Added	30-251—30-257
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		5	Added	62-36
		6	Rnbd as	62-36—62-38 62-61—62-63
		7—9	Added	62-64—62-66
2009-18	11- 9-2009	1, 2		30-255
		3	Added	30-258
2009-19	11- 9-2009	1		46-32
2009-20	11-23-2009	2(Exh. A)		30-271—30-274
2009-21	11-23-2009	2	Added	86-8
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2010-4	1-25-2010	1		90-32
2010-7	5-24-2010	1		86-101
2010-10	7-12-2010	1		22-181
2011-8	4-25-2011	1—3	Added	22-3
2011-12	8-22-2011	2—5	Added	34-8
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2014-5	6-23-2014	1		86-154
2014-11	9-22-2014	1		82-136
2014-14	10-13-2014	1, 2	Added	2-173
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		2	Rpld	90-97, 90-141, 90-142
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		6		86-218
2015-11	9-28-2015	1—3	Added	2-174
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2016-5	6-13-2016	1, 2	Added	2-175
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			Added	54-5
2017-04	5-22-2017	2		86-154

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2017-13	9-25-2017	1		58-3(a)(2)
			Added	58-3(a)(6)
		2	Added	58-4(g)
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*__Note__—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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CITY OF CENTER, TEXAS
ORDINANCE NO. 2006-22 (OFFICIAL COPY)

AN ORDINANCE OF THE CITY OF CENTER, TEXAS, ADOPTING A COMPREHENSIVE ZONING PLAN AND ZONING MAP AND DIVIDING THE CITY INTO SEVERAL DISTRICTS; ESTABLISHING AND PROVIDING FOR ZONING REGULATIONS AND CREATING ZONING DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; WITHIN SUCH DISTRICTS REGULATING THE USE OF LAND, BUILDINGS AND STRUCTURES; REGULATING THE HEIGHT, SIZE, AND LOCATIONS OF BUILDINGS; ESTABLISHING DENSITY, OPEN SPACE, SCREENING, AND MINIMUM OFF-STREET PARKING REQUIREMENTS; REGULATING THE ERECTION, REPAIR, AND ALTERATION OF ALL BUILDINGS AND STRUCTURES; PROVIDING FOR SPECIFIC USE PERMITS FOR CERTAIN USES; RECOGNIZING NONCONFORMING USES AND STRUCTURES AND PROVIDING RULES FOR THE REGULATION THEREOF; PROVIDING FOR CERTIFICATES OF OCCUPANCY AND COMPLIANCE; DEFINING CERTAIN TERMS; PROVIDING A METHOD OF AMENDMENT; PROVIDING A PENALTY FOR VIOLATION OF SUCH ORDINANCE AND FOR INJUNCTIVE RELIEF TO PERSONS AFFECTED BY THE VIOLATION OF SAID ORDINANCE; PROVIDING A SAVING CLAUSE; ESTABLISHING THAT THE MEETING AND PUBLIC HEARING FOR ADOPTION OF THIS ORDINANCE WERE PUBLISHED IN CONFORMANCE WITH STATE LAW AND THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; and PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Center desires to promote the public health, safety and general welfare of the property and citizens of the City of Center under authority granted by Chapter 211 of the Local Government Code in accordance with the City's most recent Comprehensive Plan;

WHEREAS, the City Council of the City of Center created the Planning and Zoning Commission by Ordinance 2005-1 with the intent to investigate and draft a proposed zoning ordinance;

WHEREAS, the Center Planning and Zoning Commission has met during the course of the last sixteen months to develop and review regulations governing land uses and property requirements to create a final recommendation to the City Council;

WHEREAS, a public hearing as required by Ch. 211 of the Local Government Code was held during an open meeting and published in accordance with the laws governing the adoption of zoning regulations within the City.

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

SECTION 1. The City of Center Zoning Regulations, attached hereto and considered included as a part of this ordinance as if incorporated fully herein, are approved and adopted as the regulations governing land use and zoning within the City of Center.

SECTION 2. The City of Center Zoning Map, dated October 23, 2006 and considered included as a part of this ordinance as if incorporated fully herein, is approved and adopted as the zoning map for all properties within the City of Center.

SECTION 3. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 4. This ordinance shall be deemed and interpreted to override or amend any other ordinances, regulations, policies or laws with which it is in conflict and any and all such ordinance, regulations, policies and laws shall be deemed temporarily suspended until this ordinance is repealed by official action of the City Council of the City of Center.

SECTION 5. That the City Secretary is hereby ordered and directed to cause this ordinance to be published in conformity with the City Charter and laws of the State of Texas.

SECTION 6. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect from and after January 1, 2007.

SECTION 7. That the meetings at which this ordinance was considered, discussed and approved and the public hearing on this ordinance were open to the public and properly posted in conformity to the Texas Open Meetings Act and other laws of the State of Texas and the City Charter.

RECOMMENDED FOR ACCEPTANCE by the Planning and Zoning Commission of the City of Center, Texas, on the _____ day of _____, 200__.

ATTEST: SIGNED:

_____ _____

Larry Smith, Vice Chair Stephen Shires, Chairman

PASSED AND APPROVED by vote of the City Council of the City of Center, Texas, on this the ___ day of _____, 2006.

ATTEST: SIGNED:

_____ _____

Terre Noble, City Secretary John D. Windham, Mayor

CITY OF CENTER

ZONING REGULATIONS

PLANNING AND ZONING COMMISSION
Stephen Shires – Chairman
Larry Smith – Vice Chairman
Buster Bounds
Lisa Christian
Jack Hawkins
John Howard
Joyce Johnson
Rochelle McClelland
Mattie Perkins

FINANCED THROUGH THE OFFICE OF RURAL COMMUNITY AFFAIRS OF THE STATE OF TEXAS
The preparation of this document was financed through provisions of a Texas Community Development Program Grant from the U.S. Department of Housing and Community Affairs.
The Texas Office of Rural Community Affairs (ORCA) in conjunction with the United States Department of Housing and Urban Development, furnished financial support to the activity described in the publication which does not necessarily indicate the concurrence of ORCA or of the United States Department of Housing and Urban Development, with the statements or conclusions in this publication.

This ordinance was developed with the assistance of Gary Traylor and Associates, Tyler, Texas and Tim F. Glendening and Associates, Plano, Texas.

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SECTION 1 TITLE

This ordinance shall be known and may be cited as "The City of Center Zoning Ordinance".

SECTION 2 PURPOSE

Zoning Regulations and Districts are herein established in accordance with a Comprehensive Plan for the purpose of promoting the health, safety, well-being and general welfare of the citizens of the City. They are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land, and to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been established with reasonable consideration for the character of each district and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

SECTION 3 ZONING DISTRICTS ESTABLISHED

3.1 Zoning Districts Identified

The City of Center, Texas, is hereby divided into zoning districts as listed in the section.

ABBREVIATED DESIGNATION	ZONING DISTRICT NAME
A	Agricultural District
SF-E	Single Family Residential District - Estate
SF-1	Single Family Residential District - 1
SF-2	Single Family Residential District - 2
TF	Two Family Residential (Duplex) District
MH-1	Manufactured Home District
MH-2	Manufactured Home Park District
MF	Multifamily District

C-1	Commercial District - Office, Light Retail, and Neighborhood Services
C-2	Commercial District - General
M-1	Manufacturing/Industrial District – Light
M-2	Manufacturing/Industrial District - Heavy
PD	Planned Development District
FP	Flood Plain District

3.2 Description and Purpose of Zoning Districts

A -- Agricultural District: This district provides for the continuance of farming, ranching, and gardening activities on land being utilized for these purposes. When land in an Agricultural District is needed for urban purposes, it is anticipated the zoning will be changed to the appropriate zoning district(s) to provide for orderly growth and development in accordance with the Comprehensive Plan. See Section 8 for A -- Agricultural District regulations.

SF-E -- Single Family Residential District - Estate: The SF-E district provides for residential development on large lots with a minimum building site of 35,000 square feet. Density in this district will be no greater than two (2) units per one (1) gross acres. See Section 9 for SF-E -- Single Family Residential District - Estate regulations.

SF-1 -- Single Family Residential District - 1: The SF-1 district provides for a minimum residential building site of 7,500 square feet. Density in this district will be no greater than four (4) units per gross acre. See Section 10 for SF-1 -- Single Family Residential District regulations.

SF-2 -- Single Family Residential District - 2: The SF-2 district provides for a minimum residential building site of 5,000 square feet and permits residential development of densities not to exceed six (6) units per gross acre. See Section 11 for SF-2 -- Single Family Residential District regulations.

TF -- Two Family Residential (Duplex) District: The TF district provides for stable, quality residential development, including duplex, garden (patio) home, and similar residential development with densities not exceeding twelve (12) units per gross acre. See Section 12 for TF -- Two Family Residential (Duplex) District regulations. 2 Units = 1 Duplex.

MH-1 -- Manufactured Home District. The MH-1 district provides an area for the

placement of manufactured home and modular home units in subdivisions in which most lots and housing units are owner-occupied. Densities in this district will be comparable to that of the SF-2 District. See Section 13 for MH-1 -- Manufactured Home Subdivision District regulations.

MH-2 -- Manufactured Home Park District. The MH-2 district establishes a category in which manufactured home park development with a maximum density of approximately eight (8) - ten (10) units per gross acre can occur. See Section 14 for MH-2 -- Manufactured Home Park District regulations.

MF -- Multifamily District. The MF district permits multifamily developments of maximum densities of fifteen (15) units per acre, except under special mitigation conditions. See Section 15 for MF -- Multiple-Family Dwelling District regulations.

C-1 -- Commercial District - Office, Light, Retail, and Neighborhood Services. Retail, commercial, and office uses developed under the standards of the C-1 District are designed to provide a compatible relationship between the C-1 development and adjacent residential areas. See Section 16 for C-1 Commercial District - Office, Light Retail, and Neighborhood Services regulations.

C-2 -- Commercial District - General: Uses which require considerable space for display, sales, or open storage, or by the nature of the use are generally not compatible with residential uses are located in the C-2 Commercial District. See Section 17 for C-2 -- General Commercial District regulations.

M-1 -- Manufacturing/Industrial District - Light: The Light Manufacturing/Industrial District is established to accommodate uses of a non-nuisance type located in relative proximity to residential and C-1 business areas. Development in the M-1 district is limited primarily to certain wholesale, jobbing and warehouse uses and certain specialized manufacturing and research uses of a type which will not create nuisances. See Section 18 for M-1 -- Manufacturing/Industrial District - Light regulations.

M-2 -- Manufacturing/Industrial District - Heavy: The Heavy Manufacturing/Industrial District is established to accommodate industrial uses not appropriate for inclusion in the M-1 district and likely to create noise, traffic, odor and/or other conditions incompatible with most residential and commercial uses. See Section 19 for M-2 -- Manufacturing/Industrial District - Heavy regulations.

PD -- Planned Development District: The Planned Development District provides a zoning category for the planning and development of larger tracts of land for tracts of land with unique characteristics for a single use or combination of uses requiring flexibility and variety in design to achieve orderly development with due respect to the protection of surrounding property. See Section 20 for PD - Planned Development District regulations.

FP -- Flood Plain District: Zoning districts located in flood hazard areas which are subject to periodic inundation shall be preceded by the prefix FP, indicating a sub-district. Areas designated FP may be used only for those uses listed n the provisions of Section 21 until a use in any area or any portion thereof located in FP sub-district has been approved by the City Council. Approval shall only be given after engineering studies determine that the area, or any portion thereof, is suitable for uses in the district, and building construction or development would not create an obstruction to drainage nor a hazard to life or property, and that such construction is not contrary to the public interest. See Section 21 for FP -- Flood Plain District regulations.

SECTION 4 ZONING DISTRICT MAP

4.1. Zoning District Boundaries Delineated on Zoning District Map

The boundaries of the zoning districts set out herein are delineated upon the Zoning District Map of the City of Center, Texas, said map being hereby adopted as part of this ordinance as fully as if the same were set forth herein in detail.

4.2. Regulations for Maintaining Zoning District Map

Two (2) original, official, and identical copies of the Zoning District Map are hereby adopted bearing the signature of the Mayor and attestation of the City Secretary and shall be filed and maintained as follows:

4.2.1. One copy shall be filed with the City Secretary, to be retained as the original record and shall not be changed in any manner.

4.2.2. One copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation in issuing building permits and for enforcing the Zoning Ordinance. A written record (logbook) shall be kept by the Building Official of all changes made to the Zoning District Map.

4.2.3. Reproductions of the official Zoning District Map may be made for information purposes.

SECTION 5 ZONING DISTRICT BOUNDARIES

5.1. Rules for Determining District Boundaries

The district boundary lines shown on the zoning district map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the

boundaries of districts as shown on the official zoning map, the following rules shall apply:

5.1.1. Boundaries indicated as approximately following streets, highways, or alleys shall be construed to follow the centerline of such street, highway, or alley.

5.1.2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.

5.1.3. Boundaries indicted as approximately following city limits shall be construed as following city limits.

5.1.4. Boundaries indicated as following railroad or utility lines shall be construed to be the centerline of the right-of-way; if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines.

5.1.5. Boundaries indicated as parallel to or extensions of features indicated in 5.1.1. through 5.1.5. above shall be construed by the Planning and Zoning Commission, by official action. Distances not specifically indicated on the original Zoning Map shall be determined for the graphic scale on the map.

5.1.6. Reserved

5.1.7 Whenever a street, alley or other public way is vacated by official action of the City Council, or whenever a street or alley area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way, and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

5.1.8. Where physical features of the ground are at variance with information shown on the official zoning district map, or if there arises a question as to how a parcel of property is zoned and such question cannot be resolved by the application of subsections 5.1.1. through 5.1.7., or the zoning of property is invalidated by a final judgment of a court of competent jurisdiction, the property shall be considered as classified A -- Agricultural District, temporarily. In an area determined to be temporarily classified as A -- Agricultural District, no person shall construct, add or to alter any building or structure or cause the sale to be done, nor shall any use be located therein or on the land which is not permitted in an A -- Agricultural District, unless and until such territory has been zoned to permit such use by the City Council. It shall be the duty of the City Council to determine a permanent zoning for such area as soon as practicable, generally within sixty (60) days, absent extenuating circumstances.

SECTION 6 ZONING OF ANNEXED TERRITORY

6.1. Permanent Zoning Concurrent With Zoning

An area or areas being annexed to the City of Center shall be given permanent zoning concurrently with the annexation.

6.2. Temporary Classification

In instances in which the zoning of an annexed territory concurrently with the annexation is impractical, due to litigation or other extenuating circumstances, the annexed territory shall be temporarily classified as A -- Agricultural District, until permanent zoning is established by the City Council. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure established by law for the adoption of original zoning regulations. The City Council shall determine a permanent zoning for such area as soon as practicable after annexation.

6.3. Regulations in Areas Temporarily Classified

In an area temporarily classified as A -- Agricultural District:

6.3.1. No person shall erect, construct, or proceed or continue with the erection or construction of any building or structure or cause the same to be done in any newly annexed territory to the City of Center without first applying for and obtaining a building permit or certificate of occupancy from the building official or the City Council, as may be required.

6.3.2. No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit which will allow the construction of a building permitted in a zoning district other than the Agricultural District in the manner prescribed by law.

SECTION 7 COMPLIANCE WITH ZONING REGULATIONS

7.1 Compliance With Zoning Regulations Required

All land, buildings, structures, or appurtenances thereon located within the City of Center which are hereafter occupied, used, erected, altered, removed, placed, demolished, or converted shall be occupied, used, erected, altered, removed, placed, demolished, or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided, including causing a non-compliant use to cease immediately and/or causing any structure to be

made compliant with these zoning ordinances.

7.1.1 Should any be converted in a manner not in compliance, the City Attorney is authorized to seek an immediate injunction to remedy the non-compliance.

7.2 Building Permits Prohibited Without Plat

No permit for the construction or placement of a building or buildings upon any tract or plot shall be issued unless the plot or tract is part of a plat of record, properly approved by the Planning and Zoning Commission and City Council and filed in the Plat Records of county or counties in which the plot or tract is located.

7.3 Exclusions

Nothing herein contained shall require any change in the plans, construction, or designated use of a building under construction at the time of the passage of this ordinance and which entire building shall be completed within one (1) year from the date of passage of this ordinance.

7.4 7.4 Main Buildings

7.4.1 Definitions

For Section 7.4, the following terms are defined:

"Lot" or "Tract" is defined as a unit, piece, or parcel of divided real property, which has been denoted and described in a written instrument of conveyance that has been duly and properly filed with the Shelby County Clerk in the Real property, Probate, or Public Records of Shelby County, Texas.

"Main Building" is defined as the building on a lot or tract that is occupied by the primary use of the lot or tract.

7.4.2 Residential Districts

Only one main building for one family or two family use, with permitted accessory buildings, may be located upon a lot or tract in residential districts. Every dwelling shall face or front upon a public street or approved place other than an alley, which street or approved place shall have a minimum width of twenty-five (25) feet and generally meet construction standards and specifications.

7.4.3 Commercial and Manufacturing Districts

There may be more than one main building in a commercial or manufacturing district.

Whenever two or more main buildings, or portions thereof, are placed upon a single lot or tract and such buildings will not face upon a public street, the same may be permitted only when the site plan for such development is approved by the City Council. If one or more of the multiple main buildings are manufactured buildings, they must meet the requirements set forth in Section 27.A.2.

7.5 Computation of Required Open Space

No parking area, storage area, or required open space for one building shall be computed as being the open space, yard, or area requirements for any other dwelling or other use.

7.6 Remedy will be to authorize the City Attorney to file an ex parte injunction.

SECTION 8 A -- AGRICULTURAL DISTRICT

8.1. General Purpose and Description

The Agricultural District is intended to apply to land situated on the fringe of an urban area, used for agricultural purposes, and which may become an urban area in the future. Therefore, the agricultural activities conducted in the Agricultural District should not be detrimental to urban land uses and intensity of use permitted in this district is intended to encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made.

8.2. Permitted Uses

A building or premise shall be used only for the following purposes:

8.2.1. Single-family dwellings on building lots of two (2) acres or more in areas where said dwellings can be adequately served by city utilities or septic tanks located on the building lot.

8.2.2 Telephone exchange and utility service building, provided no public business and repair or outside storage facilities are maintained; gas lines; and gas regulating stations.

8.2.3. Accessory buildings and structures clearly incidental to agricultural operations, including but not limited to barns, stables, equipment sheds, granaries, private garages, pump houses, and servants quarters not for rent, provided that the total area of buildings and structures shall be limited to ten percent (10%) of the gross land area of tract.

8.2.4. Metal buildings of less than six hundred (600) square feet which are used for tool and supply storage.

8.2.5. Riding academy or other equestrian related activities.

8.2.6. Other uses as listed in Section 22 of this ordinance.

8.3. Permitted Specific Uses

The following specific use shall be permitted in the Agricultural District, when granted in accordance with Section 25:

8.3.1. Uses as listed in Section 22 of this ordinance.

8.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

SECTION 9 SF-E -- SINGLE FAMILY RESIDENTIAL - ESTATE DISTRICT

9.1. General Purpose and Description

The Single Family Residential - Estate District is designed to accommodate single family residential development on large lots. The district can be appropriately located in proximity to agricultural and standard single family residential uses. Densities in this district will not exceed two (2) units per gross acre.

9.2. Permitted Uses

A building or premise in an SF-E District shall be used only for the following purposes:

9.2.1. Uses as listed in Section 22 of this ordinance.

9.3. Permitted Specific Uses

The following specific uses shall be permitted in an SF-E District, when granted in accordance with Section 25;

9.3.1. Uses as listed in Section 22 of this ordinance.

9.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

9.5. Parking Regulations

A minimum of two (2) parking spaces for single family dwelling units. Other off-street parking space regulations are set forth in Section 26.

SECTION 10 SF-1 -- SINGLE FAMILY RESIDENTIAL DISTRICT - 1

10.1. General Purpose and Description

The Single Family Residential District - 1 is designed to accommodate the standard single family residential development. The district can be appropriately located in proximity to multifamily residential areas and certain neighborhood local retail and office uses. Densities in this district will not exceed four (4) units per gross acre.

10.2 Permitted Uses.

A building or premise in an SF-1 District shall be used only for the following purposes:

10.2.1. Uses as listed in Section 22 of this ordinance.

10.3. Permitted Specific Uses

The following specific uses shall be permitted in an SF-1 District, when granted in accordance with Section 25:

10.3.1. Uses as listed in Section 22 of this ordinance.

10.4 Height and Area Regulations:

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

10.5 Parking Regulations

A minimum of two (2) parking spaces shall be provided per unit behind the building line. Other off-street parking space regulations are set forth in Section 26.

SECTION 11 SF-2 -- SINGLE FAMILY RESIDENTIAL DISTRICT -- 2

11.1 General Purpose and Description

The Single Family Residential District - 2 is intended to provide for medium density single family residential development. This district functions as a buffer or transition between major streets, non-residential areas and lower density residential areas. Density in this district will not exceed six (6) units per gross acre.

11.2. Permitted Uses

A building or premise shall be used only for the following purposes:

11.2.1. Uses as listed in Section 22 of this ordinance.

11.3. Permitted Specific Uses

The following specific uses shall be permitted in an SF-2 district, when granted in accordance with Section 25:

11.3.1. Uses as listed in Section 22 of this ordinance.

11.4 Height and Area Regulations:

See Appendix 1, Area, Setback, Height, And Coverage Regulations.

11.5. Parking Regulations

A minimum of two (2) parking spaces shall be provided per unit behind the front yard line. Other off-street parking space regulations are set forth in Section 26.

SECTION 12 TF -- TWO FAMILY RESIDENTIAL (DUPLEX) DISTRICT

12.1. General Purpose and Description

The purpose of the Two Family Residential (Duplex) District is to promote stable, quality residential development of slightly increased densities. Consistent with the city's Comprehensive Plan, this district may be used as a "buffer" district between low density and high density districts or between residential and non-residential districts. Density shall not exceed twelve (12) units per acre.

12.2 Permitted Uses

A building or premise shall be used only for the following purposes:

12.2.1. Uses as listed in Section 22.

12.3 Permitted Specific Uses

The following specific uses shall be permitted in the TF District, when granted in accordance with Section 25:

12.3.1. Uses as listed in Section 22 of this ordinance.

12.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, ad Coverage Regulations.

12.5. Parking Regulations

Off-street parking shall be provided in accordance with the requirements for uses set forth in Section 26.

SECTION 13 MH-1 -- MANUFACTURED HOME DISTRICT

13.1. General Purpose and Description

The Manufactured Home District is intended to provide for quality mobile home subdivision development containing many of the characteristics and the atmosphere of a standard single family subdivision. Density shall be the same as shown in SF2 District, six (6) units per gross acre.

13.2. Permitted Uses

A building or premise shall be used only for the following purposes:

13.2.1. Uses as listed in Section 22 of this ordinance.

13.3. Permitted Specific Uses

The following specific uses shall be permitted in the MH-1 District, when granted in accordance with Section 25:

13.3.1 Uses as listed in Section 22 of this ordinance.

13.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

13.5 Parking Requirements

Two (2) spaces shall be provided per unit located on the lot plus additional spaces for accessory uses as required in Section 26, and behind the front yard line.

13.6 Additional Restrictions Applicable to MH-1 District

13.6.1. Manufactured housing design and construction will comply with construction and safety standards published by the Department of Housing and Urban Development pursuant to the requirements of the National Mobile Home and Safety Standards Act of 1974 and all manufactured homes will be subject to inspection by the Building Official.

13.6.2. All manufactured homes shall be set on solid concrete slab of four (4) inches thickness structure or 18" to 20" runners of same materials, or each contact point with the ground will be on eighteen (18) by eighteen (18) by four (4) inch pads, of like or better materials. Additional rooms and enclosed porches shall be constructed on a solid slab of like materials.

13.6.3. Tie-downs will be required and will be secured prior to occupancy.

13.6.4. Underpinning and skirting of like material and color or better is required and will be installed prior to occupancy.

13.6.5. Accessory buildings will be either manufactured or constructed in accordance with city codes.

13.6.6. All manufactured homes and modular homes shall comply with all regulations of the State of Texas and such regulations are hereby incorporated into this section.

SECTION 14 MH-2 -- MANUFACTURED HOME PARK DISTRICT

14.1 General Purpose and Description

The Manufactured Home Park District is intended to provide for quality mobile home park development and maintenance. Manufactured home parks are defined as tracts or units of land under sole ownership where lots are rented or leased as space to be used for placement of a manufactured home.

14.2 Permitted Uses

A building or lot shall be used only for the following purposes:

14.2.1. Manufactured home park of not less than three (3) nor more than ten (10) acres in size.

14.2.2. Uses normally accessory to a manufactured home park, including office and/or maintenance buildings for management and maintenance of the park only, recreation buildings and swimming pools, private clubs, laundry facilities, storage facilities, and recreation areas for use by the residents of the park.

14.2.3. Other uses as listed in Section 22 of this ordinance.

14.3 Permitted Specific Uses

The following specific uses shall be permitted in the MH-2 District when granted in accordance with Section 25:

14.3.1. Boat and recreational vehicle and travel trailer storage yard.

14.3.2. Travel trailer and commercial overnight camping park.

14.3.3. Other uses as listed in Section 22 of this ordinance.

14.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

14.5. Parking Requirements

Two (2) spaces shall be provided per unit located on the lot plus additional spaces for accessory uses as required in Section 26.

14.6. Additional Restrictions Applicable to Mobile Home Park District

14.6.1. Manufactured housing design and construction will comply with construction and

safety standards published by the Department of Housing and Urban Development pursuant to the requirements of the National Mobile Home and Safety Standards Act of 1974 and all manufactured homes will be subject to inspection by the Building Official.

14.6.2. All manufactured homes shall be set on a solid slab structure and/or 18" to 20" runners. Additional rooms and enclosed porches shall be constructed on a solid slab.

14.6.3. Tie-downs will be required and will be secured prior to occupancy of all manufactured homes.

14.6.4. Underpinning and skirting of like material and color or better will be required and will be installed prior to occupancy of all manufactured homes.

14.6.5. Accessory buildings will be either manufactured or constructed in accordance with city codes.

14.6.6. All manufactured homes and modular homes shall comply with all regulations of the State of Texas and such regulations are hereby incorporated into this section.

14.6.7 An eight foot (8') fence that completely screens/obstructs the view of manufactured home parks, from public areas.
(Ord. No. 2007-16, § 7, 10-22-2007)

SECTION 15 MF -- MULTIFAMILY RESIDENTIAL DISTRICT

15.1 General Purpose and Description

The Multifamily Residential District is intended to provide for medium to higher density residential development. This district functions as a buffer or transition between major streets, non-residential areas, or higher density residential areas and lower density residential areas. Density in this district does not ordinarily exceed fifteen (15) units per gross acre but can reach a maximum of twenty-five (25) units per gross acre if special fire protection requirements are observed (see Section 15.8).

15.2 Permitted Uses

A building or premise shall be used only for the following purposes:

15.2.1. Three (3) or more single family attached dwelling units, provided that no more than seven (7) dwelling units are attached in one continuous row or group.

15.2.2. Other uses as listed in Section 22 of this ordinance.

15.3 Permitted Specific Uses

The following specific uses shall be permitted when granted in accordance with Section 25:

15.3.1. Uses as listed in Section 22 of this ordinance.

15.4 Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

When buildings exceed one (1) story in height, such buildings shall be constructed in accordance with existing building and fire codes.

15.5 Parking Regulations

Two and one-half (2.5) off-street parking spaces shall be provided per unit. Required parking may not be provided within the required front yard. Other off-street parking spaces regulations are set forth in Section 26.

15.6 Refuse Facilities

Every dwelling unit in a multifamily complex shall be located within two hundred fifty (250) feet of a refuse facility, measured along the designated pedestrian and vehicular travel way. There shall be available at all times at least one six (6) cubic yard refuse

container on a cement pad per thirty (30) multifamily dwelling units. For complexes with less than thirty (30) units, no less than four (4) cubic yards of refuse container shall be provided. Each refuse facility shall be screened for view on three (3) sides from persons standing at ground level on the site or immediately adjoining property, by an opaque fence or wall of wood or masonry not less than six (6) feet in height or by an enclosure within a building. Refuse containers shall be provided and maintained in a manner to satisfy city public health and sanitary regulations. Each refuse facility shall be located so as to provide safe and convenient pickup by refuse collection agencies.

15.7 Screening Fence

Border fencing of wood or masonry of not less than six (6) feet in height shall be installed by the builder at the time of construction of any multifamily complex, along the property line on any perimeter not abutting a public street or right-of-way or less restrictive land use. This fence shall be maintained throughout the existence of the multifamily complex by the owner of the complex.

15.8 Special Fire Protection Requirements

Whenever densities of greater than fifteen (15) units per acre are present, each building in the development shall at the time of the construction, and thereafter be operated in accordance with generally accepted model building and fire safety codes, with the approval of the City Fire Marshal.

SECTION 16 C-1 -- COMMERCIAL DISTRICT - OFFICE, LIGHT RETAIL, AND NEIGHBORHOOD SERVICES

16.1 General Purpose and Description

The Commercial District -1 is intended for office facilities, neighborhood shopping facilities, and retail and commercial facilities of a service character. The C-1 District is established to accommodate the daily and frequent needs of the community. The following regulations shall be applicable to all uses in the district:

16.1.1. The business shall be conducted wholly within an enclosed building;

16.1.2 Required yards shall not be used for display, sale, or storage or merchandise or for the storage of vehicles, equipment, containers, or waste material;

16.1.3 All merchandise shall be sold at retail on the premises; and

16.1.4 All such use shall not be objectionable because of odor, excessive light, smoke, dust, noise, vibration, or similar nuisance.

16.2 Permitted Uses

A building or premise shall be used only for the following purposes:

16.2.1. Discount, variety, or department store of not greater than twenty thousand (20,000) square feet floor space.

16.2.2. Food store with floor space not greater than twenty thousand (20,000) square feet.

16.2.3. Gasoline service station (no garage or automobile repair facilities).

16.2.4. Other uses as listed in Section 22 of this ordinance.

16.3 Permitted Specific Uses

The following specific uses shall be permitted in the C-1 District, when granted in accordance with Section 25:

16.3.1. Broadcasting facilities, radios, television, or microwave tower.

16.3.2 Gasoline service station with associated minor automobile repair facility with floor space not greater than two thousand five hundred (2,500) square feet.

16.3.3. Other uses as listed in Section 22 of this ordinance.

16.4 Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

16.5 Parking Regulations

Off-street parking and loading shall be provided as set forth in Section 26.

16.6 Fencing Regulations

If the business requires twelve (12) or more parking spaces, and abuts a residential district, fencing, in accordance with Section 15.7, is required.

SECTION 17 C-2 -- GENERAL COMMERCIAL DISTRICT

17.1 General Purpose and Description

The General Commercial District is intended to provide a zoning category similar to the C-1 District, except that additional uses are permitted which are not generally carried on completely within a building or structure and an expanded range of service and repair uses is permitted.

17.2 Permitted Uses

A building or premise shall be used only for the following purposes:

17.2.1 Uses as listed in Section 22 of this ordinance.

17.3 Permitted Specific Uses

The following specific uses shall be permitted in a C-2 District, when granted in accordance with Section 25:

17.3.1. Other uses as listed in Section 22 of this ordinance.

17.4 Height and Area Regulation

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

17.5. Parking Requirements

Off-street parking requirements shall be provided in accordance with Section 26.

17.6. Fencing Regulations

Section 15.7 shall be complied with where the property abuts any lower intensity use zone (any residential zone).
(Ord. No. 2007-16, § 7, 10-22-2007)

SECTION 18 M-1 -- MANUFACTURING/INDUSTRIAL DISTRICT -- LIGHT

18.1 General Purpose and Description

The Light Manufacturing/Industrial District is established to accommodate those uses which are a non-nuisance type located in relative proximity to residential areas, and to preserve and protect land designated on the Comprehensive Plan for industrial development and use from the intrusion of certain incompatible uses which might impede the development and use of lands for industrial purposes. Development in the M-1 District is limited primarily to certain storage, wholesale, and industrial uses, such as the fabrication of materials, and specialized manufacturing and research institutions, all of a non-nuisance type. No use or types of uses specifically limited to the M-2 District may be permitted in the M-1 District.

Uses permitted in the M-1 District are subject to the following conditions:

18.1.1. All business, servicing, or processing, except for off-street loading, display or merchandise for sale to the public, and establishments of the "drive-in" type, shall be conducted within completely enclosed areas.

18.1.2. All storage within one hundred (100) feet of a residential district, except for motor vehicles in operable condition, shall be within completely enclosed buildings or completely obscured from view with screening not less than six (6) feet in height, provided no storage located within fifty (50) feet of such screening shall exceed the height of screening.

18.1.3. Permitted uses in the M-1 District shall not disseminate dust, fumes, gas, noxious odor, smoke, glare, or other atmospheric influence.

18.1.4. Permitted uses in the M-1 District shall produce no noise exceeding in intensity, at the boundary of the property, the average intensity of noise of street traffic.

18.1.5. Permitted uses in the M-1 District shall not create fire hazards on surrounding property.

18.2 Permitted Uses

The following specific uses shall be permitted in the M-1 District:

18.2.1. Uses as listed in Section 22 of this ordinance.

18.3 Permitted Specific Uses

Other specific uses shall be permitted in the M-1 District when granted in accordance with Section 25:

SECTION 19 M-2 -- MANUFACTURING/INDUSTRIAL DISTRICT -- HEAVY

19.1 General Purpose and Description

The Heavy Manufacturing/Industrial District is established to accommodate most industrial uses and protect such areas from the intrusion of certain incompatible uses which might impede the development and use of lands for industrial purposes.

Uses permitted in the M-2 District are subject to the following conditions:

19.1.1. All business, servicing, or processing, except for off-street parking, off-street loading, display of merchandise for sale to the public, and establishments of the "drive-in" type, shall be conducted within completely enclosed buildings unless otherwise indicated.

19.1.2. All storage within one hundred (100) feet of a residential district, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively, screened with screening not less than six (6) feet in height, provided no storage located within fifty (50) feet of such screening shall exceed the height of such screening.

19.1.3. All uses permitted in the M-2 district must meet the following performance standards and any appropriate city ordinances:

19.1.3.a. Smoke: No operation shall be conducted unless it conforms to the standards established by any applicable state and federal health rules and regulations pertaining to emission of particulate matter;

19.1.3.b. Particulate Matter: No operation shall be conducted unless it conforms to the standards established by applicable state and federal health rules and regulations pertaining to emission of particulate matter;

19.1.3.c. Dust, Odor, Gas, Fumes, Glare, or Vibration: No emission of these matters shall result in a concentration at or beyond the property line which is detrimental to the public health, safety or general welfare or which causes injury or damage to property; said emissions shall in all cases conform to the standards established by applicable state and federal health rules and regulations pertaining to said emissions;

19.1.3.d. Radiation Hazards and Electrical Disturbances: No operation shall be conducted unless it conforms to the standards established by applicable state and federal health rules and regulations pertaining to radiation control;

19.1.3.e. Noise. No operation shall be conducted in a manner so that any noise produced is objectionable due to intermittence, beat frequency, or shrillness. Sound levels of noise at the property line shall not exceed 75 db(A) permitted for a maximum of fifteen (15) minutes in any one (1) hour; said operation shall

18.3.1. Machine shops and fabrication of metal not more than ten (10) gauge in thickness.

18.3.2. Accessory uses, including but not limited to temporary buildings for construction purpose for a period not to exceed the duration of such construction.

18.3.3. Factory outlet retail or wholesale store for the sales and servicing of goods or materials on the same premises as the manufacturing company to which they are related, including sales and service in a separate building or buildings.

18.3.4. Railroad freight terminals, railroad switching and classification yards, repair shops, and roundhouses.

18.3.5. Other uses as listed in Section 22 of this ordinance.

18.4 Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

18.5 Parking Regulations

Off-street parking requirements shall be provided in accordance with the specific uses set forth in Section 26.

in all cases conform to the standards established by applicable state and federal health rules and regulations and to other city ordinances pertaining to noise; and

19.1.3.f. Water Pollution: No water pollution or wastewater discharge shall be emitted by manufacturing or other processing. In a case in which potential hazards exist, it shall be necessary to install safeguards acceptable to the appropriate State and national health and environmental protection agencies prior to issuance of a certificate of occupancy. The applicant shall have the burden of establishing that said safeguards are acceptable to said agency or agencies.

19.2 Permitting Uses

The following uses shall be permitted:

19.2.1. Uses as listed in Section 22 of this ordinance.

19.3 Permitted Specific Uses

The following specific uses shall be permitted in the M-2 District when granted in accordance with Section 25:

19.3.1. Uses as listed in Section 22 of this ordinance.

Other manufacturing and industrial uses which do not meet the general definition for manufacturing processes may be permitted by the City Council after public hearing and review of the particular operational characteristics of each such use, and other pertinent data affecting the community's general welfare. Approval of uses under this section shall be made in accordance with Section 33.2.2.6

19.4 Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

19.5 Parking Regulations

Required off-street parking shall be provided in accordance with the specific uses set forth in Section 26.

SECTION 20 PD -- PLANNED DEVELOPMENT DISTRICT

20.1 General Purpose and Description

The Planned Development District "PD" prefix is intended to provide for combining and mixing of uses allowed in various districts with appropriate regulations and to permit flexibility in the use and design of land and buildings in situations where modification of specific provisions of this ordinance is not contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the community. A PD District may be used to permit new and innovative concepts in land utilization. While great flexibility is given to provide special restrictions which will allow development not otherwise permitted, procedures are established herein to insure against misuse of the increased flexibility.

20.2. Permitted Uses

Any use specified in the ordinance granting a Planned Development District shall be permitted in that district. The size, location, appearance, and method of operation may be specified to the extent necessary to insure compliance with the purpose of this ordinance.

20.3 Development Standards

20.3.1. Development standards for each separate PD District shall be set forth in the ordinance granting the PD District and may include but shall not be limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, management associations, and other requirements as the City Council may deem appropriate.

20.3.2. In the PD District, the particular district(s) to which uses specified in the PD are most similar shall be stated in the granting ordinance. All PD applications shall list all requested variances from the standard requirements set forth throughout this ordinance (applications without this list will be considered incomplete).

20.3.3. The ordinance granting a PD District shall include a statement as to the purpose and intent of the PD granted therein. A specific list is required of variances in each district or districts and a general statement citing the reason for the PD request.

20.3.4. The Planned Development District shall conform to all other sections of the ordinance unless specifically exempted in the granting ordinance.

20.4 Conceptual and Development Plan

In establishing a Planned Development District, the City Council shall approve and file as part of the amending ordinance appropriate plans and standard for each Planned Development District. During the review and public hearing process, the City Council shall require a conceptual plan and a development plan (or detail site plan).

20.4.1 Conceptual Plan

This plan shall be submitted by the applicant. The plan shall show the applicant's intent for the use of the land within the proposed Planned Development District in a graphic manner and shall be supported by written documentation of proposals and standards for development.

20.4.1.1 A conceptual plan for residential land use shall show general use, thoroughfares, and preliminary lot arrangements. For residential development which does not propose platted lots, the conceptual plan shall set forth the size, type, and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, and other pertinent development data.

20.4.1.2 A conceptual plan for uses other than residential uses shall set forth the land use proposals in a manner to adequately illustrate the type and nature of the proposed development. Data which may be submitted by the applicant, or required by the City Council, may include but is not limited to the types of use(s), topography, and boundary of the PD area, physical features of the site, existing streets, alleys, and easements, location of future public facilities, building heights and locations, parking ratios, and other information to adequately describe the proposed development and to provide data for approval which is to be used in drafting the final development plan.

20.4.1.3 Changes of detail which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, building height, or coverage of the site and which do not decrease the off-street parking ratio, reduce the yards provided at the boundary of the site, or significantly alter the landscape plans as indicated on the approved conceptual plan may be authorized by the building official or his designated representative. If an agreement cannot be reached regarding whether or not a detail site plan conforms to the original concept plan, the City Council shall determine the conformity.

20.4.2 Development Plan or Detailed Site Plan

This plan shall set forth the final plans for development of the Planned Development District and shall conform to the data presented and approved on the conceptual plan. Approval of the development plan shall be the basis for issuance of a building permit. The development plan may be submitted for the total area of the PD or for any section by the City Council. A public

hearing on approval of the development plan shall be required at the Council level, unless such a hearing is waived pursuant to Section 20.4.3.1. at the time of conceptual plan approval in the original amending ordinance. The development plan shall include:

20.4.2.1 A site inventory analysis including a scale drawing existing vegetation, natural water courses, creeks or bodies of water, and an analysis of planned changes in such natural features as a result of the development. This should include a delineation of any flood prone areas.

20.4.2.2 A scale drawing showing any proposed public or private streets and alleys; building sites or lots; and areas reserved as parks, parkways, playgrounds, utility easements, school sites, street widening and street changes; the points of ingress and egress from existing streets; general location and description of existing and proposed utility services, including size of water and sewer mains; the location and width for al curb cuts and the land area of all abutting sites and the zoning classification thereof on an accurate survey of the tract with the topographical contour interval of not more than five (5) feet.

20.4.2.3 A site plan for proposed building complexes showing the location of separate buildings, and between buildings and property lines, street lines, and alley lines. Also to be included on the site plan is a plan showing the arrangement and provision of off-street parking.

20.4.2.4 A landscape plan showing screening walls, ornamental planting, wooded areas, and trees to be planted.

20.4.2.5 An architectural plan showing elevations and signage style to be used throughout the development in all districts except single family and two family may be required by the City Council if deemed appropriate. Any or all of the required information may be incorporated on a single drawing if such drawing is clear and can be evaluated by the building official or his designated representative.

20.4.3. Procedure for Establishment

The procedure for establishing a Planned Development District shall follow the procedure for zoning amendments as set forth in Section 36. This procedure is expanded as follows for approval of conceptual and development plans.

20.4.3.1 Separate public hearings shall be held by City Council for the approval of the conceptual plan and the development plan or any

section of the development plan, unless such requirements is waived by the City Council upon a determination that a single public hearing is adequate. A single public hearing is adequate when:

(a) The applicant submits adequate data with the request for the Planned Development District to fulfill the requirements for both plans; or

(b) Information on the concept plan is sufficient to determine the appropriate use of the land and the detail site plan will not deviate substantially from it; and

(c) The requirement is waived at the time the amending ordinance is approved. If the requirement is waived, the conditions shall be specifically stated in the amending ordinance.

20.4.3.2 The ordinance establishing the Planned Development District shall not be approved until the conceptual plan is approved.

20.4.3.3 The development plan may be approved in sections. When the plan is approved in sections, the separate approvals by the City Council for the initial and subsequent sections will be required.

20.4.3.4 An initial development plan shall be submitted for approval within six (6) months from the approval of the conceptual plan or some portion of the conceptual plan. If the development plan is not submitted within six (6) months, the conceptual plan is subject to reapproval by the City Council. If the entire project is not completed within two (2) years, the City Council may review the original conceptual plan to ensure its continued validity.

20.4.3.5 Regardless of whether the pubic hearing is waived for the development plan, approval by the City Council is still required.

20.5 Written Report May Be Required

When a PD is being considered, a written report may be requested of the applicant discussing the impact on planning, engineering, water utilities, electric, sanitation, building inspection, tax, police, fire, and traffic. Written comments from the applicable public school district and from private utilities may be submitted to the City Council.

20.6 Planned Developments To Be Recorded

All Planned Development Districts approved in accordance with the provisions of this ordinance in its original form, or by subsequent amendment thereto, shall be referenced

on the Zoning District Map, and a list of such Planned Development Districts, together with the category of uses permitted therein, shall be maintained in an appendix of this ordinance.

SECTION 21 FP -- FLOOD PLAIN DISTRICT

21.1 General Purpose and Description

The Flood Plain District is designed to provide for the appropriate use of land which has a history of inundation or is determined to be subject to flood hazard, and to promote the general welfare and provide protection from flooding portions of certain districts. Such areas are designated with a Flood Plain Prefix, FP.

21.2 Permitted Uses

The permitted uses in that portion of any district having a Flood Plain (FP) prefix shall be limited to the following:

21.2.1 Agricultural activities including the ordinary cultivation or grazing of land and legal types of animal husbandry but excluding construction of barns or other outbuildings.

21.2.2 Off-street parking incidental to any adjacent main use permitted in the district.

21.2.3 Electrical substation.

21.2.4 All types of local utilities including those requiring specific use permits.

21.2.5 Parks, playgrounds, public golf courses (no structures), and other recreational areas.

21.2.6 Private open space as part of a Planned Residential Development.

21.2.7 Structures, installations, and facilities installed, operated, and maintained by public agencies for flood control purposes.

21.2.8 Bridle trail, bicycle, or nature trial.

21.3 City Council Approval Required

No structure shall be erected in that portion of any district designated with a Flood Plain, FP, prefix until and unless such structure has been approved by the City Council after engineering studies have been made and it is ascertained that such building or structure is not subject to damage by flooding and would not constitute an encroachment, hazard, or obstacle to the movement of flood waters and that such construction would not endanger the value and safety of other property or public health and welfare.

SECTION 22 USE OF LAND AND BUILDINGS

No land shall hereafter be used and no building or structure shall hereafter be occupied, used, erected, altered, removed, placed, demolished or converted which is arranged or designed to be used for other than those uses specified for the district in which it is located as set forth by the following Schedule of Uses listed in the following tables.

LEGEND FOR INTERPRETING SCHEDULE OF USES

X	Designates use *permitted* in district indicated.
	Designates use *prohibited* in district indicated.
S	Designates use which may be approved as *Specific Use Permit*

The numbers in the "note" column refer to description/definitions listed in Section 23 Descriptions/Definitions of Uses. Additional regulations relating to use of land and buildings in individual zoning districts are listed in Sections 8 through 21 and Section 27 of this ordinance.

SECTION 23 DESCRIPTIONS/DEFINITIONS OF USES

23.1 Residential Uses

23.1.1 Boarding or Rooming House: A building, other than hotel or multiple family dwelling, where lodging is provided to persons for compensation, and where facilities for food preparation are not provided in individual rooms. Facilities usually referred to as "bed and breakfast" arrangements are included in this definition.

23.1.2 Dormitory: A building in which housing is provided for individual students under the general supervision or regulation of an accredited college or university and as distinguished from an apartment, hotel, motel, or rooming house. A dormitory may provide apartment units for guests, faculty, or supervisory personnel on a ratio not to exceed one (1) such apartment unit for each fifty (50) students for which the building is designed. Individual rooms or suites of rooms may have cooking facilities. The dormitory may include facilities such as a commissary and/or snack bar, lounge, and study area, dining halls, and accessory kitchen, recreation facilities, and laundry, provided that these facilities are for the benefit and use of the occupants and their guests and not open to the general public.

23.1.3 Duplex. See Two Family Dwelling, Sec. 23.1.20.

23.1.4 Garden (Patio) Home: A free-standing, detached structure used for residential purposes, built in accordance with standards set out in Section 24.5.

23.1.5 Guest House: Living quarters within a detached accessory building located on the same premises with the main building, for use by temporary guests of the occupants of the premises, such quarters having kitchen facilities and not rented or otherwise used as a separate dwelling.

23.1.6 Manufactured Housing, HUD Code: 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 (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. All references in this ordinance to manufactured housing or manufactured home(s) shall be references to HUD Code Manufactured Housing, unless otherwise specified.

23.1.7 Manufactured Home Park: Any tract of land under single ownership of not less than three (3) acres and not more than ten (10) acres approved for occupancy by manufactured housing and accessory structures related thereto and designed and operated in accordance with standards herein set forth or as set forth in any

other ordinance of the City of Center relating to the location, use, construction, operation, or maintenance of manufactured housing.

23.1.8 Manufactured Home Subdivision: A tract of land of not less than three (3) acres which has been final platted of record in its entirety in accordance with the subdivision regulations of the City for occupancy primarily by HUD-Code manufactured housing and industrialized housing.

23.1.9 Mobile Home: A structure constructed before June 15 1976, transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

23.1.10 Motel, Motor Hotel, or Motor Lodge: A building or group of buildings designed for and occupied as a temporary dwelling place, providing four (4) or more room units for compensation. A motel, motor hotel, or motor lodge may include restaurants, club rooms, banquet halls, ballrooms and meeting rooms as accessory uses.

23.1.11 Multiple Family Residence. Any building or portion thereof which is designed, built, rented, leased, or let to be occupied as three (3) or more dwelling units or apartments or which is occupied as a home or place of residence by three (3) or more families living in independent dwelling units.

23.1.12 Residence Hotel. A multi-dwelling unit extended stay lodging facility consisting of efficiency units or suites with a complete kitchen suitable for long term occupancy. Customary hotel services such as linen, maid service, telephone, and upkeep of furniture shall be provided. Meeting room, club house and recreational facilities intended for the use of residents and their guests are permitted. This definition shall not include other dwelling units as defined in this ordinance.

23.1.13 Retirement Housing: A development providing dwelling units specifically designed for the needs of ambulatory or retired persons. The following subsidiary uses shall be permitted to provide on-site goods and services for residents and their guests, but are not intended for use by the general public:

a) cafeteria and/or dining room
b) library
c) game room
d) swimming pool and/or Jacuzzi
e) exercise room
f) arts and crafts facilities
g) greenhouse
h) housekeeping service

i) transportation service
j) snack bar with a maximum of 350 square feet per 100 dwelling units
k) beauty/barber shop with a maximum of 250 square feet per 100 dwelling units or a maximum of 450 square feet per 100 dwelling units
l) convenience retail shop with maximum of 350 square feet per 100 dwelling units to provide for sale of food items, non-prescription drugs, small household items, and gifts.

23.1.14 Servant's, Caretaker's, or Guards' Residence: An accessory building or portion of an accessory building located on the same lot or grounds with the main building, containing not more than one kitchen and at least one bathroom facility and used as living quarters for a person or person employed on the premises for not less than fifty percent (50%) of his/her actual working time, and not otherwise used or designed as a separate place of abode, provided the living area of such quarters shall not exceed six hundred (600) square feet.

23.1.15 Single Family Dwelling Attached: A dwelling that is part of a structure containing at least two (2) but not more than four (4) dwellings, each designed and constructed for occupancy by one family, with each dwelling unit attached by a common wall to another with a minimum width of each unit of twenty (20) feet, in which each dwelling is located on a separate platted lot.

23.1.16 Single Family Dwelling, Detached: A detached building designed exclusively for occupancy by one (1) family, excluding manufactured housing and modular homes.

23.1.17 Townhouse or Row Dwelling: One of a series of not less than three (3) nor more than ten (10) attached one (1) family dwellings under common roof with common exterior wall, and separated from one another by single partition walls without openings from basement to roof. No townhouse dwelling unit is to be constructed above another townhouse dwelling unit and each dwelling is located on a separate platted lot.

23.1.18 Reserved for future use.

23.1.19 Travel Trailer Park: Any tract of land under single ownership, two (2) acres or more, where accommodations are provided for travel trailer use.

23.1.20 Two Family Dwelling: A building designed for occupancy by two (2) individuals or families living independently of each other within separate units which have a common wall and are under one (1) roof.

23.1.21 Zero Lot Line House: A residence allowed to have little or no side yard on one side, where the wall on that side has no doors, windows, or other openings and

which otherwise qualifies for a one-hour fire rating as defined in the building code.

23.2 Educational, Institutional, and Special Uses

23.2.1 Child Care Center: An establishment where four (4) or more children are provided care, training, education, custody, treatment, or supervision for less than 24 hours a day. The term "day care center" shall not include overnight lodging, medical treatment, counseling, or rehabilitative services and does not apply to any school (Also see Registered Family Home). All child care centers are required to be licensed by the State of Texas.

23.2.2 Church, Rectory, or Place of Worship: A building for regular assembly for religious worship which is used primarily for such purpose and customary accessory activities including a place of residence for ministers, priests, rabbis, teachers, or directors on the premises.

23.2.3 Civic Center: A building or complex of buildings that houses municipal offices and services and which may include cultural, convention and/or entertainment facilities owned and/or operated by a governmental agency.

23.2.4 College or University. An institution established for educational purposes offering courses of study beyond the secondary education level, but excluding trade and commercial schools.

23.2.5 Community Center, Public: A building or buildings dedicated to social and/or recreational activities, serving the city or a neighborhood and owned and operated by the city or by a non-profit organization dedicated to promoting the education, health, safety, morals, or general welfare of the city.

23.2.6 Community Center, Private: A building or buildings dedicated to social and/or recreational activities serving residents of a subdivision or development which is operated by an association or incorporated group for their use and benefit.

23.2.7 Continuing Care Facility: A place as defined in the Texas Continuing Care Facility Disclosure and Rehabilitation Act in which a person provides board and lodging, together with personal care services and nursing services, medical services, or other health-related services, regardless of whether the services and lodging are provided at the same location, under an agreement that requires the payment of a fee and that is effective for the life of the individual or for a period of more than one (1) year, such individual or individuals being cared for not being related by consanguinity or affinity to the person providing the care. (Also see Household Care Facility and Household Care Institution, and Personal Care Home).

23.2.8 Country Club (Private): Land and buildings customarily containing a golf course and a clubhouse and available only to specific private membership; such a club may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts, and similar recreational or service facilities.

23.2.9 Reserved for future use.

23.2.10 Exhibition Area: An area or space either outside or within a building for the display of topic-specific goods or information.

23.2.11. Fairgrounds: An area where outdoor fairs, circuses or exhibitions are held.

23.2.12. Family Home: A community-based residential home operated by either the State of Texas, a non-profit corporation, a community center organized pursuant to State statute, or an entity which is certified by the State as a provider for a program for the mentally retarded. Family homes provide care for persons who have mental and/or physical impairments that substantially limit one or more major life activities. To qualify as a family home, a home must meet the following requirements:

a. Not more than six (6) disabled persons and two (2) supervisory personnel may reside in a family home at the same time.

b. The home must provide food and shelter, personal guidance, care, rehabilitation services, or supervision.

c. All applicable licensing requirements must be met.

23.2.13 Farm, Ranch, or Orchard: An area of five (5) acres or more which is used for growing of usual farm products and/or raising of usual farm products and animals and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance of law. Farm, ranch, or orchard use shall not cause a hazard to health by reason of unsanitary conditions and shall not be offensive by reason of odors, dust, fumes, noise, or vibrations or be otherwise detrimental to the public welfare.

23.2.14 Fraternal Organization, Lodge, or Civic Club: An organized group having a restricted membership and specific purpose related to the welfare of the members.

23.2.15 Golf Course: An area of twenty (20) acres or more improved with trees, greens, fairways, hazards and which may include clubhouses.

23.2.16 Greenhouse or Plant Nursery, Commercial: A place, often including artificially heated and/or cooled buildings, where trees or plants are raised and/or sold including relate storage of equipment for landscape contracting.

23.2.17 Greenhouse, Non-Commercial: A building, often artificially heated and/or cooled, used as a location for cultivating plants which are used by the grower and not

sold as a commercial activity.

23.2.18 Hospital (Chronic and Acute Care); Long Term Health Care Facility: An institution providing both in-patient health, personal care, or rehabilitative services over a long period of time to persons chronically ill, aged, or disabled due to injury and disease or to injured patients who need medical or surgical treatment intended to restore them to health and an active life and which is licensed by the State of Texas.

23.2.19 Transitional Care Facility: A dwelling unit which provides residence and care to not more than nine (9) persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster, or financial adversity; living together with no more than two supervisory personnel as a single housekeeping unit. (See also Household Care Facility, Personal Care Home and Continuing Care Facility.

23.2.20 Kennel: Any lot or premises on which four (4) or more dogs, cats or other domestic animals more than four (4) months of age are housed or accepted for boarding, breeding, training, selling, grooming and/or bathing.

23.2.21 Library: Any institution for the loan or display of books, tapes, objects of art or science which is sponsored by a public or responsible quasi-public agency and which institution is open and available to the general public.

23.2.22 Museum or Art Gallery: An institution for the collection, display and distribution of objects of art or science and which is sponsored by a public or quasi-public agency and which facility is open to the general public.

23.2.23 Nursery School; Kindergarten: A child care facility offering a program for children who have passed their second birthday but who are under seven years old.

23.2.24 Nursing Home: See Rest Home or Nursing Home.

23.2.25 Park, Playground, or Recreation Center (Public): An open recreation facility or park owned and operated by a public agency and available to the general public.

23.2.26 Park, Playground, or Recreation Center (Private): A privately owned park, playground, open space or building dedicated to recreational activities, maintained by a community club, property owner's association, or similar organization.

23.2.27 Personal Care Home (Custodial Care): An owner-occupied, home-operated non-licensed facility for the elderly providing custodial care to not more than three (3) individuals not related to the provider of such care. Custodial care is that care

which assists elderly persons who are incapable because of physical or mental limitations of performing routine daily activities and which do not require the continuing attention of trained medical or paramedical personnel. (Also see Continuing Care Facility).

23.2.28 Reserved for future use.

23.2.29 Race Track: A facility used for the racing of motor-driven vehicles and/or animals.

23.2.30 Registered Family Home: A licensed child care facility that regularly provides care in the caretaker's own residence for not more than six (6) children under 14 years of age, excluding the caretaker's own children , and that provides care after school hours for not more than six (6) additional elementary school siblings of the other children given care, but the total number of children, including the caretaker's own, does not exceed twelve (12) at any given time. (Also see Child Care Center).

23.2.31 Rehabilitation Care Facility: A dwelling unit which provides residence and care to not more than four (4) persons, regardless of legal relationship, who have demonstrated a tendency towards alcoholism, drug abuse, mental illness or antisocial or criminal conduct living together with not more than two supervisory personnel as a single housekeeping unit.

23.2.32 Rehabilitation Care Institution: A facility which provides residence and care to five (5) or more persons, regardless of legal relationship , who have demonstrated a tendency towards alcoholism, drug abuse, mental illness or antisocial or criminal conduct together with supervisory personnel.

23.2.33 Rest Home or Nursing Home: A place of residence or care for persons suffering from infirmities of age or illness where care is provided on a prolonged or permanent basis. This term shall include a convalescent home.

23.2.34 School, Private (Primary or Secondary): An institution of learning having a curriculum equivalent to public schools but not including specialty schools such as dancing, music, beauty, mechanical, trade, or commercial schools.

23.2.35 School, Public (Primary or Secondary): An institution under the sponsorship of a public agency which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of Texas but not including specialty schools such as dancing, music, beauty, mechanical, trade, or commercial schools.

23.2.36 School, Trade or Commercial: Establishments, other than public or parochial schools, private primary and secondary schools or colleges, offering training or instruction on a trade, art, or occupation.

23.2.37a Stable, Commercial: A structure housing horses which are boarded or rented to the public or any stable other than a private stable, but not including a sale barn, auction or similar trading activity.

23.2.37b Stable, Private: An accessory building set back from adjacent property lines a minimum distance of one hundred (100) feet and used for quartering horses, not to exceed one (1) horse per one acre area of a farm or lot.

23.2.38 Stadium or Play field, Public: An athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course, football field or stadium which may be lighted for nighttime play.

23.2.39 Swimming Pool, Commercial: A swimming pool with accessory facilities, part of the facilities are available to the general public for a fee.

23.3 Transportation, Utility and Communications Uses

23.3.1 Airport, Landing Field: A place where an aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers and/or freight.

23.3.2 Electrical Substation: A subsidiary station in which electric current is transformed.

23.3.3 Gas Metering Station: Facility at which natural gas flows are regulated and recorded.

23.3.4 Heliport or Helistop: A landing facility for rotary wind aircraft which may include fueling or servicing facilities for such craft.

23.3.5 Radio, Television, or Microwave Communications Operators, Amateur: The transmission, retransmission, or reception of radio, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business and/or financial gain.

23.3.6 Radio, Television, or Microwave Communications Operations, Commercial: The transmission, retransmission, or reception of radio, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or financial gain.

23.3.7 Railroad Station: Any premises for the transient parking of trains and the loading and unloading of passengers.

23.3.8 Railroad Team Track and Right-Of-Way: A facility/place for the loading and unloading of materials on trains.

23.3.9 Railroad Track and Right-Of-Way: Includes track and undeveloped right-of-way, but does not include railroad stations, sidings, team tracks, loading facilities, dock yards, or maintenance areas.

23.3.10 Service Yard of Governmental Agency: An area for the servicing and storage of vehicles or other property of a governmental agency.

23.3.11 Shops, Office, and/or Storage Area of Public or Private Utility: The pole yard, maintenance yard, and/or administrative offices of a municipality or franchised utility.

23.3.12 Solid Waste Transfer Station: A facility and/or premises at which solid waste is temporarily deposited prior to ultimate removal to a permanent solid waste storage site.

23.3.13 Telephone Exchange: A switching or transmitting station owned by a public utility but not including business offices, storage, or repair shops or yards.

23.4 Automobile and Related Service Uses

23.4.1 Auto Laundry: See Car Wash.

23.4.2 Auto Leasing: Storage and leasing of automobiles, motorcycles, and light load vehicles.

23.4.3 Auto Parts Sales (Inside): The use of any building or other premise for the display and sale of new or used parts for automobiles, panel trucks, vans, tractor trailers, or recreational vehicles.

23.4.4 Auto Parts Sales (Outside): The use of any land area for the display and sale of new or used parts for automobiles, panel trucks, vans, tractor trailers, or recreation vehicles.

23.4.5 Automobile Repair, Major: General repair or reconditioning of engines and air-conditioning systems for motor vehicles; wrecker service; collision services including body, frame or fender straightening or repair; customizing; overall painting or paint shop; vehicle steam cleaning; those uses listed under "automobile repair, minor", and other similar uses.

23.4.6 Automobile Repair, Minor: Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; automobile washing and polishing;

performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems, and other similar minor services for light load vehicles, but not including any operation named under "automobile repair, major" or any other similar use.

23.4.7 Automobile and Trailer Sales, New: Building(s) and associated open area other than a street or required automobile parking space used for the display or sale of primarily new automobiles, light trucks, and trailers, to be displayed and sold on premises, and where no repair work is done except minor reconditioning of the automobiles and trailers to be displayed and sold on the premises, and no dismantling of automobiles or trailers for sale or keeping of used automobile and trailer parts or junk on the premises.

23.4.8 Automobile and Trailer Sales, Used: Building(s) and associated open area other than a street or required automobile parking space used for the display and sale of used automobiles, light trucks, or trailers in operating condition and where no repair work is done except the minor adjustments of the vehicles to be displayed or sold on the premises. A used car sale area shall not be used for the storage of wrecked automobiles or the dismantling of automobiles or the storage of automobile parts or junk on the premises.

23.4.9 Automobile Service Station: A building or place arranged, designed, used, or intended to be used for the primary purpose of dispensing gasoline, oil, diesel fuel, liquefied petroleum gases, greases, batteries, and other automobile accessories at retail direct to the on-premise motor vehicle trade provided that the above services shall not be construed to include major overhaul, the removal and/or rebuilding of an engine, cylinder head, oil pan, transmission, differential, radiator springs, or axles; steam cleaning, body or frame work, painting, upholstering and replacement of glass. If the dispensing or offering for sale of auto fuel at retail is incidental, the premises shall be classified as a public garage. Service stations shall not allow automobiles which are inoperative or are being repaired to remain outside such service station for a period greater than seven (7) days.

23.4.10 Auto Storage: The storage on a lot or tract of operable automobiles for the purpose of holding such vehicles for sale, distribution, or storage.

23.4.11 Automobile Wrecking Yard or Junk Yard: Any building, structure, or open area used for the dismantling or wrecking of any type of used vehicles or the storage, sale, or dumping of dismounted or wrecked vehicles or their parts and accessories, including any farm vehicles or farm machinery or parts thereof, stored in the open and not being restored to operating condition, including the commercial salvaging, storage, and scraping of any other goods, articles, or merchandise.

23.4.12 Bus Terminal: Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.

23.4.13 Car Wash: Facility or structure used to wash motorcycles, automobiles, vehicles and trucks.

23.4.14 Parking Lot or Parking Garage, Automobile: Area for parking light load vehicles.

23.4.15 Parking Lot or Parking Garage, Truck: Area for parking heavy load vehicles.

23.4.16 Quick Oil Change Facility: A business engaging in the changing of oil, oil filters, and the chassis lubrication of motor vehicles. All new oil shall be dispensed from cans or drums and all old/used oil shall be kept in sumps until removed by pumper trucks.

23.4.17 Quick Tune-up Facility: A business engaging in engine adjustment and minor part replacement for motor vehicles, limited to spark plugs, condensers, spark plug wires, distributor caps, distributor points, PVC valves, air cleaners, fan belts and radiator hoses. Such a facility shall not repair or replace carburetors, starters, alternators, generators, radiators, water pumps, or other major engine parts, brake shoes, or mufflers.

23.4.18 Truck and Bus Leasing: The rental of new or used panel trucks, vans, trailers, recreational vehicles, or motor-driven buses in operable condition and where no repair work is done.

23.4.19 Truck and Bus Repair: An establishment providing major and minor automobile repair services to heavy load vehicles.

23.4.20 Truck or Motor Freight Terminal: A building or area in which freight brought by motor truck is assembled and/or stored for shipping by motor truck.

23.4.21 Truck Sales: Building(s) and associated open area other than a street or required automobile parking space used for the display or sale of primarily new heavy load vehicles, to be displayed and sold on premises, and where no repair work is done except minor reconditioning of the vehicles to be displayed and sold on the premises, and no dismantling of vehicles for sale or keeping of used vehicle parts or junk on the premises.

23.5 Retail and Service Type Uses

23.5.1 Air Conditioning and Refrigeration Contractor: A place from which a person performs design, installation, construction, maintenance, service, repair, alteration or modification of a product or of equipment in environmental air conditioning, commercial refrigeration, or process cooling or heating systems, under terms and conditions described in the Texas Air Conditioning and Refrigeration Contractor License Law, Vernon's Ann.Civ.St.,art. 8861.

23.5.2a Amusement, Commercial (Indoor): An establishment providing for activities, services and instruction for the entertainment, exercise and improvement of fitness and health of customers, clients or members but not including hospitals, clinics, massage parlors or arcades. Uses would typically include bowling alleys, ice or roller skating rinks, racquetball and handball courts, indoor tennis courts, weight lifting and nautilus facilities, exercise areas, swimming pools and spas, bingo parlors, martial arts, classrooms and/or practice areas, gymnasiums and indoor running or jogging tracks.

23.5.2b Amusement, Commercial (Outdoor): An outdoor area or structure, open to the public, which provides entertainment or amusement for a fee or admission charge, including but not limited to batting cages, miniature golf, go-kart tracks and carnivals.

23.5.3 Antique Shop: A retail establishment engaged in the selling of works of art, furniture or other artifacts of an earlier period, with all sale and storage occurring inside a building.

23.5.4 Arcade: An establishment in which there are located six (6) or more coin operated skill or pleasure machines.

23.5.5a Bakery and Confectionery, Retail Sales: A place for preparing, cooking, baking and selling of products on the premises.

23.5.5b Bakery and Confectionery, Commercial: A place for preparing, cooking or baking of products primarily intended for off-premise distribution.

23.5.6 Bank, Savings and Loan, Credit Union: An establishment for the custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds.

23.5.7a Barber Shop: A place where barbering, as defined in Texas Barber Act, Vernon's Annotated Civil Statutes (Vernon's Ann.Civ.St.), art. 8407, is practiced, offered, or attempted to be practiced, except when such place is duly licensed as a barber school or college.

23.5.7b Barber School or College: A place of training for practice of barbering, as defined in Texas Barber Act, Vernon's Ann.Civ.St., art. 8407, meeting standards established in Section 9 of said Texas Barber Act.

23.5.7c Beauty Culture School; Cosmetology Specialty Shop: A specialized place of training, as defined in the Cosmetology Regulatory Act, Vernon's Ann.Civ.St., art. 8451.

23.5.7d Beauty Shop: A place where cosmetology, as defined in the Cosmetology Regulatory Act, Vernon's Ann.Civ.St., art. 8451, is practiced.

23.5.8 Building Materials, Hardware Sales: The sale of new building materials and supplied indoors with related sales for hardware, carpet, plants, electrical and plumbing supplies all of which are oriented to the retail customer, rather than contractor or wholesale customer.

23.5.9 Business Service. Establishments primarily engaged in providing services not elsewhere classified to business enterprises on a fee contract basis including but not limited to advertising agencies, computer programming and software services, and office equipment rental or leasing.

23.5.10 Cabinet and Upholstering Shop: An establishment used for the production, display and sale of furniture and soft coverings for furniture.

23.5.11 Cleaning and Dyeing, Small Plant or Shop: A custom cleaning shop not exceeding five thousand (5,000) square feet of floor area or a pickup station. (Also see Cleaning and Dyeing; Dry Cleaning Plant).

23.5.12 Clinic, Medical or Dental: A facility or station designed and used for the examination and treatment of persons seeking medical care as outpatients who do not remain on the premises overnight.

23.5.13 Convenience Store: A retail establishment providing for the sale of food items, non-prescription drugs, small household items, and gifts. Gasoline and diesel fuel may be offered for sale provided they are not the primary source of income for the store and that no more than six (6) pumps are offered. Maximum size of the establishment will be no more than 2,500 square feet not including storage areas and administrative offices.

23.5.14 Custom Personal Service Shop: Includes such uses as tailor, shoe repair, barber/beauty shop, health studio, or travel consultant.

23.5.15 Discount, Variety, or Department Store: A retail store offering a wide variety of merchandise in departments and exceeding 7,000 square feet of floor area.

23.5.16 Feed and Farm Supply Store: An establishment for the selling of food stuffs for animals and including implements and goods related to agricultural processes but not including farm machinery.

23.5.17 Flea Market: A site where space inside or outside a building is rented to vendors on a short-term basis for the sale of merchandise. The principal sales shall include new and used household goods personal effects, tools, art work, small household appliances, and similar merchandise, objects or equipment in small quantities. The term flea market shall not be deemed to include wholesale sales establishments or rental services establishments, but shall be deemed to include personal services establishments, food services establishments, retail sales establishments, and auction establishments.

23.5.18 Florist: An establishment displaying plants, flowers, floral supplies, and similar items.

23.5.19 Food Store, Grocery Store: An establishment that displays and sells consumable goods that are not to be eaten on the premises.

23.5.20 Furniture, Appliance Store: Retail stores selling goods used for furnishing the home, including but not limited to furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators and other household electrical and gas appliances.

23.5.21 Garden Center (Retail Sales): Location including land and buildings at which plants, trees, shrubs, horticultural supplies, and similar items are displayed for sale to the general public. All such displays shall be located behind the front yard line established in the district in which the garden center is located.

23.5.22 General Merchandise Store: Retail stores which sell a number of lines of merchandise including but not limited to dry goods apparel and accessories, furniture and home furnishings, small wares, hardware, and food. The stores included in this group are known as department stores, variety stores, general stores, and other similar stores.

23.5.23 Household Appliance Service and Repair: The maintenance and rehabilitation of appliances customarily used in the home including but not limited to washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and rangers, kitchen appliances, vacuum cleaners, and hair dryers.

23.5.24 Laboratory, Scientific or Research: Facilities for research including laboratories, experimental equipment, and operations involving compounding or testing of materials or equipment.

23.5.25 Laundry and Cleaning Self-Service: An establishment including facilities for laundering and cleaning of clothing and similar items to be operated by the patron; not a commercial laundry or cleaning plant.

23.5.26a Metal Dealer, Secondhand: A place of business in which a person purchases, gathers, collects, solicits, or procures scrap metal or where scrap metal is gathered together or kept for shipment, sale, or transfer, under terms and conditions found in Vernon's Ann.Civ.St., art.9009. (Also see Junk or Salvage Yard.)

23.5.26b Metal Dealer, Crafted Precious: A place of business in which a person engages in the business of purchasing and selling crafted precious metals, including jewelry, silverware, art objects, or any other thing or object made in whole or in part from gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium, or heir alloys, including coins and commemorative medallions, under terms and conditions found in Vernon's Ann.Civ.St.,art.990a.

23.5.27 Reserved for future use.

23.5.28 Office Center. A building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper, or candy stand.

23.5.29 Office, Professional or General Administrative: A room or group of rooms used for the provision of executive management, or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations, and association but excluding medical offices.

23.5.30 Office - Showroom/Warehouse: An establishment with a minimum of seventy-five percent (75%) of its total floor area devoted to storage and warehousing not accessible to the public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

23.5.31 Pawn Shop: An establishment where money is loaned on the security of personal property pledged in the keeping of the owner (pawnbroker).

23.5.32 Personal Service Shop: An establishment primarily engaged in providing services generally involving the area of the person or his apparel including but not limited to barber and beauty shops, dry cleaning and laundry pick-up stations and reducing salons/health clubs.

23.5.33 Pet Shop or Animal Salon: A retail establishment offering small animals, fish, or

birds for sale as pets and where all such creatures are housed within the building.

23.5.34 Plumbing, Heating, Refrigeration, or Air-Conditioning Business: An establishment primarily engaged in the sales, service, or installation of equipment pertaining to plumbing, heating, refrigeration, or air conditioning. (Also see Air Conditioning and Refrigeration Contractor).

23.5.35 Plumbing Service: The operation of a business which involves only retail sales and off-premises service, installation, and repair of units and fixtures. The premises shall not include a workshop for repair or fabrication of parts, fixtures, or units. Sheet metal work of any type shall not be permitted. Storage shall be permitted for units and supplies incidental to retail sales, off-premises service and repair only. No outside storage shall be permitted. This section shall not be interpreted to allow a plumbing, heating, refrigeration, or air conditioning contractor or similar type wholesale operation.

23.5.36 Portable Building Sales: An establishment which displays and sells structures which are capable of being carried and transported to another location, not including mobile homes or manufactured housing.

23.5.37 Post Office, Government or Private: Local branch of the United States Postal Service or private commercial venture engaged in the distribution of mail and incidental services.

23.5.38 Print Shop: An establishment which reproduces printed or photographic impressions including but not limited to the process of composition, binding, plate making, microform, type casting, press work, and printmaking.

23.5.39 Racquetball Facilities: Courts housed in an acoustically-treated building and designed for one (1) to four (4) persons to play racquetball, plus subsidiary uses to include office, pro shops, locker rooms, sauna, exercise rooms, waiting area, child nursery, and related uses up to a maximum of forty percent (40%) of the total floor area.

23.5.40 Retail – Alcohol Sales: An establishment offering any types of alcohol as the primary inventory for purchase and requiring consumption off premises, but not including convenience stores or grocery stores for which the sale of alcohol is only a portion of the entire consumer goods offered. These establishments shall also abide by all other laws of the State of Texas and City of Center regulating permitting and location regulations.
(Ord. No. 2007-16, § 4, 10-22-2007)

23.5.41 Retail Stores and Shops: Establishments offering all types of consumer goods for sale, not elsewhere classified, but excluding the display and sale in the open outside a building of new or used automobiles, heavy machinery, building

materials, used appliances, furniture, or salvage materials.

23.5.42 Second Hand Store, Furniture or Clothing: An establishment offering for sale used merchandise, with the storage and display of such items wholly contained inside a building or structure.

23.5.43 Service, Retail: An establishment engaged in the selling and/or servicing of goods where a minimum of eighty percent (80%) of the floor area is devoted to service, repair or fabrication of such goods. The service area must not be accessible to the general public. Automotive uses and rental stores are specifically excluded.

23.5.44 Shopping Center: A group of primarily retail and service commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

23.5.45 Theater (Outdoor): An open lot with its appurtenant facilities devoted primarily to the showing of motion picture or theatrical productions on a paid admission basis to patrons seated in automobiles.

23.5.46 Trailer, Manufactured Housing, or Mobile Home Display and Sales: The offering for sale, storage, or display of trailers, manufactured housing, or mobile homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

23.5.47 Trailer Rental: The display and offering for rent of trailers designed to be towed by passenger cars or other prime movers.

23.5.48 Washateria: A building or place where clothes and linens are washed and thoroughly dried by the use of not exceeding three (3) employees and four (4) automatic single family machines and where the operation of washing and/or drying and/or mangle machines is done exclusively by the customer on a self-service basis, and where the fuel and power for the heating of water and drying shall be smokeless and odorless. (See Laundry and Cleaning, Self-Service).

23.6 Manufacturing, Storage, and Warehousing Uses

23.6.1 Bottling Works: A manufacturing facility designed to place a product into a bottle for distribution.

23.6.2 Cleaning and Dyeing: Dry Cleaning Plant: An industrial facility where fabrics are cleaned and substantially non-aqueous organic solvents. (Also see Cleaning and Dyeing, Small Plant or Shop, Section 23.5.11).

23.6.3 General Commercial Plant: An establishment other than a personal service shop for the treatment and/or processing of products as a service on a for-profit basis including but not limited to newspaper printing, laundry plant, or cleaning and dyeing plant.

23.6.4 General Manufacturing: Manufacturing of finished products and component products or parts from the transformation, treatment, or processing of materials or substances, including basic industrial processing. Such operations must meet the performance standards, bulk controls, and other requirements in this ordinance.

23.6.5 Industrial Park: A large tract of land that has been planned, developed, and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

23.6.6 Junk or Salvage Yard: A lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes an automobile wrecking yard and automobile parts yard. A "junk yard" does not include such uses conducted entirely within an enclosed building. (Also see Metal Dealer, Secondhand)

23.6.7 Light Manufacturing: Manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

23.6.8 Self-Storage, Mini-Warehouse: A facility used for storage of goods and/or materials with separate access to individual storage units by persons renting the individual units.

23.6.9 Storage or Wholesale Warehouse, Light: A building used primarily for the storage of goods and materials, containing less than 5,000 square feet of floor space.

23.6.10 Storage or Wholesale Warehouse, Heavy: A building used primarily for the storage of goods and materials, containing more than 5,000 square feet of floor space.

23.7 Accessory Uses

23.7.1 Accessory Building or Use: An accessory building or use is one which: (a) is subordinate to and serves a principal building or principal use; and (b) is subordinate in area, extent, or purpose to the principal building or principal use

served; and (c) contributes to the comfort, convenience and necessity of occupants of the principal building or principal use served; and (d) is located on the same building lot as the principal use served.

23.7.2 Carport: A structure open on a minimum of three (3) sides designed or used to shelter vehicles, not to exceed thirty-six (36) feet on its longest dimension.

23.7.3 Construction Yard (Temporary): A storage yard or assembly yard for building materials and equipment directly related to a construction project and subject to removal at completion of construction and subject to same restrictions as Field Office. (Also see Section 24.2).

23.7.4 Field or Sales Office (Temporary): A building or structure, of either permanent or temporary construction, used in connection with a development or construction project for display purposes or for housing temporary supervisory or administrative functions related to development, construction or the sale of real estate properties within the active development or construction project. Permits for "temporary buildings" shall be issued for a period of time not to exceed eighteen (18) months. Extensions may be granted only by the City Council, any such permits granted may be revoked if the City Council finds the use of the building or structure is contrary to the intent of this section or results in increased noise, traffic, or other conditions considered to be a nuisance or hazard (Also see Section 23.7.3. above.)

23.7.5 Customary Home Occupation (Home Based Businesses): An occupation, profession, domestic craft, or economic enterprise which is customarily conducted in a "residential dwelling" as hereinafter defined, subject to compliance with each of the following conditions:

a) "Residential dwelling" shall mean a detached building designed, used and occupied exclusively by members of one (1) family as a residence.

b) Such use shall be and remain incidental and subordinate to the principal use of the residential dwelling as a family residence and the area utilized for such occupation, profession, domestic craft, or economic enterprise shall never exceed twenty-five percent (25%) of the total of the floor area of the residential dwelling.

c) Not more than one (1) non-illuminated sign advertising the home occupation shall be allowed; said sign shall be not more than one (1) square foot in area and shall be mounted on the building in which the home occupation is being conducted.

d) The residential dwelling shall maintain its residential character and shall not be altered or remodeled in order to create any type of exterior

commercial appeal.

e) No exterior storage of material, equipment, and/or supplies used in conjunction with such occupation, profession, domestic craft, or enterprise shall be placed, permitted, or allowed on the premises occupied by the residential dwelling.

f) No offensive noise, vibration, smoke, dust, odors, heat, or glare generated by or associated with the home occupation shall extend beyond the property line of the lot or tract on which the home occupation is being conducted.

g) The occupation, profession, domestic craft, or enterprise shall be conducted wholly within the residential dwelling and no accessory building shall be used in conjunction therewith.

h) The only equipment to be used in such occupation, profession, domestic craft, or enterprise shall be that which is ordinarily used in a private home in a like amount and kind.

i) A home occupation shall not generate such additional traffic as to create a traffic hazard or disturbance to nearby residents.

23.7.6 Garage, Private: A detached accessory building or portion of the main building for the parking or temporary storage of automobiles of the occupants of the premises; if occupied by vehicles of others, it is a storage space.

SECTION 24 SPECIAL USES

24.1 Child Care Centers

24.1.1 No portion of a child care center site may be located within three hundred (300) feet of gasoline pumps or underground gasoline storage tanks, or any other storage area for explosive or highly combustible materials.

24.1.2 Child care centers shall be located adjacent to a street having a pavement width of twenty seven (27) feet or greater.

24.1.3 Site plan approval by the Planning and Zoning Commission shall be required for all child care center sites, whether or not a Specific Use Permit is required.

24.1.4 Child care centers located within any single family or two family residential district shall be required to plat in multiples of the minimum lot width of the district classification requirements. The lot depth shall meet the minimum district requirements and must be platted in a configuration which can be converted into standard lots for residential development.

24.1.5 All child care centers shall comply with the following standards:

24.1.5.1 All vehicular entrances and exits shall be clearly visible from the street.

24.1.5.2 All passenger loading and unloading areas shall be located so as to avoid safety hazards from vehicular traffic and adequate walkways shall be provided. No public rights-of-way shall be used for loading/unloading purposes.

24.1.5.3 Outdoor play areas shall be provided at a rate of 65 square feet per child based on maximum design capacity of the center. This requirement may be waived by the Planning and Zoning Commission if the child care is provided for less than four (4) hours per day for an individual person.

24.1.5.4 In residential districts, a maximum of one-half of the required outdoor play space may be provided off-site. When off-premises outdoor play area is utilized, it must be located within one hundred (100) feet of the child care facility premises and safely accessible without crossing, at-grade, any major or secondary thoroughfare.

24.1.5.5 No child care center shall be part of a one family or two family dwelling.

24.2 Construction Yards, Field Offices, and Other Temporary Buildings.

Temporary permits for construction yards and field offices and special use permits or variances regulating temporary buildings shall be issued for a period of time not to exceed eighteen (18) months. Extensions may be granted by the City Council. Upon due notice and hearing before the City Council, any such permit may be revoked if the City Council finds the use of the building or structure is contrary to the intent of this ordinance or results in increased noise, traffic, or other conditions considered to be a nuisance or hazard.

24.3 Radio, Television, and Microwave Towers

24.3.1 No radio, television, or microwave tower shall be located within a distance equal to at least the height of such tower from any residential structure or from any area zoned residential, or shown as residential on the current Comprehensive Plan. Such distance shall be measured as the shortest possible distance in a straight line from the closes point of the tower to the closest point of such area or residence.

24.3.2 No commercial, radio, television, or microwave reflector antenna support structure shall be closer to any residential district boundary line or any area shown as residential on the current Comprehensive Plan than a distance equal to the sum of the required yard specified for the zoning district in which such building or structure is located, plus 25 feet, plus twice the height of the portion of the structure above two (2) stories. Such distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of such area or residence.

24.3.3 The location of radio, television, or microwave reflectors, antennas, or support structures and associated foundations and any support wires shall be prohibited within any required front or side yard.

24.3.4 All commercial communication operations or radio, television, or microwave reflectors, antennas, or structures shall be prohibited in residential districts.

24.3.5 All commercial signs, flags, lights and attachments other than those required for communications operations, structural stability, or as required for flight visibility by the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) shall be prohibited.

24.4 Residence Hotels

Residential hotels shall be designed to allow for their potential conversion to multifamily residences and as such shall comply with all minimum standards set forth in Section 15. Residence hotels constructed in the MF district shall comply with the MF district requirements. Open space shall be provided in sufficient quantity and locations to allow

for required additional parking should the residence hotel convert to multifamily residences.

24.5 Garden (Patio) Homes

24.5.1 Location on Lot: Garden (patio) home developments shall be developed as zero lot line homes. One side yard shall be reduced to zero feet, while the other side yard shall be increased to a minimum of ten feet. A minimum five (5) foot wide maintenance easement shall be placed on the adjacent lot to enable the property owner to maintain his house. Side yards and maintenance easements shall be placed on the subdivision plat. A minimum separation between patio homes of ten (10) feet shall be provided. The combined area of all structures shall not exceed sixty-five (65) percent of the lot area.

24.5.2 Front Yard Setback: The minimum front yard shall be fifteen (15) feet, provided that in no case shall a garage or carport fronting onto a street be less than twenty (20) feet from the property line adjacent to the street. The front yard setback may be staggered, varied, or reduced to a minimum setback of ten (10) feet for lots facing cul-de-sac or loop streets not exceeding four hundred (400) feet in length, with the approval of a site plan or subdivision plat. Under this provision the maximum setback shall be twenty-five (25) feet. A minimum lot depth of sixty-five (65) feet, as measured from front building line to the rear lot line, shall be maintained.

24.5.3 Rear Yard Setback: The minimum rear yard shall be five (5) feet for a single story structure and fifteen (15) feet for any two story structure. If access is from an alley, the minimum setback will be twenty (20) feet for garages or carports.

24.5.4 Side Yard Setback: The minimum side yard shall be zero (0) feet except that there shall be at least ten (10) feet of separation between structures. When garden (patio) homes are constructed with a zero (0) side yard, five (5) feet on the lot adjacent to the zero (0) setback shall be dedicated as an access easement for the zero (0) setback garden (patio) home. There shall be a minimum of twenty (20) feet from any property line adjacent to a street.

24.5.5 Lot Frontage: The minimum frontage of any garden (patio) home shall be twenty-five (25) feet on residential streets and thirty-five (35) feet on collector and thoroughfare streets.

24.5.6 Lot Area: The minimum lot area for any development lot for garden (patio) homes shall be two thousand eight hundred (2,800) feet.

24.5.7 Maximum Length of Structures: No zero lot line structure shall have an overall length exceeding two hundred and fifty (250) feet.

24.5.8 Maximum Height of Structures: No structure shall exceed two (2) stories or thirty-five (35) feet in height.

24.5.9 Parking: Two (2) off-street spaces per dwelling unit plus one-half (1/2) space per dwelling unit for visitor parking within six hundred (600) feet of each dwelling unit. the visitor parking requirements may be eliminated or reduced at the time of site plan or subdivision plat approval with a finding that there is adequate on-street parking for visitors.

24.5.10 Common Area Maintenance: To insure the long term maintenance of common land and facilities in patio home developments, the following shall be required:

(a) Plats and site plans shall be approved subject to the submission of a legal instrument setting forth a plan or manner of permanent area and maintenance of open spaces, recreational areas and other communally owned facilities. No such instrument shall be acceptable until approved by the City Attorney as to legal form and effect. A Homeowners Association (HOA) is the most widely accepted technique for managing commonly owned property. Such association shall provide proof of incorporation prior to issuance of a construction permit.

(b) The HOA or other similar management entity shall be organized as a non-profit corporation with automatic membership in the management entity when property is purchased. This shall be specified in the covenants which run with the land and which bind all subsequent owners. Covenants for maintenance assessments shall also run with the land. Included in the maintenance covenants shall be procedures for changing them at stated intervals. Deeds shall also reference the rights and responsibilities of property owners to the management entity. The management entity shall also be responsible for liability insurance, local taxes, and the maintenance of all commonly held facilities through the use of a pro-rate formula for all property owners.

24.5.11 Usable Open Space Requirements: Each parcel of land developed under patio home standards shall provide usable open space totaling fifteen percent (15%) of the area of a patio home development. Such open space shall have a maximum slope of ten percent (10%) and shall be exclusive of street and alley rights-of-way and/or easements, individually platted lots without open space easements, private yards and patios. The fifteen percent (15%) shall be computed on the percentage of total platted

area in a patio home subdivision, excluding right-of-way for major and secondary thoroughfares (as described in the current Comprehensive Plan.) At the time of site plan and/or subdivision plat approval, the City Council may give full or partial credit for open areas that exceed the maximum slope or which are otherwise unusable if it is determined that such areas are environmentally or aesthetically significant and that their existence enhances the development.

24.5.12 Additional Landscaping: In addition to any required landscaping for common areas, the front yard and parkway areas shall be landscaped and permanently maintained.

24.6 Multifamily Residence:

24.6.1 Courts: Where an apartment building is erected so as to create inner courts, the faces of all opposite walls in such courts shall be a minimum distance of thirty (30) feet apart and no balcony or canopy shall extend into such court area for a distance greater than five (5) feet.

24.6.2 Usable Open Space: Each lot or parcel of land which is used for multiple-family residences shall provide on the same lot or parcel of land usable open space (as defined in Section 34.2.101), in accordance with the table below:

NUMBER OF BEDROOMS	REQUIRED OPEN SPACE
1 or less	600 square feet
each additional room	300 square feet

In those instances where a parcel of land has been zoned for multifamily use with a Specific Use Permit or Planned Development classification and the permitted densities do not conform exactly with those permitted in the MF District, usable open space shall be provided in accordance with that required for the multifamily zoning district which most closely approximates the density permitted under the SUP or PD.

In meeting this requirement, a credit of three (3) square feet may be applied for each square foot utilized for swimming pools and adjacent decks, patios, or lounge areas within ten (10) feet of a pool; developed and equipped children's play areas; and usable portions of recreational buildings. Tennis courts are specifically excluded from this increased credit allowance. At the time of site plan approval, the Planning and Zoning Commission and/or City Council may allow a credit not to exceed ten percent (10%) of the total required usable open space for

adjacent and immediately accessible public parks. The combined credit for areas calculated at a three-to-one basis and for public parks shall not exceed fifty percent (50%) of the total usable open space for an individual lot or parcel of land.

At the time of site plan approval, the City Council may give full or partial credit for open areas that exceed the maximum slope, if it is determined that such areas are environmental significant and that their preservation would enhance the development.

24.7 Service Stations

Gasoline service station pump islands may not be located nearer than eighteen (18) feet to the front property line. An unenclosed canopy for a gasoline filling station may extend beyond the front building line but shall not be closer than ten (10) feet to the property line.

24.8 Swimming Pools

It is the purpose of the following provisions to recognize an outdoor swimming pool as a potentially attractive nuisance and to promote the safety and enjoyment of property rights by establishing rules and regulations governing the location and improvement of swimming pools whether privately, publicly, or commercially owned or operated.

24.8.1 No swimming pool shall be constructed or used until a swimming pool building permit has been issued there-for. No building permit shall be issued unless the proposed sanitary facilities and water supply comply with applicable local and State health department regulations.

24.8.2 A swimming pool erected below ground or above ground with a depth of two (2) feet or greater may be constructed and operated when:

24.8.2.1 the pool is not located in any required front or side yard abutting a street;

24.8.2.2 a wall or fence, not less than six (6) feet in height, with self-enclosing and self-latching gates that are lockable at all entrances, completely encloses either the pool area or the surrounding yard area;

24.8.2.3 all lighting of the pool is shielded or directed to face away from adjoining residence. If lights are not individually shielded they shall be so placed, or the enclosing wall or fence shall be so designed, that direct rays from the lights shall not be visible for adjacent properties;

24.8.2.4 no broadcasting system is used for the purpose of advertising the operation of the pool or for the attraction of persons to the premises. This shall not prevent a public address system necessary or useful to the supervision of the pool and the safety of swimmers; and

24.8.2.5 the swimming pool is no closer then eight (8) feet from any property line.

24.9 Fences

24.9.1 Metal fences shall not be allowed in the required front yard in any district.

24.9.2 No fence or hedge shall exceed four (4) feet height in the required front yard in any district.

24.9.3 No rear or side yard fence shall exceed eight (8) feet in height.

24.9.4 Fences shall be constructed of customary urban fencing materials and shall be aesthetically consistent with buildings and fences in the area.

24.9.5. An eight foot (8') fence that completely screens/obstructs the view of commercial/manufacturing facilities, including wireless telecommunications towers, from public view.
(Ord. No. 2007-16, § 7, 10-22-2007)

24.10 Off-premises Signs

Any sign advertising any establishment, merchandise, service, entertainment, or other thing which is not sold, produced, manufactured, or furnished at the property on which the sign is located shall be considered the same as a "Billboard, advertising" for purposes of these regulations.
(Ord. No. 2007-16, § 2, 10-22-2007)

24.11 Portable/Pre-Manufactured Buildings

24.11.1 When used as a Storage or Accessory Building, such structure shall comply with Section 27 and specifically subsection 27.A.1 for residential zones and 27.A.2 for commercial or manufacturing zones.

24.11.2 As Primary or Main Building

24.11.2.A. Shall not be allowed as the main building in any residential district including SF-E, SF-1, SF-2, TF, MF, MH-1 OR MH-2 zones.
24.11.2.B. Shall be allowed as the main building in C-1, C-2, M-1 or M-2 districts when the following conditions are met or exceeded:

1- All requirements of the appropriate district are complied with including parking, fencing, minimum lot size, etc.;
2- This building will be the only building/structure on the lot;
3- All City or State building code requirements are met or exceeded; and,
4- The requirements of Section 27.A.2 shall be complied with regarding skirting and appropriate siding materials.
(Ord. No. 2007-16, § 6, 10-22-2007)

SECTION 25 SPECIFIC USE PERMIT

25.1 General Provision

25.1.1 As permitted under the provisions of this ordinance, a property owner may petition the City for a specific use of property, as authorized by the zoning district in which the property is located. Such petition shall be considered by the Planning and Zoning Commission. After required notice, as required in Section 36.3.2, and a public hearing, the Planning and Zoning Commission shall make a recommendation to the City Council regarding any application for a Specific Use Permit. The Planning and Zoning Commission may require information, operating data, and expert evaluation concerning the location and function and characteristics of any building or use proposed.

25.1.2 An application for a Specific Use Permit (SUP) shall be accompanied by a site plan drawn to scale and showing the general arrangements of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials and locations of buildings; the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; visual screening such as walls, landscaping, and fences; and the relationship of the intended use to all existing properties and land uses in all directions to minimum distance of two hundred (200) feet.

25.1.3 After required notice, as required in Section 36.3.2, and a public hearing, the City Council may grant a permit for a specific use of property as authorized by the zoning district in which the property is situated. The City Council may require information, operating data, and expert evaluation concerning the location and function and characteristics of any building or use proposed.

25.2 Specific Use Permit Regulations

25.2.1 In recommending that a specific use permit for the premises under consideration be granted, the Planning and Zoning Commission shall determine that such use or uses are harmonious and adaptable to building structures and uses of adjacent property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys, and sidewalks, means of access to public streets, provisions for drainage, adequate off-street parking, protective screening and

open space, heights of structures, and compatibility of buildings.

25.2.2 The City Council shall authorize issuance of a Specific Use Permit only after determining that the proposed use or uses are harmonious and adaptable to building structures and uses of adjacent property and other property in the vicinity of the premises under consideration.

25.2.3 The City Council shall authorize issuance of a Specific Use Permit only after determining that adequate provisions have been made for the paving of streets, alleys, and sidewalks, means of access to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, heights of structures, and compatibility of buildings.

25.2.4 No Specific Use Permit shall be granted unless the applicant, owner, and grantee of the Specific Use Permit shall be willing to accept and agree to be bound by and comply with the written requirements of the permit, as attached to the site plan drawing (or drawings) and approved by the City Council. No public hearing is necessary for site plan approval.

25.2.5 Whenever regulations or restrictions imposed by this ordinance are either more or less restrictive than regulations imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules or restrictions which are more restrictive or impose higher standards or requirements shall govern. Regardless of any other provision of this ordinance, no land shall be used and no structure erected or maintained in violation of any State or Federal pollution control or environmental protection law or regulation.

25.2.6 When the City Council authorizes granting of a Specific Use Permit, the Zoning Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses.

SECTION 26 OFF-STREET PARKING AND LOADING REQUIREMENTS

26.1 Purpose

To secure safety from fire, panic and other dangers; to lessen congestion in the streets; to facilitate the adequate provisions of transportation; to conserve the value of buildings; and to encourage the most appropriate use of land, minimum off-street parking and loading shall be provided as set forth in the following schedules and provisions.

26.2 Special Off-Street Parking Provisions - Residential Districts

26.2.1 Required off-street parking shall be provided on the same site as the use it serves.

26.2.2 No required parking shall be allowed on any surface other than a paved concrete or bituminous parking space surface.

26.2.3 No parking structure, including garages, carports, or similar structures, shall be located within the required front, side, or rear yards of a lot or tract (Exception: Allowed where paved alleys are provided by developer).

26.2.4 This section applies only to new construction, beginning on or after passage of this ordinance.

26.3 Size of Space

26.3.1 Each standard off-street surface parking space shall measure not less than nine (9) feet by twenty (20) feet, exclusive of access drives and aisles, and shall be of usable shape and condition. Where it is possible for a vehicle to overhang the front of a parking space above a paved, stoned, mulched, or grassed area other than a sidewalk, street, right-of-way, or adjacent property, the length of the standard space may be reduced to eighteen (18) feet.

26.3.2 Each parking space (on-street or off-street) designed for parallel parking shall have a minimum dimension of eight (8) feet by twenty-two (22) feet.

26.3.3 Each standard parking space located in a parking garage shall measure not less than nine (9) feet by eighteen (18) feet, exclusive of access drives or aisles.

26.4 Parking Area Standards

26.4.1 To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties.

26.4.2 For safety and fire-fighting purposes, free access through to adjacent parking areas shall be provided where practical.

26.4.3 Except for single family and duplex uses, parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Nonpermanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

26.5 Off-Street Parking Incidental to Main Use

Off -street parking shall be provided in accordance with the requirements specified by this ordinance and located on the lot or tract occupied by the main use or in accordance with Section 26.9 and located within the same zoning district as the main use.

26.6 Schedule of Parking Requirements Based on Use

Off-street parking shall be provided in sufficient quantities to provide the following ratio of vehicle spaces for the uses specified in the districts designated. [Where a calculation results in requiring a fractional space, one additional space shall be required.] Multiple use facilities must each meet the requirements detailed.

26.6.1 Bank, savings and loan or similar financial establishment: One (1) space for each two hundred (200) square feet of total floor area.

26.6.2 Business or professional office, studio, medical or dental clinic: Three (3) parking spaces plus one (1) additional parking space for each two hundred (200) square feet of floor area over five hundred (500) feet.

26.6.3 Church or other place of worship: One (1) parking space for each (4) seats in the main auditorium.

26.6.4 Clinic of doctor's or dentist's office: One (1) space for each two hundred (200) square feet of total floor area.

26.6.5 Community center, library, museum or art gallery: Ten (10) parking spaces plus one (1) additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided as the basis of one (1) space for each four (4) seats that it contains.

26.6.6 College or university: One (1) space for each two (2) students, plus one (1) space for each classroom, laboratory or instruction area.

26.6.7 Commercial Amusement (indoor):

26.6.7(a) Bowling Alley - 3 spaces for each lane;

26.6.7(b) Racquetball or handball courts - One space for each court;

26.6.7(c) Indoor tennis courts - 6 spaces for each court;

26.6.7(d) Gymnasium, skating rinks, and martial arts schools or areas - 1 space for each 5 seats at maximum seating capacity, plus 1 space for each two hundred (200) square feet;

26.6.7(e) Swimming Pool - 1 space for each one hundred (100) square feet of gross water surface and deck area;

26.6.7(f) Weight lifting or exercise areas - 1 space for each one hundred (100) square feet;

26.6.7(g) Bingo Parlors - 1 space for 3 seats (design capacity) or 1 per one hundred (100) square feet of total floor area, whichever is greater;

26.6.7(h) Indoor jogging or running tracks - 1 space for each one hundred (100) linear feet;

26.6.7(i) All areas for subsidiary uses not listed above or in other parts of Section 25:6 (those uses such as restaurants, offices, etc., shall be calculated with the minimum specified for those individual uses) - 1 space for each one thousand (1,000) square feet.

26.6.7(j) Other - 1 space for each three (3) persons accommodated (design capacity).

26.6.8 Dance hall, assembly or exhibition hall (without fixed seats):
One (1) parking space for each one hundred (100) square feet of floor area used thereof.

26.6.9 Day nursery, day care, kindergarten school:
One (1) space per ten (10) pupils/clients (design capacity).

26.6.10 Dwellings, single-family attached or detached.
Two (2) parking spaces for each dwelling unit.

26.6.11 Dwellings, multifamily:
One (1) parking space for each dwelling unit plus one-half (.5) space for each individual bedroom in all dwelling units.

26.6.12 Flea market:
One and one-half (1.5) spaces for each two hundred (200) square feet of floor area or market area.

26.6.13 Fraternity, sorority or dormitory:

One (1) parking space for each two (2) beds.

26.6.14 Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service:
Two (2) parking spaces plus one (1) additional parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet.

26.6.15 Gasoline service station:
Minimum of ten (10) spaces.

26.6.16 Golf course:
Minimum of thirty (30) spaces.

26.6.17 Health care facility:
One (1) space for each four (4) rooms or beds, whichever is greater.

26.6.18 Hospital:
One (1) space for each two (2) beds.

26.6.19 Hotel or motel:
One (1) parking space for each sleeping room, unit, or guest accommodation plus one (1) space for each three hundred (300) square feet of commercial floor area contained therein.

26.6.20 Lodge, or fraternal organization:
One and one-fourth (1.25) spaces per two hundred (200) square feet.

26.6.21 Manufacturing, processing or repairing:
One (1) parking space for each two (2) employees on the maximum working shift, plus space to accommodate all vehicles used in connection therewith, but not less than one (1) parking space for each 1,000 square feet of floor area, whichever is greater.

26.6.22 Massage establishment:
One (1) space for each two hundred (200) square feet of floor area.

26.6.23 Mini-warehouse:
Four (4) spaces per complex plus one (1) space per five thousand (5,000) square feet of storage area.

26.6.24 Mortuary or funeral home:
One (1) parking space for each fifty (50) square feet of floor space in slumber rooms, parlors, or individual funeral service rooms.

26.6.25 Motor vehicle salesrooms and used car lots:

One (1) parking space for each five hundred (500) square feet of sales floor for indoor uses, or one (1) parking space for each two thousand (2,000) square feet of lot area for outdoor uses.

26.6.26 Office, general:
One (1) space for each three hundred (300) square feet of total floor area.

26.6.27 Office, medical:
One (1) space for each two hundred (200) square feet of floor area.

26.6.28 Office-showroom or office - warehouse:
One (1) space for each one thousand (1,000) square feet of floor area for storage and warehousing, plus one (1) space for each one hundred (100) square feet of office, sales or display area over 500 square feet.

26.6.29 Private club:
If free standing or located in a shopping center of 150,000 square feet or less, one (1) space for each ten (10) square feet of bar, lounge and waiting areas, plus one (1) space for each one hundred (100) square feet of remaining floor area.

26.6.299b) If located in a shopping center of greater than 150,000 square feet, one (1) space for each one hundred (100) square feet of gross floor area.

26.6.30 Private country club or golf club:
One (1) parking space for each two hundred fifty (250) square feet of floor area or for every five (5) members, whichever is greater.

26.6.31 Recreational area or building (other than listed):
One (1) space for each two (2) persons to be normally accommodated in the establishment.

26.6.32 Restaurant, cafeteria, cafe or similar establishment:
One (1) parking space for every one hundred (100) square feet of floor area.

26.6.33 Retail store or personal service establishment, except as otherwise specified herein:
One (1) parking space for each two hundred (200) square feet of floor area.

26.6.34 Sanitarium, convalescent home, home for the aged or similar institutions:
One (1) parking space for each six (6) beds.

26.6.35 School, elementary and middle:

One (1) parking space for each five (5) seats in the auditorium or main assembly room, or one (1) space for each classroom plus ten (10) spaces, whichever is greater.

26.6.36 School, secondary (grades 9 - 12:
One (1) parking space for each four (4) seats in the main auditorium design capacity, or one (1) space for each classroom plus one (1) space for each two (2) students accommodated in the institution, whichever is greater.

26.6.37 Shopping center:
One (1) space for each two hundred (200) square feet of floor area. The total floor area used for restaurants and cafeterias (but not including private clubs) which exceeds ten percent (10%) of the shopping center floor area, shall require additional parking to be provided in accordance with the requirements for restaurants.

26.6.38 Storage or warehousing:
One (1) space for each two (2) employees, or one (1) space for each one thousand (1,000) square feet of total floor area, whichever is greater.

26.6.39 Theater, auditorium (except school), meeting room, sports arena, stadium, gymnasium, or other places of public assembly:
One (1) parking space for each four (4) seats or bench seating spaces design capacity.

26.6.40 Vehicle repair garage:
Three (3) spaces per service bay, plus one (1) space per employee (maximum shift), plus one (1) space per tow truck or other service vehicle.

26.7 Off-Street Parking Requirements for Uses Not Listed

For those uses which are not matched with a parking requirement in 26.6, the following standards shall apply:

General Use Category		Parking Space Requirements
a.	Educational & Institutional	One space per employee
b.	Transportation, Utility & Communications Uses	One space per employee plus one space per stored vehicle
c.	Accessory & Incidental Uses	One space per employee
d.	Office & Professional Uses	One space per 300 square feet of gross floor area

e.	Automobile & Related Uses	One space per employee plus one space per stored vehicle
f.	Retail Uses	One space per 200 square feet of gross floor area
g.	Service Uses	One space per 200 square feet of gross floor area
h.	Wholesale Uses	Same as for "Storage or warehousing"
i.	Contract Construction Uses	One space per employee
j.	Commercial, Manufacturing, & Industrial Uses	Same as for "Manufacturing, processing, or repairing

26.8 Rules for Computing Number of Parking Spaces

In computing the number of parking spaces required for each of the uses in Sections 26.1 - 26.7), the following rules shall govern:

26.8.1 "Floor Area" shall mean the gross floor area of the specific use.

26.8.2 Where fractional spaces result, the parking spaces required shall be rounded to the nearest whole number.

26.8.3 The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.

26.8.4 In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

26.9 Location of Parking Spaces

All parking spaces required herein shall be located on the same lot with the building or use served, except as follows:

26.9.1 Where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not more than three hundred (300) feet from an institutional building served and not more than three hundred (300) feet from any other non-residential building served.

26.9.2 Not more than fifty percent (50%) of the parking spaces required for theaters, bowling alleys, cafes, or similar uses and not more than eighty percent (80%) of the parking spaces required for a church or school auditorium or similar uses

may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified below.

26.9.3 In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the city and executed by the parties concerned, and shall be filed with the application for a building permit.

26.10 Use of Parking Spaces - All Districts

Required off-street parking and loading spaces shall be used only for these respective purposes and shall not be used for storage or display of boats, trailers, campers, motor vehicles or other goods, materials, products for sale.

26.11 Special Off-Street Parking Regulations

In computing the parking requirements for any development, the total parking requirements shall be the sum of the specific parking space requirements for each use included in the development. Where multiple uses are proposed for a building, the parking requirements shall be calculated on the basis of the most restrictive requirements unless specific areas of different uses are delineated by floor or building segment.

26.11.2 Wherever a parking lot is located across the street from or adjacent to a residentially zoned property, and is designed so that headlight beams will shine into residences (whether or not such residences have been built at the time the parking lot is constructed), and irrigated earthen berm or a solid masonry wall or reinforced concrete fence of not less than three (3) nor more than four (4) feet in height above the finished grade of the off-street parking area shall be erected and maintained so as to provide a headlight screen for the residential district.

26.11.3 The off-street parking spaces designated for each apartment (multifamily) dwelling unit shall be located within one hundred (100) feet of the dwelling unit served by such spaces.

26.11.4 In all residential district, no heavy load vehicle, truck trailer, truck tractor, mobile home, motor home, camper, trailer, boat, machinery, farm equipment or machinery or any other similar equipment or machinery (called collectively "equipment") shall be parked or left standing for more than two (2) days out of any consecutive seven (7) day period within the required front yard or within the side yard of a corner lot between the side building line and side property line on the side of the lot abutting a street

or public right-of-way.

In no event shall equipment, including motor vehicles, trucks, and vans be parked or left standing at any time on a surface other than a paved or gravel driveway or paved parking lot. The driveway shall be located either:

1) between the street or alley on the one hand, and on the other a garage or carport;

2) in the side yard adjacent to the main building; or

3) as a circular driveway serving the main entrance of the premises;

The driveway shall be no wider than the width of the garage, carport (or 20 feet whichever is greater) or parking space which it serves. No more than fifty percent (50%) of the front yard shall be a driveway.

26.11.5 Parking spaces in non-residential districts shall be provided with sufficient space for entering and exiting without backing onto a public street. Parking spaces on the perimeter of the parking lot and abutting a property line shall have a wheel stop barrier two (2) feet from the end of the parking space.

26.12 Design Standards For Parking Structures

26.12.1 In all districts, above grade parking structures shall conform to height restrictions for zoning districts in which they are located.

26.12.2 The distance from parking structure entry and exit points to a corner of a street intersection shall conform to standards contained in the Subdivision Ordinance.

26.12.3 Ramps shall not be constructed with slopes exceeding fifteen percent (15%) and single lane entrances shall not be less than twelve (12) feet wide at the street.

26.12.4 A minimum of one (1) car length shall be provided between an exit control gate and the inside edge of a sidewalk to minimize conflicts between exiting cars and pedestrians.

26.12.5 Parking structure facades shall be left fifty percent (50%) open and interior light levels shall be maintained at ten (10) foot candles to enhance security and safety. All parking structure lighting shall be designed so as not to reflect or shine on adjacent properties.

26.12.6 Full enclosure of any level of a parking structure may be permitted only if such structure is fully sprinkled and mechanically ventilated.

26.13 Off-Street Loading

26.13.1 All retail, commercial, and industrial structures shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods within the building or on the lot adjacent to a private service drive.

At least one-half of such loading spaces shall have a minimum dimension of ten (10) feet by forty (40) feet, and the remaining spaces shall have a minimum dimension of ten (10) feet by twenty (20) feet.

Where such loading spaces are located adjacent to a residential district, the space shall be enclosed on two (2) sides.

Loading spaces shall be provided in accordance with the following schedule:

FOR ALL RETAIL, COMMERCIAL AND INDUSTRIAL USES

Square Feet of Gross Floor Area in Structure	Minimum Required Spaces or Berths
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
100,000 to 200,000	3
Each additional 100,000	1 additional

FOR ALL HOTELS, OFFICE BUILDINGS, RESTAURANTS, SIMILAR ESTABLISHMENT

Square Feet of Gross Floor Area in Structure	Minimum Required Spaces or Berths
0 to 50,000	None
50,000 to 150,000	1
150,000 to 300,000	2
300,000 to 500,000	3
500,000 to 1,000,000	4
Each additional 500,000	1 additional

26.13.2 Kindergartens, day schools, and similar child training and care

establishments shall provide loading and unloading space on a private drive, off-street, to accommodate one (1) motor vehicle for each ten (10) students or children cared for by the establishment.

26.13.3 Loading docks for any establishment which customarily receives goods between the hours of 9:00 p.m. and 8:00 a.m., and is adjacent to a residential use or district, shall be designed and constructed so as to fully enclose the loading operation in order to reduce the effects of the noise of the operation on adjacent residences.

26.13.4 Where adjacent to residential uses or district, off-street loading areas shall be screened from view of the residential use or district.

26.14 Stacking Requirements for Drive-Through Facilities

26.14.1 A stacking space shall be an area on a site measuring eight (8) feet by twenty (20) feet with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other circulation driveway, parking space, or maneuvering area.

26.14.2 For financial institutions with drive-through facilities, each teller window or station, human or mechanical, shall be provided with a minimum of three (3) stacking spaces (from the right-of-way line).

26.14.3 For each service window of a drive-through restaurant, a minimum of five (5) stacking spaces (from the right-of-way line) shall be provided.

26.14.4 For kiosks, a minimum of two (2) stacking spaces (from the right-of-way) for each service window shall be provided.

SECTION 27 ACCESSORY BUILDING REGULATIONS

27.1 Height

No accessory building shall exceed twenty-five (25) feet in height, nor shall it be greater in height than the main structure.

27.2 Area Regulations for Accessory Buildings or Structures in Residential and Apartment Districts

(Ord. No. 2007-16, § 3, 10-22-2007)

27.A. Miscellaneous Regulations:

27.2.1 Front Yard: All attached accessory buildings, including garages and carports, located in the area defined as the front yard shall have a front yard setback

not less than that of any main building or as specified in the particular district. Detached accessory buildings shall not be located in the area defined as the front yard, but rather will be restricted to the areas defined as the rear yard and side yard.

Section 27.2.2 Side Yard: All accessory buildings, including garages and carports, but not storage buildings, located in the area defined as the side yard shall have a side yard setback of not less than five (5) feet, except that in all cases where the side yard is adjacent to a side street, the side yard setback shall never be less than twenty (20) feet.

Section 27.2.3 Rear Yard: There shall be a rear yard setback of not less than five (5) feet from any lot line, alley line or easement line for any accessory building, other than certain storage buildings (as provided in Section 27A.1). Carports, garages or other detached accessory buildings located within the area defined as the rear yard, shall not be located any nearer than five (5) feet from any side or rear lot line. However, in all cases where any portion of the rear yard is adjacent to a street, the appropriate setback (rear or side) shall never be less than twenty-five (25) feet.

a. 27.A.1 Storage Buildings in Residential Zones – Storage buildings within residential zones shall be restricted to the area defined as the rear yard. Setbacks as provided for in Section 27.2.3 shall apply to structures over two hundred (200) square feet, but shall not apply to structures or portable buildings less than two hundred (200) square feet in area, except that in all cases where any portion of the rear yard is adjacent to a street, the appropriate setback (rear or side) shall never be less than twenty (20) feet. Further, all such buildings require a permit issued by the City of Center prior to construction or placement.
b. 27.A.2 Pre-manufactured Buildings in Commercial and Manufacturing Zones: Pre-manufactured buildings are allowed in commercial and manufacturing zones only in accordance with the provisions found herein. Skirting of the building will be required. Further, acceptable siding of the building must be equal, or better, than the following allowed sidings: brick, simulated brick, brick veneer, stucco, wood, vinyl, stone, or new metal. Placement or construction of pre-manufactured buildings in commercial and manufacturing zones shall be allowed only upon the granting of a permit from the City of Center. This provision shall not apply to Industrialized Structures, as such term is specifically defined in this Ordinance.

27.A.3. Placement and Intensity of Lighting – Lighting must be placed and directed so as to not create/constitute a nuisance or safety hazard, and shall minimize disruption to neighbors.

SECTION 28 PLATTING PROPERTY IS PERMANENTLY ZONED

28.1 Zoning Required Prior to Approval of Plat

The City Council shall not approve any plat of any subdivision within the city limits until the area covered by the proposed plat shall have been permanently zoned by the City Council.

28.2 Annexation Prior to Approval of Plat

The City Council shall not approve any plat or any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the city is pending before the City Council unless and until such annexation shall have been approved by ordinance by the City Council.

28.3 Contemporaneous Action on Zoning and Annexation

In the event the City Council holds a hearing on proposed annexation, it may, at its discretion, hold a contemporaneous hearing upon the permanent zoning that is to be applied to the area or tract to be annexed. The City Council may, at its discretion, act contemporaneously on the matters of permanent zoning and annexation by approval of the annexation ordinance.

SECTION 29 CLASSIFICATION OF NEW AND UNLISTED USES

29.1 Procedure For Classifying New/Unlisted Uses

It is recognized that new types of land use will develop and forms of land use not anticipated may seek to locate in the city. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

29.1.1 The Zoning Administrator shall refer the question concerning any new or unlisted use to the Planning and Zoning Commission requesting a recommendation to the City Council as to the zoning classification(s) into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer. The Planning and Zoning Commission shall make a recommendation to the City Council regarding the zoning districts within which such use should be permitted, generally within sixty (60) days.

29.1.2 The Planning and Zoning Commission and the City Council shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts, in determining the zoning district or districts within which such use should be permitted.

29.1.3 The City Council shall by ordinance approve or make such determination concerning the classification of such use as is determined appropriate, (generally within sixty (60) days, based upon its findings.

SECTION 30 CREATION OF BUILDING SITE

30.1 Procedure for Creating Building Site/Lot

No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, building tract, or building lot has been created by compliance with one of the following conditions:

30.1.1 The lot or tract is part of a plat of record, properly approved by the City Council and signed by the Mayor, and filed in the plat records of the county and counties in which the lot or tract is located.

30.1.2 The plot, tract or lot faces upon a dedicated street, having twenty-five (25) feet of right-of-way frontage existing and separately owned and existed according to the official deed records of Shelby County, Texas, prior to the effective date of this ordinance or prior to annexation to the City, whichever is applicable, in which event a building permit for only one main building conforming to all the requirements of this ordinance may be issued on each such original separately existing parcel.

30.1.3 The plot or tract is all or part of a site plan officially approved by the City Council and compliance has been made with provisions and improvements approved on such site plan for all utility and drainage easements, dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land. Any and all plots, tracts, or lots must be provided access via a public street or drive.

SECTION 31 NON-CONFORMING USES AND STRUCTURES

31.1 Uses in Existence at Time of Adoption of Ordinance

A lawful non-conforming status shall exist when a use or structure which does not conform to the regulations prescribed in the district in which such use or structure is located was in existence and lawfully operating prior to the adoption of the Zoning Ordinance. To obtain this status, the owner of the property must apply for, and receive, a certificate of non-conforming use, as set forth in Section 35.6.

31.2 Expansion of Non-Conforming Use Prohibited

No lawful non-conforming use or structure may be expanded or increased, unless otherwise prohibited, upon the lot or tract upon which such non-conforming use is located as of the effective date of this ordinance except to provide off-street loading or off-street parking space upon approval of the City Council.

31.3 Repairs/Normal Maintenance on Non-Conforming Uses Permitted

Repairs and normal maintenance may be made to a lawful non-conforming building provided that no structural alterations or extensions shall be made except those required by law or ordinance, unless the building is changed to a conforming use.

31.4 Change of Non-Conforming to Conforming Use

Any lawful non-conforming use may be changed to a conforming use and once such change is made, the use shall not thereafter be changed back to a non-conforming use.

31.5 Abandonment/Discontinuation of Non-Conforming Use

Whenever a lawful non-conforming use is abandoned or discontinued, all non-conforming rights shall cease and the use of the premises shall thenceforth be in conformity with this ordinance. Abandonment shall involve the intent of the user or owner to discontinue a non-conforming operation and the actual act of discontinuance. Discontinuance of a business or the vacancy of a building or premises occupied by a lawful non-conforming use for a period of six (6) months shall be construed as conclusive proof of intent to abandon the non-conforming use. Any non-conforming use not involving a permanent type of structure which is moved from the premises shall be considered to have been abandoned.

31.6 Accidental Destruction of Non-Conforming Use

If a non-conforming structure or a structure occupied by a lawful non-conforming use is destroyed by fire, act of God or other cause, it may not be rebuilt except to the provisions of this ordinance. In the case of partial destruction of a non-conforming use not exceeding sixty percent (60%) of its reasonable value, reconstruction may be

permitted after a hearing and favorable action by the Zoning Board of Adjustments, but the size and function of the non-conforming use shall not be expanded.

31.7 Replacement of Non-Conforming HUD-Code Manufactured Home

Notwithstanding any of the provisions of this section, a non-conforming HUD-Code manufactured home may be exchanged or replaced by another HUD-Code manufactured home, provided the newly located residential unit is owner-occupied. One (1) exchange of a manufactured home may be made, within fifteen (15) years of the effective date of this ordinance, for a HUD manufactured home. This applies only to owner occupied manufactured homes.

31.8 Transfer of Property with a Non-conforming Use

The transfer of property that is non-conforming in use shall be governed by the provisions found in this section.

31.8.1 Transfer of ownership of property, whether to a third party or to any heir or beneficiary of the landowner, including any transfer that is a part of a probate proceeding, shall terminate the lawful non-conforming status of any non-conforming use of the property.

31.8.2 The new owner(s) of the property may re-establish the lawful non-conforming status of any non-conforming use of the property by applying for and receiving from the appropriate, designated department of the City of Center a new Certificate of Non-Conforming Use.

31.8.3 The new owner(s) may apply for the certificate prior to the transfer of ownership of the property, but the owner(s) may not apply for such certificate after the expiration of sixty (60) days from the date of transfer of ownership, which shall be determined by the date that the instrument causing such transfer is executed. Heirs have sixty (60) days from the notice of death of the deceased.

31.8.4 The new owner(s) shall complete an application for a new certificate of non-conforming use with the appropriate, designated department of the City of Center. The application shall be posted for fifteen (15) days at City Hall. In addition, copies of the application, along with copies of Section 31.8 of this Ordinance shall be distributed within four (4) days to all property owners within two hundred (200) feet of the property in question. The public shall have fifteen (15) days from the date of the application to submit any objections to the application.
(Ord. No. 2007-16, § 5, 10-22-2007)

31.8.5 If no objection is lodged within fifteen (15) days, the City of Center shall not withhold the granting of a new certificate of lawful non-conforming use, upon a showing by the new owner(s) that the conditions validating the original use remain in place, and that the new owner(s)' use shall remain the same as the previous owner(s)' in type and scope.
(Ord. No. 2007-16, § 5, 10-22-2007)

31.8.6 After the expiration of the fifteen day objection period, if an objection has been properly and timely lodged, the Zoning Board of Adjustments, within fifteen (15) days from the expiration of the objection period, shall convene a hearing to determine whether to grant the application. The Zoning Board of Adjustments shall take evidence in the matter as prescribed by Section 33 of this Ordinance. In determining whether to grant the application, the Zoning Board of Adjustments shall take into consideration the totality of the circumstances surrounding the proposed continuance of the non-conforming use of the property, and weigh the objections and concerns of the party(ies) making the objection(s), against the potential hardship created on the new owner(s), should the application not be granted. The Zoning Board of Adjustments shall decide whether to grant the application within fifteen (15) days from its conclusion of the hearing. In no case shall the new owner(s) be allowed a use that exceeds in type and scope the previous owner(s)' prior non-conforming use.
(Ord. No. 2007-16, § 5, 10-22-2007)

31.8.7 During the pendency of the application process, the new owner(s) may continue the non-conforming use, so long as that use remains the same as the previous owner(s)' in type and scope.

31.8.8 The provisions of this section apply only to cases involving non-conforming uses in existence at the time of adoption of this Ordinance. A variance granted pursuant to Section 33 of this Ordinance is not transferable. Transfer of ownership of property, whether to a third party, or to any heir or beneficiary of the landowner, including any transfer that is a part of a probate proceeding, shall terminate any variance granted by the City of Center. Subsequent owners must re-apply for a variance, as provided by Section 33 of this Ordinance.

SECTION 32 PLANNING AND ZONING COMMISSION

32.1 Organization and Appointment

There is hereby created a Planning and Zoning Commission which shall be organized, appointed by the Mayor and confirmed by the City Council and function as follows:

32.1.1 Membership: The Planning and Zoning Commission shall consist of seven (7) members who are residents of the City of Center, with representation from all City Council Districts, each to serve for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Appointees shall fill positions which shall be designated by place numbers (e.g., place 1, place 2, etc.). Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. The Mayor and City Council may appoint two (2) alternate members of the Planning and Zoning Commission, who shall serve in an advisory capacity only to the Planning and Zoning Commission.

32.1.2 Terms: The terms of members filling places 1, 3, 5and 7 shall expire on June 30 of each odd-numbered year and the terms of members filling places 2,4, and 6 shall expire on June 30 of each even-numbered year. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no members shall be appointed for a term in excess of two (2) years. Newly-appointed members shall be installed at the first regular commission meeting after their appointment. Advisory members shall be elected on alternating years.

32.1.3 Organization: The commission shall hold an organizational meeting in July of each year. The commission shall meet on-call and shall designate the time and place of its meetings. The commission shall adopt its own rules of procedure and keep a record of its proceedings consistent when the provisions of this ordinance and the requirements of law. The Planning and Zoning Commission shall elect a chairman from its own membership at its annual organizational meeting.

32.1.4 Quorum and Compensation: A quorum for the conduct of business shall consist of four (4) members and/or alternate members of commission. The members shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.

32.2 Duties and Authority

The Planning and Zoning Commission is hereby charged with the duty and invested with the authority to:

32.2.1 Formulate and recommend to the City Council for its adoption a city plan for the orderly growth and development of the city and its environs and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.

32.2.2 Formulate a zoning plan as may be deemed best to carry out the goals of the city plan; hold public hearings and make recommendations to the City Council relating to the creation, amendment, and implementation of zoning regulations and districts as authorized under state law.

32.2.3 Exercise all powers of a commission as to approval or disapproval of plans, plats, or replats as authorized under state law.

32.2.4 Study and recommend the location, extension, and planning of public rights-of-way, parks, or other public places, and on the vacating or closing of same.

32.2.5 Study and make recommendations regarding the general design and location of public buildings, bridges, viaducts, street fixtures, and other structures and appurtenances.

32.2.6 Initiate, in the name of the city, proposals for the opening, vacating, or closing of public rights-of-way, parks, or other public places and for the change of zoning district boundaries on the area-wide basis.

32.2.7 Formulate and recommend to the City Council for its adoption policies and regulations consistent with the adopted city plan governing the location and/or operation of utilities, public facilities, and services owned or under the control of the city.

32.2.8 Submit each May a progress report to the City Council summarizing is activities for the past year and a proposed work program for the coming year.

SECTION 33 ZONING BOARD OF ADJUSTMENT

33.1 Creation, Membership and Procedures:

33.1.1 Zoning Board of Adjustment Established: A Zoning Board of Adjustment is hereby reestablished in accordance with the provisions of Texas Local Government Code, § 211.008, as amended, regarding the zoning of cities and with the powers and duties as provided in said Code.

33.1.2 Membership: The Zoning Board of Adjustment shall consist of five (5) members, each to be appointed by the Mayor and confirmed by the City Council for a term of two (2) years and removable for cause by the appointment authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member, whose place becomes vacant for any cause, in the same manner as the original appointment was made. Three (3) members shall serve until January 1 of odd-numbered years, as heretofore appointed, and two (2) members, as heretofore appointed, shall serve until January 1 of even-numbered years, and thereafter each member reappointed for each new appointee shall serve for a full term of two (2) years unless removed as hereinabove provided. The City Council may also appoint four (4) alternate members of the board who shall serve in the absence of one or more of the regular members when requested to do so by the chairman of the Board, so that all cases to be heard by the Board will always be heard by a minimum number of four (4) members. These alternate members, when appointed, shall serve for the same period as the regular members, which is for a term of two (2) years, and any vacancy shall be filled in the same manner and they shall be subject to removal by the same means and under the same procedures as the regular members.

33.1.3 Hearings: The hearings of the Board shall be public. The Board shall hear the intervention of any owner of property adjacent to, in the rear of, or across the street from a lot as to which the granting of any permit is pending, and shall also hear any other parties in interest. All hearings are to be heard by at least four (4) members of the Board.

33.1.4 Meetings: Regular meetings of the Board shall be held at such times as the Board may determine. Special meetings of the Board shall be held at the call of the chairman or at the written request of two regular members of the Board, or city staff, and said request to be submitted to the Chairman.

33.1.5 Rules and Regulations: The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such vote, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Secretary and shall be public record. The Board shall act by resolution in which seventy-five (75) percent of voting members must concur. The Board shall adopt

from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of the ordinance, and shall furnish a copy of the same to the Zoning Administrator and the Building Inspector, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

33.2 Powers and Duties of Board

33.2.1 Appeals Based on Error: The Board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official of the city of the enforcement of this ordinance.

33.2.2 Special Exceptions: The Board shall have the power to hear and decide special exceptions to the terms of this ordinance, specifically including and limited to the following issues, upon which the Board is required to pass as follows:

33.2.2.1 Permit the erection and use a building or the use of premises for railroads if such uses are in general conformity with the Master Plan and present no conflict or nuisance to adjacent properties.

33.2.2.2 Permit a public utility or public service or structure in any district , or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.

33.2.2.3 Grant a permit for the extension of a use, height, or area regulation into an adjoining district where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.

33.2.2.4 Permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty percent (50%) of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use and primary purpose of continuing the nonconforming use is not to continue a monopoly.

33.2.2.5 Waive or reduce the parking and loading requirements of any of the districts, whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

33.2.2.6 Determine whether an industry should be permitted within the M-1 -- Light Industrial District and M-2 -- Heavy Industrial District because the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.

33.2.27 Rule on all applications on siting of manufactured homes in districts not so zoned. Approval shall only be allowed in cases of extreme hardship under guidelines established by the Board.

33.2.3 Limitation on Reapplications: When the Board has denied a proposal, no new applications of similar nature shall be accepted by the Board or scheduled for twelve (12) months after the date of Board denial. Applications which have been withdrawn at or before the Board meeting may be resubmitted at any time for hearing before the Board.

33.2.4 Vote of 75% of Voting Members Required: The concurring vote of 75% of voting members of the Board is necessary to:

(a) reverse an order, requirement, decision or determination of an administrative official;

(b) decide in favor of an applicant on a matter on which the Board is required to pass; or

(c) authorize a variation from the terms of a zoning ordinance.

33.3 Appeals

33.3.1 Procedure: Appeals may be taken to and before the Zoning Board of Adjustment by any person aggrieved, or by any officer, department, board or bureau in the city. Such appeal shall be made by filing in the office of the City Secretary a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record from which the action appealed was taken.

33.3.2 Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector shall certify to the Zoning Board of Adjustment that, by reason of facts in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted or by a court of equity, after notice to the office from whom the appeal was taken.

33.3.3 Notice of Hearing on Appeal: The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred

(200) feet of any point of the lot or portion thereof on which a variation is desired, and to all other persons deemed by the Board to be affected thereby, such owners and persons being determined according to the current tax rolls of the City. Depositing of such written notice in the mail shall be deemed sufficient compliance therewith.

33.3.4 Decision by Board: The Board shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The Board may reverse or affirm wholly or partly or may modify the order, requirements, decision, or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer or department from whom the appeal is taken. After the close of said hearing, a decision shall be rendered within sixty (60) days, absent extenuating circumstances.

33.3.5 The Zoning Board of Adjustments shall entertain a request to reconsider a particular variance no sooner than twelve (12) calendar months following their ruling on any particular request.

33.4 Variances

The Board shall have the power to authorize, upon appeal in specific cases, such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship and so that the spirit of this ordinance shall be observed and substantial justice done, specifically including and limited to the following issues:

33.4.1 Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to an irregular shape of the lot or topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.

33.4.2 Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alteration of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this ordinance as are in harmony with its own general purpose and intent, but only when the Board is satisfied that granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the Comprehensive Plan as established by this ordinance and at the same time, the surrounding property will be properly protected.

33.4.3 The Board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made

by the Building Inspector in the enforcement of this ordinance. Except as otherwise provided herein, the Board shall have, in addition, the following specific powers:

33.4.3.1 To permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with the Master Plan and present no conflict or nuisance to adjacent properties.

33.4.3.2 To permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.

33.4.3.3 To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.

33.4.3.4 To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty percent (60%) of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use.

33.4.3.5 To waive or reduce the parking and loading requirements in any of the districts, when (i) the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities; or (ii) when such regulations would impose an unreasonable hardship upon the use of the lot. The Board shall not waive or reduce such requirements merely for the purpose of granting an advantage or a convenience.

33.4.4 A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating:

a) that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;

b) that literal interpretation of the provisions of this ordinance would deprive he applicant of rights commonly enjoyed by

other properties in the same district under the terms of this ordinance;

c) that the special conditions and circumstances do not result from the actions of the applicant;

d) that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district; and

e) no non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

33.5 Changes

The Board shall have no authority to change any provisions of this ordinance and its jurisdiction is limited to hardship and borderline cases which may arise from time to time. The Board may not change the district designation of any land either to a more or less restrictive zone.

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the administrative official, that such questions shall be presented to the Board only on appeal from the decision of the Building Official and that recourse from the decisions of the Zoning Board of Adjustment shall be to the courts as provided by the laws of the State of Texas.

SECTION 34 RULES OF CONSTRUCTION AND SPECIAL DEFINITIONS

34.1 General Rules of Construction:

The following rules of construction shall apply to the interpretation of words used in this ordinance:

34.1.1 words used in the present tense include the future tense;

34.1.2 words used in the singular number include the plural number;

34.1.3 words in the plural number include the singular number;

34.1.4 the words "building" and "structure" are synonymous;

34.1.5 the words "lot", "plot" and "tract" are synonymous; and

34.1.6 the word "shall" is mandatory and not discretionary.

34.2 Special Definitions

Except to the extent a particular provision specifies otherwise, the following definitions shall apply throughout this ordinance:

34.2.1 Abutting Property - Property abutting upon a street shall also be understood as abutting property on the other side of the street.

34.2.2 Accessory Use or Building - A use or building subordinate to and detached from the main building and used for purposes customarily incidental to the primary use of the premises.

34.2.3 Adjacent - Shall mean "next to" or "closest to" but shall not necessarily mean "touching".

34.2.4 Alley - A public space or thoroughfare which affords only secondary means of access to property abutting thereon.

34.2.5 Antenna/Microwave Reflector - An apparatus constructed of solid, mesh, or perforated materials of any configuration that is used to receive and/or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay. This definition is meant to include but is not limited to what are commonly referred to as satellites which receive only earth stations.

34.2.6 Antenna, Radio or Television - The arrangement of wires or metal rods used in sending and/or receiving of electromagnetic waves.

34.2.7 Apartment - A room or suite of rooms in a multifamily dwelling or apartment house designed or occupied as a place of residence by a single family, individual or group of individuals.

34.2.8 Apartment House - Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as a home or place of residence by three (3) or more families living in independent dwelling units.

34.2.9 Area of the Lot or Building Site - The area shall be the net area of the lot or site and shall not include portions of streets and alleys.

34.2.10 Basement - A building story which is partly underground, but having a least one-half of its height above the average level of the adjoining ground. A basement shall not be counted as a story in computing building height.

34.2.12 Block - An area enclosed by streets and occupied by or intended for buildings; where this word is used a term of measurement, it shall mean the distance along a side of a street between the nearest two (2) streets which intersect said street on said side.

34.2.13 Board of Adjustment - The Zoning Board of Adjustment of the City of Center.

34.2.14 Buildable Width - The width of the building site left to be built upon after the required side yards are provided.

34.2.15 Building - 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 subdivided may be deemed a separate building.

34.2.16 Building, Detached - A building surrounded by yard or open space on the same building lot.

34.2.17 Building Ends - Those sides of a building having the least dimension as compared to the front or rear of a building. As used in the building space regulations for multiple-family dwelling, the term "building end" shall mean the narrowest side of a building regardless of whether it front upon a street, faces the rear of the lot or adjoins the side lot line or another building.

34.2.18 Building, Front Of - The side of a building most nearly parallel with and adjacent to the front of the lot on which it is situated.

34.2.19 Building Inspector - The Building Official or person charged with the enforcement of the zoning and building codes of the city.

34.2.20 Reserved.

34.2.21 Building Line - A line parallel or approximately parallel to the street line at a specified distance therefrom constituting the minimum distance from the street line that a building may be erected.

34.2.22 Building Lot - A single tract of land located within a single block which (at time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. Therefore, a "building lot" may not coincide with a lot of record. A "building lot" may be subsequently subdivided into two (2) or more "building lots", and a number of "building lots" may be cumulated into one "building lot", subject to the provisions of this ordinance.

34.2.23 Building, Main or Primary - A building in which is conducted the principal use of the lot on which it is situated.

34.2.24 Building Official - The Building Inspector, or any other person appointed by the City Manager or City Council to conduct inspections of buildings, plumbing, or electrical.

34.2.25 Canopy - Any structure of a permanent fixed nature attached to or independent of the main structure, built and designed for the purpose of shielding from the elements, persons or chattels or a roof-like structure of a permanent nature which is supported by or projects from the wall of a structure.

34.2.26 Cellar - A building story with more than one-half (1/2) its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.

34.2.27 Certificate of Occupancy and Compliance - An official certificate issued by the city through the enforcing official indicating conformance with or approved conditional waiver from the zoning regulations and authorizing legal use of the premises for which it is issued.

34.2.28 Contiguous - Shall mean "touching" or "in contact".

34.2.29 Court - An open, unoccupied space, bounded on more than two (2) sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one (1) side open to a street, alley, yard or other permanent space.

34.2.30 Coverage - The percent of a lot or tract covered by the roof or first floor of a building.

34.2.31 Depth of Lot - The mean horizontal distance between the front and rear lot lines.

34.2.32 Depth of Rear Yard - The mean horizontal distance between the rear line of a building other than an accessory building and the rear lot line except as modified in the text of any section in this ordinance.

34.2.33 District - A section of the city for which the regulations governing the area, height or use of the land and buildings are uniform.

34.2.34 Duplex - A building designed for occupancy by two families living independently of each other within separate living units which have a common wall and are under one roof.

34.2.35 Dwelling Unit - A building or unit shall consist of one (1) living quarters (for instance, a duplex shall constitute two (2) living quarters.

34.2.36 Family - An individual or group of two or more persons related by blood, marriage, adoption or guardianship including foster children, exchange students, and servants together with not more than two (2) additional persons not related by blood, marriage or adoption to the previously identified individual or group, living together as a single housekeeping unit in a dwelling unit or a Family Home for the Disabled as defined by the Community Homes for Disabled Persons Location Act, Article 1011n of V.A.C.S., as it presently exists or may be amended in the future, but not including household care or rehabilitation care facilities.

34.2.37 Flood Plain - An area of land subject to inundation by a 100-year frequency flood, as shown on the flood plain map of the City of Center. The term "floor plain" is interchangeable with the term "flood hazard area".

34.2.38 Floor Area - The total square feet of floor space within the outside dimensions of a building including each floor level, but excluding cellars, carports, garages or porches.

34.2.39 Floor Area Ratio - The ratio of total building floor area to lot area.

34.2.40 Reserved.

34.2.41 Front Yard - See Yard, front (Section 34.2.104a).

34.2.42 Garage Sale - The sale of items normally accumulated by a household subject to compliance with each of the following conditions:

a) No more than two (2) garage sales shall be allowed for the same location in any twelve (12) month period. The duration of the garage sale shall not exceed three (3) consecutive days.

b) Subject to compliance with applicable City Code, for more details

see Ordinance 94-1.

34.2.43 Gross Floor Area - The gross floor area of a building shall be measured by taking outside dimensions of the building at each floor level.

34.2.44 Heavy Load Vehicle (HLV) - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise.

34.2.45 Height - The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to (1) the highest point of the roof's surface if a flat surface, (2) to the deck line of mansard roofs, or (3) to the mean height level between eaves and edge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding ten (10) feet. If the street grade has not be officially established, the average front yard grade shall be used for a base level.

34.2.46 Industrialized Housing - A residential structure, as defined by State law, designed for use and occupancy by one (1) or more families, constructed in one (1) or more modular components built at a location other than the permanent residential site, designed to be used as a permanent residential structure when the modules or modular components are transported to the permanent residential site and are erected or installed on a permanent foundation system. The term shall not mean or apply to (a) housing constructed of sectional or penalized systems not utilizing modular components; or (b) any ready-built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location. Industrialized Housing shall mean residential structures regulated by the Texas Department of Licensing and Regulation and as defined by Section 1202 of the Texas Occupations Code or subsequent revisions.
(Ord. No. 2007-16, § 1, 10-22-2007)

34.2.47 Landscape Screen - Plant material of the evergreen variety, a minimum of six (6) feet in height at the time of installation and planted on four (4) foot centers. All such landscape screens shall be permanently maintained. Adequate facilities shall be provided for permanent watering at the time of installation.

34.2.48 Light Load Vehicles (LLV) - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight not greater than 11,000 pounds, and having no more than two (2) axles, such as pick-up trucks, vans, recreational vehicles, campers and other similar vehicles, but not including automobiles and motorcycles.

34.2.49 Living Unit - The room or rooms occupied by a family and which includes cooking facilities, including cooking, sleeping, and independent restrooms.

34.2.50 Reserved.

34.2.51 Lot - An undivided tract or parcel of land under one (1) ownership having frontage upon a public street or officially approved place, 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 ordinance, which parcel of land is designated as a separate and distinct tract and is identified by a tract or lot number or symbol in a duly approved subdivision plat of record.

34.2.52 Lot, Corner - A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street forming an interior angle of less than 135 degrees. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Building Inspector.

34.2.53 Lot Coverage - The percentage of the total area of a lot occupied by the base (first story of floor) of a building located on the lot or the area determined as the maximum cross-sectional area of the building.

34.2.54 Reserved for future use.

34.2.55 Lot Line, Front - That boundary of a building lot which is the line of an existing or dedicated street. Upon corner lots either street line may be selected as the front lot line providing a front and rear yard are provided adjacent and opposite, respectively, to the front lot line.

34.2.56 Lot Line, Rear - That boundary of a building lot which is most distant from or is most nearly parallel to the front lot line.

34.2.57 Lot Line, Side - That boundary of a building lot which is not a front lot line or a rear lot line.

34.2.58 Lot Lines - The line bounding a lot as defined herein.

34.2.59 Lot of Record - A lot which is part of a subdivision, a plat of which has been recorded in the office of the Appraisal District of Shelby County, Texas; or a parcel of land the deed for which is recorded in the office of the Appraisal District of Shelby County prior to the adoption of this ordinance.

34.2.60 Reserved.

34.2.61 Lot or Building Site - Land occupied or to be occupied by a building and its

accessory building, and including such open spaces as are required under this ordinance, and having its principal frontage upon a public street or officially approved place.

34.2.62 Lot Width - The width of a lot at the front building lines.

34.2.63 Main Building - The building or buildings on a lot which are occupied by the primary use.

34.2.64 Manufactured Home (HUD Code) Park - Any tract of land, under single ownership, of not less than three (3) acres and not more than ten (10) acres, approved for occupancy by manufactured housing and accessory structures related thereto and designed and operated in accordance with standards herein set forth or as set forth in any other ordinance of the City of Center relating to the location, use, construction, operation or maintenance of manufactured housing.

34.2.65 Manufactured Home (HUD Code) Subdivision - A tract of land of not less than three (3) acres to be used as a location primarily for owner-occupied HUD Code manufactured homes and which has been final platted of record in its entirety in accordance with the City of Center Subdivision Regulations and in accordance with the Section 25 of this ordinance.

34.2.66 Manufactured Modular Homes - "Modular Home" shall have the same meaning as "industrialized housing" as defined herein and regulated by Section 1202 of the Texas occupations Code.
(Ord. No. 2007-16, § 1, 10-22-2007)

34.2.67 Manufacturing Processes - Uses restricted from other zoning districts but permitted in the M-1 and M-2 districts under this definition are manufacturing and industrial uses which do not emit dust, smoke, odor gas, fumes, or present a possible hazard beyond the bounding property lines of the lot or tract upon which the use or uses are located, and which do not generate noise or vibration at the boundary of the lot or tract which is generally perceptible in frequency or pressure above the ambient level of noise or vibration in the adjacent area.

34.2.68 Mobile Home Park - See Manufactured Home (HUD Code) Park.

34.2.69 Mobile Home Subdivision - See Manufactured Home (HUD Code) Subdivision.

34.2.70 Reserved.

34.2.71 Non-Conforming Building or Use - A building, structure or use of land lawfully occupied at the time of the effective date of this ordinance or amendments thereto, and which does not conform to the use regulations of the district in which it is located.

34.2.72 Occupancy - The use or intended use of the land or buildings by proprietors or tenants.

34.2.73 Off-Street Parking Incidental to Main Use - Off-street parking spaces provided in accordance with the requirements specified by this ordinance and located on the lot or tract occupied by the main use or within two hundred (200) feet of such lot or tract and located within the same zoning district as the main use or in an adjacent parking district.

34.2.74 Off-Street Parking Space - An area for the temporary storage of an automobile which shall be permanently reserved for such purpose and which shall not be within or on any public street, alley or other right-of-way. (See Section 26 for detailed descriptions and regulations.)

34.2.75 Open Space - Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves, porches and plant material. Also see "Usable Open Space" (Section 34.2.101).

34.2.76 Open Storage - The storage of any equipment, machinery, commodities, raw, semi-finished materials, and building materials, not accessory to a residential use, which is visible from any point on the building lot line when viewed from ground level to six (6) feet above ground level, for more than twenty-four (24) hours.

34.2.77 Parking Space - An all-weather surfaced area used for parking a vehicle, not on a public street or alley, together with an all-weather surfaced driveway connecting the area with a street, permitting free ingress and egress without encroachment on the street.

34.2.78 Planning and Zoning Commission - The duly appointed Planning and Zoning Commission of the City of Center.

34.2.79 Plat - A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City of Center and subject to approval by the Planning and Zoning Commission.

34.2.80 Reserved.

34.2.81 Radio, Television and Microwave Towers - Structures supporting antenna for transmitting or receiving any portion of the radio spectrum but excluding non-commercial antenna installations for home use of radio or television.

34.2.82 Residence - Same as dwelling; when used with district, an area of residential

regulations.

34.2.83 Residential District - Any zoning district included in this ordinance in which residential use constitutes the primary permitted use classification, including the SF-E, SF-1, SF-2, MF, MH-1 and MH-2 district classification.

34.2.84 Room - A building or portion of a building which is arranged, occupied, or intended to be occupied as living or sleeping quarters, but not including toilet or cooking facilities.

34.2.85 Screening Device - See "Landscape Screen".

34.2.86 Setback - The minimum horizontal distance between the front wall of any projection of the building, excluding steps and unenclosed porch and the side street.

34.2.87 Sign - An outdoor advertising device that is a structure, or that is attached to or painted on a building, or that is leaned against a structure for display on premises, or that is free standing.

34.2.88 Site Plan - A detailed line drawing, to scale, showing scale used, north arrow, date and title of project, clearly describing the project and showing the following information:

a) Property lines, location and widths of all streets, alleys and easements.

b) Proper dimensions on all fundamental features such as lots, buildings, parking spaces and landscaped areas.

c) The location of setback lines, driveway openings and sidewalks.

d) All proposed buildings, free-standing sign locations, parking areas and open spaces.

e) All required landscaping, together with a description of type of material to be used.

f) A cross section of any required or proposed screening.

g) Total square footage of the development lot; total square footage of proposed structures; total footage of landscaped areas; total percentage of coverage; density of floor area ratio where applicable; height of all structures; number of parking spaces; square footage and design features of all signs; and solid waste collection facilities.

h) Name, address and telephone number of the proponent.

34.2.89 Story -The height between the successive floors of a building from the top floor to the roof. The standard height for a story is eleven (11) feet, six (6) inches.

34.2.90 Street - Any thoroughfare or public driveway, other than an alley, more than thirty (30) feet in width, which has been dedicated or deeded to the public or public use.

34.2.91 Street Line - A dividing line between a lot, tract or parcel of land and a contiguous street; the right-of-way.

34.2.92 Street, Local or Residential - A street designed to serve properties abutting and in the immediate vicinity of the street, having a minimum right-of-way width of fifty (50) feet in single family residential districts and seventy-five (75) feet in all other districts.

34.2.93 Street, Major - A street designed to serve the entire community or substantial portions of the community, as well as traffic of non-local origin and destination, having a minimum right-of-way width of one hundred (100) feet.

34.2.94 Street, Secondary or Collector - A street designed to serve an area roughly one quarter (1/4) mile distant from each side of the street, having minimum right-of-way width of seventy-five (75) feet.

34.2.95 Structural Alterations - Any change in the supporting member of a building, such as a bearing wall, column, beams or girders.

34.2.96 Structure - (Same as Building.)

34.2.97 Swimming Pool (Private) - A swimming pool constructed for the exclusive use of the residents of a single family, two-family or apartment dwelling and located within the required side or rear yards; however, a pool shall not be located closer than eight (8) feet to any property line.

34.2.98 Tennis Court (Private) - A surface designed and constructed for playing the game of tennis along with all fencing, nets and related appurtenances but excluding lighting for night play in residential areas except as may be otherwise provided or restricted by the Specific Use Permit.

34.2.99 Thoroughfare - (Same as Street.)

34.2.100 Two Family Dwelling - A building designed for occupancy by two families living

independently of each other within separate units which have a common wall and are under one roof.

34.2.101 Usable Open Space - An open area which is designed and intended to be used for outdoor living and/or recreation. An area of common usable open space shall have a slope not exceeding ten percent (10%), shall have no dimension of less than ten (10) feet, and may include landscaping, walks, water features and decorative objects. Usable open space shall not include rooftops, accessory buildings, parking areas, driveways, turn-around areas, or right-of-way or easement for streets or alleys.

34.2.102 Variance - An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

34.2.103 Wholesale -The sale of goods, merchandise, services and/or commodities for resale by the purchaser and does not offer retail sales to the general public.

34.2.104 Yard - An open space, other than a court, on the lot in which a building is situated and which is not obstructed from a point forty (40) inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special architectural features and plant material.

34.2.104a Yard, Front - An open, unoccupied space on a lot facing a street extending across the front of a 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.

34.2.104b Yard, Rear - An open, unoccupied space, except for accessory buildings as herein permitted extending across the rear of a lot from one (1) side lot line to the other side lot line.

34.2.104c Yard, Side - An open, unoccupied space or spaces on one (1) side or two (2) sides of a main building and on the same lot with the building, situated between he building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line not the rear line or front line shall be deemed a side line.

34.2.105 Zoning District Map - The official certified map upon which the boundaries of the various zoning districts are drawn.

34.2.106 Zoning Ordinance - This ordinance containing land use regulations for the City of Center.

SECTION 35 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

35.1 General Requirements

No permanent structure may be constructed or otherwise located within the city limits prior to issuance of a Building Permit by the Building Inspector. No permanent structure constructed or otherwise located within the city limits may be occupied prior to issuance of a Certificate of Occupancy by the Building Inspector. No change in the existing conforming use of a permanent structure, or of land to a use of a different classification under this ordinance, and no change in the legally conforming use of a permanent structure or of land may take place prior to issuance of a Certificate of Occupancy by the Building Inspector.

35.2 Procedure for New or Altered Buildings

Plans for any permanent structure to be constructed or otherwise located within the city limits must be approved by the Building Inspector who, upon approval, shall issue a Building Permit. A complete application for a Building Permit shall contain details of foundation and structure sufficient to determine compliance with applicable provisions of the Building Code. Upon submission of a complete application, the Building Inspector shall issue a Building Permit. After issuance of a Building Permit and prior to issuance of a Certificate of Occupancy, the Building Inspector shall conduct a foundation, plumbing, electrical and framing inspection. After such inspection, the Building Inspector shall issue a Certificate of Occupancy if the plans and the results of the inspection comply with the provisions of all applicable ordinances and regulations.

35.3 Procedure for Vacant Land or a Change in Use

Written application for a Certificate of Occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided, shall be made to said Building Inspector. If the proposed use is in conformity with the provisions of this ordinance, the Certificate of Occupancy therefore shall be issued within ten (10) days after the application for same has been made.

35.4 Contents of Certificate of Occupancy

Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all provisions of the building and fire laws and ordinances. A record of all Certificates of Occupancy shall be kept on file in the Office of the Building Inspector or his agent and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.

35.5 Temporary Certificate

Pending the issuance of a regular certificate, a temporary Certificate of Occupancy may be issued by the Building Inspector for a period not exceeding six (6) months during the

completion of alterations or during partial occupancy of a building pending its completion. Issuance of a temporary certificate shall not be construed to alter the respective rights, duties, or obligations of the owner or of the City relating to the use occupancy of the premises or any other matter covered by this ordinance.

35.6 Certificates for Non-Conforming Uses

A Certificate of Occupancy shall be required for all lawful non-conforming uses of land or buildings created by adoption of this ordinance. Application for such Certificate of Occupancy for a non-conforming use shall be filed with the Building Inspector by the owner or lessee of the building or land occupied by such non-conforming use within one (1) year of notification by the Building Official of its non-conformance. It shall be the duty of the Building Inspector to issue a Certificate of Occupancy for a lawful non-conforming use, but failure to apply for such Certificate of Occupancy for a non-conforming use shall be evidence that said non-conforming use was either illegal or did not lawfully exist at the effective date of this ordinance.

SECTION 36 CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS AND ADMINISTRATIVE PROCEDURES

36.1 Declaration of Policy

The City declares the enactment of these regulations governing the use and development of land, buildings, and structures to be a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

36.1.1. To correct any error in the regulations or map.

36.1.2. To recognize changed or changing conditions or circumstances in a particular locality.

36.1.3 To recognize changes in technology, style of living, or manner of doing business.

36.2 Authority to Amend Ordinance

The City Council may from time to time, after public hearings required by law, amend , supplement, or change the regulations herein provided or the classification or boundaries of the zoning districts. Any amendment, supplement, or change to the text of the Zoning Ordinance and/or the zoning map any change in the classification or boundaries of the zoning districts may be ordered for consideration by the City Council, may be initiated by the Planning and Zoning Commission, the City Council, or may be requested by the owner of the affected real property or the authorized representative of an owner of affected real property.

36.3 Public Hearing and Notice

36.3.1 Upon filing of an application for an amendment to the zoning ordinance and map, the Planning and Zoning Commission and City Council shall hold a public hearing on said application.

36.3.2 Written notice of such hearings shall be sent to the owner of the property or his agent and to all owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice, mailed first-class return receipt requested, to be given not less than ten (10) days before the date of such hearing, to all owners who have rendered their said property for City taxes as the ownership appears on the last approved City tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the City Post Office. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the City after the final date for making the renditions which are included on the last approved City tax roll, notice to such owners shall be given by one publication in the official newspaper at least fifteen (15) days before the time of the hearing. Also, the City Secretary shall have the property, lot or tract posted with a sign at least eighteen (18) by twenty-four (24) inches in size which shall state "Zoning change Requested for information call City Hall" and the telephone number shall be listed. Failure of owners to receive actual notice of hearing shall in no way affect the validity of the action taken.

36.4 Action of the Planning and Zoning Commission

36.4.1 If, at the conclusion of the hearing, the Planning and Zoning Commission recommends amendment of this ordinance to the City Council, said recommendation shall be by resolution of the Planning and Zoning Commission carried by the affirmative votes of not less than a majority of its total membership present and voting. A copy of any recommended amendment shall be submitted to the City Council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.

36.4.2 The Planning and Zoning Commission may recommend denial of an application with or without prejudice against the applicant to refile the application. If the Commission recommends denial of the application and fails to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being recommended for denial without prejudice against refiling. If it is later determined by the Commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period and grant a new hearing. Newly annexed land which has been given Agricultural zoning is exempt from the one (1) year waiting period.

36.5 Action of the City Council

36.5.1 If the Planning and Zoning Commission has recommended approval or denial of an application, the City Council shall set said application for public hearing and shall give notice of the time and place of the hearing by one (1) publication in the official newspaper at least fifteen (15) days prior to such hearing, and in addition shall send written notices to the owner of the property or his agent, and to all property owners of real property lying within two hundred (200) feet of the subject property pursuant to Section 36.3.2. This notice may be issued simultaneously with the notice required by Sec. 36.3.2.
(Ord. No. 2007-16, § 8, 10-22-2007)

36.5.2 If the Planning and Zoning Commission has recommended to the City Council that a proposed amendment be disapproved, the City Council may refuse to adopt the amendment by a simple majority vote of the Councilmen present and voting. However, in order to adopt the amendment which has been recommended for disapproval by the Planning and Zoning Commission, the amendment shall not become effective except by the favorable vote of a simple majority of all members of the City Council of the City of Center, Texas.

36.5.3 When the Planning and Zoning Commission has recommended to the City Council that a proposed amendment be approved, the City Council may disapprove the petition or application for amendment by a simple majority vote of the City Councilmen present and voting. In the event of a tie vote of the City Councilmen present and voting, the Mayor may cast the deciding vote.

36.5.4 In the case of a protest against an amendment to the ordinance signed by the owners of twenty percent (20%) or more either of the area of the lots or land immediately adjoining the area included in the proposed change and extending two hundred (200) feet from that area, such amendment shall not become effective except by the favorable vote of a simple majority of all members of the City Council of the City of Center.

36.5.5 In making its determination, the City Council shall consider the following factors:

36.5.5.1. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the city as a whole.

36.5.5.2 Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers and other utilities to the area and shall note the findings.

36.5.5.3 The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances which may make a substantial part of such vacant land unsuitable for development.

36.5.5.4. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed changes.

36.5.5.5 The manner in which other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should also be modified.

36.5.5.6 Any other factors which will substantially affect the public health, safety, morals or general welfare.

36.5.6 In considering a motion to deny a zoning application, or upon voting to deny a zoning application, the City Council shall further consider whether said application shall be denied with or without prejudice against refiling. If the City Council shall deny the application and fail to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being denied without prejudice against refiling. If an application is denied with prejudice, no application may be filed for all or part of the subject tract of land for a period of one (1) year from the date of denial by the City Council. If it is determined by the Planning and Zoning Commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period and grant a new hearing. Newly annexed land which has been given Agricultural zoning is exempt from the one (1) year waiting period.

36.6 Effect of Denial of Petition

In case the application for an amendment to the Zoning Ordinance is denied by the City Council, said application shall not be eligible for reconsideration for one (1) year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the Planning and Zoning Commission, to be eligible for consideration within one (1) year of the denial of the original application.

In the event of a reapplication affecting the same land is for a zone that will permit the same use of the property as that which would have been permitted under the denied application, the same shall not be considered to be substantially different from the application denied.

36.7 Final approval and Ordinance Adoption

If the amending ordinance is not approved within six (6) months from the time of its original consideration, the zoning request, at the option of the City Council, may be recalled for a new public hearing.

36.8 Changes in Zoning Regulations

Amendments to the Zoning Ordinance not involving a particular property but involving change in the zoning regulations generally do not require notice to individual property owners. In such cases, notice of the required public hearing shall be given by publication in the official newspaper of the city, stating the time and location of the public hearing, which time shall not be earlier than fifteen (15) days from the date of such publication.

SECTION 37 SCHEDULE OF FEES, CHARGES, AND EXPENSES

The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance. The schedule shall be posted in the office of the administration official and may be altered or amended only by the City Council.

No permits, certificates, special exception, or variance shall be issued unless and until such costs, charges, fees, or expenses have been paid in full, nor shall any action taken on proceedings before the Board of Adjustment unless or until preliminary charges and fees have been paid in full.
The exact charge for the following services will be established by separate ordinance:

a. For docketing a zoning petition with the Planning and Zoning Commission of the City of Center.

b. For docketing an application for relief with the Board of Adjustment of the City of Center.

SECTION 38 PENALTY FOR VIOLATIONS

Any person or corporation violating any of the provisions of this ordinance shall upon conviction be fined a sum not to exceed two thousand dollars ($2000.00) per day and each and every day that the provisions of this ordinance are violated shall constitute a separate and distinct offense. In addition to the said penalty provided for, 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 the ordinance to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.

SECTION 39 VALIDITY, SEVERANCE AND CONFLICT

If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall be severed from and shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so dedicated to be invalid or unconstitutional. To the extent any provision of this ordinance conflicts with other ordinances of the City of Center the terms of this ordinance shall control.

SECTION 40 EFFECTIVE DATE

This ordinance shall be effective upon the posting and/or publication of its caption as required by law and the City Secretary is hereby directed to implement such posting and/or publication.

APPENDIX 1
DISTRICT REGULATIONS

	A	SF-E	SF-1	SF-2	TF	MF	MH-1	MH-2	C-1	C-2	M-1	M-2
MAXIMUM HEIGHT (feet)	35	35	35	35	30	45	25	25	45	50	50	50
SIDE YARD WIDTH (feet)	15	15	15	15	15	15	15	15	B	B	B	B
REAR YARD (feet)	30	30	25	20	15	15	15	15	B	B	B	B
FRONT YARD (feet)	35	35	30	25	20	20	20	20	B	B	B	B
LOT AREA (square feet)	87,120	43,560	7,500	6,000	7,000	A	6,000	C	B	B	B	B
MINIMUM LOT WIDTH (feet)	100	100	60	60	70	70	60	C	B	B	B	B
MINIMUM LOT DEPTH (feet)	200	200	100	100	90	150	100	C	B	B	B	B
MAXIMUM LOT COVERAGE	10%	10%	35%	40%	60%	60%	40%	C	B	B	B	B

A - Total lot area shall not be less than 9,000 square feet for dwelling unit construction. For each dwelling unit over three (3) in number, no less than 1,500 square feet of additional lot area is required. A maximum of ten (10) units may be constructed per acre.

B- None required except where non-residential use abuts a residential lot in which case the requirements shall be the same as the adjoining residential zone and shall comply with visibility and parking requirements as provided within this ordinance.

C- No more than ten (10) units per acre, the minimum size of the entire park shall be at least three (3) acres.