

# CITY OF KINGSVILLE, TEXAS

## CODE OF ORDINANCES

Contains 2007 S-9 Supplement, current through  
Ordinance 2006-61, passed 11-27-06

AMERICAN LEGAL PUBLISHING CORPORATION

432 Walnut Street Cincinnati, Ohio 45202-3909 (513)

421-4248

**KINGSVILLE, TEXAS  
TABLE OF CONTENTS**

Article

**CHAPTER I: GENERAL PROVISIONS**

1. General Provisions

**CHAPTER III: ADMINISTRATION**

1. City Commission
2. City Officials
3. Departments, Boards and Commissions
4. Police Department
5. Fire Department
6. Municipal Court
7. Personnel Policies
8. Records Management
9. Emergency Management; Public Disturbances
10. Revenue and Finance
11. Taxation
12. City Policies
13. Code of Ethics

**CHAPTER V: PUBLIC WORKS**

1. Garbage
2. Sewers
3. Water
4. Water and Sewer Main Extensions

## Article

**CHAPTER VII: TRAFFIC CODE**

1. Traffic Regulations
2. Stopping, Standing and Parking
3. Railroads
4. Bicycles
5. Traffic Schedules
6. Parking Schedules
7. Traffic Calming Devices
8. Traffic Control Devices

**CHAPTER IX: GENERAL REGULATIONS**

1. Abandoned and Junked Motor Vehicles
2. Alarm Systems
3. Animals
4. Fair Housing
5. Fire Prevention and Protection
6. Noise Control
7. Nuisances
8. Parks and Recreation
9. Smoking Regulations
10. Streets and Sidewalks

**CHAPTER XI: BUSINESS REGULATIONS**

1. General Business Regulations
2. Ambulance Service
3. Alcoholic Beverages
4. Games and Amusement Devices
5. Vehicles for Hire
6. Flea Markets
7. Food Sales and Food Establishments
8. Phrenologists and Fortune Tellers
9. Junk Yards
10. Taxi cabs

Article

11. Oil and Gas Wells
12. (Reserved)
13. Tire and Appliance Storage
14. Vendor Solicitations

**CHAPTER XIII: GENERAL OFFENSES**

1. Offenses Against Property
2. Offenses Against Public Peace and Safety

**CHAPTER XV: LAND USAGE**

1. Building Regulations
2. Mobile Homes and Mobile Home Parks
3. Subdivision Regulations
4. Flood Damage Prevention
5. Historic Districts and Landmarks
6. Zoning
7. Sexually Oriented Businesses
8. Landscaping Policy

**CHARTER**

**PARALLEL REFERENCES**

References to Texas Revised Statutes and Texas Codes  
References to 1962 Code  
References to Ordinances

**INDEX**



## **CHAPTER I: GENERAL PROVISIONS**

Article

### **1.GENERAL PROVISIONS**



## **ARTICLE 1: GENERAL PROVISIONS**

### **Section**

- 1-1-1 Title of code
- 1-1-2 Interpretation
- 1-1-3 Application to future ordinances
- 1-1-4 Captions
- 1-1-5 Definitions
- 1-1-6 Rules of interpretation
- 1-1-7 Severability
- 1-1-8 Reference to other sections
- 1-1-9 Reference to offices
- 1-1-10 Errors and omissions
- 1-1-11 Official time
- 1-1-12 Reasonable time
- 1-1-13 Ordinances repealed
- 1-1-14 Ordinances unaffected
- 1-1-15 Ordinances which amend or supplement code
- 1-1-16 Liability of officers
  
- 1-1-99 General penalty

### **§ 1-1-1 TITLE OF CODE.**

This codification of ordinances by and for the City of Kingsville shall be designated as the Code of Kingsville and may be so cited.

### **§ 1-1-2 INTERPRETATION.**

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

### § 1-1-3 APPLICATION TO FUTURE ORDINANCES.

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

### § 1-1-4 CAPTIONS.

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

### § 1-1-5 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

***CITY, MUNICIPAL CORPORATION, MUNICIPALITY, or TOWN.*** The City of Kingsville, Texas.

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

***COUNTY.*** Kleberg County, Texas.

***MAY.*** The act referred to is permissive.

***MONTH.*** A calendar month.

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

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

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

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

***SHALL***. The act referred to is mandatory.

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

***STATE***. The State of Texas.

***SUBARTICLE***. A division of an article, designated in this code by a heading in the article analysis and a capitalized heading in the body of the article, setting apart a group of sections related by the subject matter of the heading. Not all articles have subarticles.

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

***YEAR***. A calendar year, unless otherwise expressed.

#### **§ 1-1-6 RULES OF INTERPRETATION.**

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

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

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

#### **§ 1-1-7 SEVERABILITY.**

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

#### **§ 1-1-8 REFERENCE TO OTHER SECTIONS.**

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

**§ 1-1-9 REFERENCE TO OFFICES.**

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

**§ 1-1-10 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

**§ 1-1-11 OFFICIAL TIME.**

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

**§ 1-1-12 REASONABLE TIME.**

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

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

**§ 1-1-13 ORDINANCES REPEALED.**

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

**§ 1-1-14 ORDINANCES UNAFFECTED.**

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

**§ 1-1-15 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

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

(B) Any ordinance which is proposed to add to the existing code a new article or section shall indicate, with reference to the arrangement of this code, the proper number of such article or section.

**§ 1-1-16 LIABILITY OF OFFICERS.**

No provision of this code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the Commission to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the provision creating the duty.

(62 Code, § 1-1-8)

**§ 1-1-99 GENERAL PENALTY.**

(A) Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by:

(1) A fine not to exceed \$2,000 in all cases arising under municipal ordinances that govern fire safety, zoning and public health and sanitation;

(2) A fine not to exceed \$2,000, if a motor vehicle is used in illegal dumping or an offense under the law or city ordinance violated by the illegal dumping;

(3) A fine not to exceed \$500 in all other cases.

(B) Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.

***Statutory reference:***

*Municipal penalties, see TEX. LOC. GOV'T CODE, § 54.001*



## **CHAPTER III: ADMINISTRATION**

### **Article**

- 1. CITY COMMISSION**
- 2. CITY OFFICIALS**
- 3. DEPARTMENTS, BOARDS AND COMMISSIONS**
- 4. POLICE DEPARTMENT**
- 5. FIRE DEPARTMENT**
- 6. MUNICIPAL COURT**
- 7. PERSONNEL POLICIES**
- 8. RECORDS MANAGEMENT**
- 9. EMERGENCY MANAGEMENT; PUBLIC  
DISTURBANCES**
- 10. REVENUE AND FINANCE**
- 11. TAXATION**
- 12. CITY POLICIES**
- 13. CODE OF ETHICS**



## ARTICLE 1: CITY COMMISSION

### Section

#### ***General Provisions***

##### 3-1-1 Meetings

#### ***Rules Before the City Commission***

##### 3-1-10 Agenda

##### 3-1-11 Rules of procedure

##### 3-1-12 Removal from office

##### 3-1-13 Rules of decorum

##### 3-1-14 Rules for public hearing

##### 3-1-99 Penalty

#### ***Cross-reference:***

*For similar provisions, see Charter, Art. V*

## **GENERAL PROVISIONS**

### **§ 3-1-1 MEETINGS.**

(A) *Time of meetings.* The City Commission shall meet in regular session on the second and fourth Monday of each month at 6:00 p.m., in the Commission chambers located at City Hall, 200 East Kleberg, Kingsville, Texas.

(B) *Holidays.* The City Commission shall authorize city staff to amend the meeting schedule in the event a regular scheduled meeting date coincides with a city holiday. (Ord. 90024, passed 5-14-90)

(C) *Scheduling of meetings.* Regular or special meetings of the City Commission shall be scheduled as follows:

- (1) The City Commission shall meet in accordance with this section.

(2) Any two members of the City Commission may call special meetings of the Commission at any time deemed advisable according to the Charter, Article V, § 12.

(3) If it is known that a quorum of elected officers will not be present for a regularly scheduled meeting and this fact is known 72 hours or more prior to the meeting, the meeting may be rescheduled or cancelled by either the City Manager or the City Commission.

(4) Before the City Manager cancels or reschedules a regular or special meeting of the City Commission he shall get authorization from the Mayor or Mayor Pro Tem, or in their absence, from any member of the Commission. (Ord. 91002, passed 1-28-91) ('62 Code, § 1-5-5)

### ***RULES BEFORE THE CITY COMMISSION***

#### **§ 3-1-10 AGENDA.**

(A) The City Manager shall be responsible for preparation of an agenda for each City Commission meeting.

(B) The agenda shall conform to all applicable laws of the state and the following special regulations.

(1) The City Manager, City Attorney, any department head with consent of the City Manager, any member of the City Commission or the City Commission itself may place an item on the agenda; however, unless the City Manager is directed in open session to place an item on the agenda, each agenda item shall reflect the person by name or title who requested that such item be placed on the agenda.

(2) Any resident who wishes to address the City Commission on any matter may do so by notifying the City Secretary in accordance with the Texas Open Meetings Law. Any such address shall not exceed five minutes without permission of a majority of the Commission.

(3) Any non-resident wishing to address the Commission shall notify the City Secretary and specify his interests in the matter being considered. The City Secretary shall present such requests to the City Manager for approval before placing the name on the agenda. Any such address shall not exceed five minutes without permission of a majority of the Commission.

(4) Prior to considering any item on the agenda which requires deliberation, discussion, action, or consideration by the Commission an agenda item shall be listed which would permit persons to comment on any item set out on the agenda. Such comments shall not exceed three minutes. No person shall be able to comment on any matter on the agenda at any other time except with the consent of five affirmative votes of the City Commission. The provisions of this subsection shall have no application in the case of a public hearing required by law. (Ord. 96002, passed 1-22-96)

### **§ 3-1-11 RULES OF PROCEDURE.**

The following rules of procedure shall be fully applicable:

(A) All meetings of the City Commission shall be governed by *Roberts Rules of Orders* provided that, in those cases controlled by this subarticle, other city ordinances and resolutions, or other laws, this subarticle, other ordinances and resolutions and other laws shall be fully controlling and *Roberts Rules of Orders* shall be of no force or effect.

(B) If at any meeting of the City Commission a member of the public or of the City Commission inquires about a subject for which notice has not been given in accordance the Texas Open Meetings Law, a statement of specific factual information given in response to the inquiry, or a recitation of existing policy in response to the inquiry or a decision on whether or not to place the inquiry on the agenda for a subsequent meeting are the limits of discussion or deliberation.

(C) If a City Commission member becomes aware that they will not be able to attend a regular scheduled meeting they shall contact the Mayor, City Manager, or City Secretary prior to the meeting.

(Ord. 96002, passed 1-22-96)

### **§ 3-1-12 REMOVAL FROM OFFICE.**

A City Commissioner shall forfeit his office for any of the following reasons:

(A) Any requirement not met when made of the City Commissioner by the City Charter.

(B) If a City Commissioner is absent from three consecutive regular scheduled meetings without valid excuse, or is absent for six regularly scheduled meetings without valid excuse, whether or not consecutive, during a period of two years. Determination of a valid excuse shall be made by majority vote of the City Commission.

(C) Incompetency, corruption, misconduct, or malfeasance in office after due notice and an opportunity for hearing.

(Ord. 96002, passed 1-22-96)

### **§ 3-1-13 RULES OF DECORUM.**

The following rules of decorum shall be fully applicable to all City Commissioners and other persons appearing before the Commission or present at Commission meetings.

(A) *Recognition by presiding officer.* No person shall address the Commission without first being recognized by the presiding officer.

(B) *Speaking procedure; limitation on discussion and questioning.* Each person addressing the Commission shall step up to the podium provided for the use of the public and give his name and address in an audible tone of voice for the records, state the subject he wishes to discuss, state whom he is representing if he represents an organization or other persons, and unless further time is granted by majority vote of the Commission, shall limit his remarks as otherwise provided for herein. All remarks shall be addressed to the Commission as a whole and not to any member thereof. No person other than members of the Commission and the person having the floor shall be permitted to enter into any discussion, whether directly or through a member of the Commission, without the permission of the presiding officer. No question may be asked a Commission member or the city staff without the permission of the presiding officer and except for a Commission member, the City Manager, or City Attorney permission of the City Manager.

(C) *Improper references, disorderly conduct by persons addressing Commission.* Any person making, expressly or impliedly, personal, impertinent, slanderous, derogatory, discourteous, snide, or profane remarks or who willfully utters loud, threatening or abusive language, or engages in any disorderly conduct which would impede, disrupt, or disturb the orderly conduct of any meeting, hearing or other proceedings, shall be called to order by the presiding officer and, if such conduct continues, may, at the discretion of the presiding officer, be ordered barred from further audience before the Commission during that meeting.

(D) *Addresses after public hearing closed.* After a public hearing has been closed, no member of the public shall address the Commission from the audience on the matter under consideration without first securing permission to so do by majority vote of the City Commission.

(E) *Campaign speeches prohibited.* No person will be allowed to address the City Commission by making campaign speeches for or against any candidate who has announced or does announce his intention to run, or issue already ordered on a ballot for election.

(F) *Disorderly conduct.* No person in the audience shall engage in disorderly conduct such as handclapping, stamping of feet, whistling, using profane language, yelling, and similar demonstrations, which conduct disturbs the peace and good order of the meeting.

(G) *Limitations on use of supplemental lighting.* Limitations on use of supplemental lighting for television and motion-picture cameras to create the least amount of interference with or disturbance of Commission proceedings and/or discomfort to the public shall be maintained.

(H) *Sergeant at Arms.* The City Manager shall act as Sergeant at Arms for the City Commission and shall furnish whatever assistance is needed in enforcing the rules established herein. The City Manager may call on any peace officer of the state when he deems it necessary to assist in his enforcement of these rules.

(I) *No unauthorized persons permitted within the rail.* No person except members of the City Commission and the city staff shall be allowed within the rail without the consent of the presiding officer.

(J) *Eating, drinking or smoking.* All persons shall refrain from smoking, eating, or drinking (except water) while in the Chamber during a City Commission meeting.

(K) *Members shall preserve order and decorum.* During City Commission meetings, the members of the Commission shall preserve order and decorum and shall not, by conversation or otherwise, delay or interrupt proceedings or refuse to obey the orders of the presiding officer or the rules of the City Commission.

(L) *Questioning the administrative staff.* Every Commission member desiring to question the administrative staff shall address the questions to the City Manager who should be entitled to answer the inquiries himself or to designate some member of his staff for that purpose. Commission appointees shall not be considered administrative staff.

(M) *Mayor and Commissioners to exercise equal power.* The Mayor and Commissioners shall exercise equal power and authority in the transaction of business for the city, except that the Mayor or in his absence the Mayor pro-tempore shall act as presiding officer of the Commission. The Mayor shall perform all duties imposed upon him by the City Charter and by ordinances of the city, or upon order of the Commission.

(Ord. 96002, passed 1-22-96) Penalty, see § 3-1-99

#### **§ 3-1-14 RULES FOR PUBLIC HEARING.**

Notwithstanding anything else herein in those cases in which a public hearing is required by law, interested persons may comment at the very time the agenda item is discussed, provided that, no person's comments shall exceed five minutes.

(Ord. 96002, passed 1-22-96)

#### **§ 3-1-99 PENALTY.**

Violation of the provisions of §§ 3-1-10 through 3-1-14 shall constitute a misdemeanor and shall be punished by a fine of not less than \$1 nor more than \$500 and each separate incident which does not constitute a continuous transaction shall constitute a separate offense.

(Ord. 96002, passed 1-22-96)



## ARTICLE 2: CITY OFFICIALS

### Section

3-2-1 City Secretary

3-2-2 City Attorney

#### **Cross-reference:**

*City Manager, see Charter, Article V, §§ 30 through 32*

### **§ 3-2-1 CITY SECRETARY.**

(A) *Appointment.* The City Manager shall designate an employee of the city as City Secretary. ('62 Code, § 1-7-1)

(B) *Responsibility.*

(1) The City Secretary shall provide legal and proper notice of all official meetings of the City Commission; shall provide maintenance and custodianship of the minutes of all City Commission meetings; shall conduct city elections; shall act as Registrar of Vital Statistics; and shall perform duties as prescribed by law.

(2) In addition to other duties, the City Secretary shall be designated as the Records Management Officer and custodian of public records and shall have the responsibilities outlined in TEX. LOC. GOV'T CODE, §§ 201.001 et seq., "Records Provision Applying to More Than One Type of Local Government." ('62 Code, § 1-7-3)

### **§ 3-2-2 CITY ATTORNEY.**

(A) *Suits and actions.* The City Attorney shall prosecute and defend any and all suits or actions at law or equity to which the city may be a party, or in which it may be interested or which may be brought against, or by any officer of the city on behalf of the city or in the capacity of such person as an officer of the city. ('62 Code, § 1-12-2)

(B) *Settlement of claims.* The City Attorney shall file, process, evaluate and handle all claims against the city when the amount of settlement of such claim does not exceed the deductible on any applicable insurance policy claim and/or where the total payment on any such claim does not exceed \$10,000. ('62 Code, § 1-12-2A) (Ord. 87002, passed 1-26-87)

(C) *Judgments.* It shall be the duty of the City Attorney to see to the full enforcement of all judgments or decrees rendered or entered in favor of the city. ('62 Code, § 1-12-3)

(D) *Advice.* The City Attorney shall be the legal advisor of the city and shall render advice on all legal questions affecting the city, whenever requested to do so by any municipal official. Upon request of the Commission he shall reduce any such opinion to writing. ('62 Code, § 1-12-4)

(E) *Ordinances and documents.* It shall be the duty of the City Attorney to draft or supervise the phraseology of any contract, lease or other document or instrument to which the city may be a party; and upon request of the Commission to draft ordinances covering any subjects within the power of the city. ('62 Code, § 1-12-6)

## **ARTICLE 3: DEPARTMENTS, BOARDS AND COMMISSIONS**

### Section

#### ***General Provisions***

- 3-3-1 Attendance at meetings
- 3-3-2 Quarterly meetings with City Commission

#### ***Planning and Zoning Commission***

- 3-3-15 Commission created
- 3-3-16 Organization
- 3-3-17 Powers and duties

#### ***Coastal Bend Regional Planning Commission***

- 3-3-25 Commission established

#### ***Board of Health***

- 3-3-50 Board created
- 3-3-51 Members; terms
- 3-3-52 Salaries; compensation
- 3-3-53 Director of Health
- 3-3-54 Duties of the Board
- 3-3-55 Election of officers; meetings

#### ***Library Department***

- 3-3-80 Department created
- 3-3-81 Gifts; donations
- 3-3-82 Library Board

**GENERAL PROVISIONS****§ 3-3-1 ATTENDANCE AT MEETINGS.**

All members of every board, commission or committee appointed by the City Commission are required to attend all regular meetings of the board, commission or committee; and the absence of a member from three consecutive regularly scheduled meetings without a valid excuse shall be grounds for dismissal from such board, commission or committee.

('62 Code, § 2-8-1) (Ord. 81010, passed 3-23-81)

**§ 3-3-2 QUARTERLY MEETINGS WITH CITY COMMISSION.**

During every quarter of the calendar year, the City Commission shall meet at least once with the Library Board and the Board of Health.

('62 Code, § 2-8-2) (Ord. 82020, passed 4-12-82; Am. Ord. 86025, passed 9-29-86)

**PLANNING AND ZONING COMMISSION****§ 3-3-15 COMMISSION CREATED.**

There is hereby created and established for the city a Planning and Zoning Commission which shall be composed of nine members. The members shall be resident citizens, taxpayers and qualified voters of the city, all of whom shall be appointed by the City Commission, to serve for terms of two years. All vacancies shall be filled for the unexpired term in the same manner as provided for the original appointments. All expired terms shall be filled for terms as provided for the original appointments and in the same manner. Members of the Commission may be removed by the City Commission, after public hearing and for cause assigned in writing. The members of the Commission shall serve without compensation. The City Attorney shall be an ex-officio member of the Commission.

('62 Code, § 2-1-1)

**Statutory reference:**

*State law concerning a Zoning Commission, see TEX. LOC. GOV'T CODE,, § 211.007*

**§ 3-3-16 ORGANIZATION.**

(A) The Planning and Zoning Commission shall elect a Chairman and Vice Chairman from its membership and shall have power to employ such qualified persons as may be necessary for the proper conduct and undertakings of the Commission and to pay for their services and such other necessary expenses, provided that the cost of such services and expenses shall not exceed the amount

appropriated by the City Commission for the use of the Planning and Zoning Commission. It shall also have the power to make rules, regulations, and by-laws for its own government, which shall also conform as nearly as possible with those governing the City Commissioners, and same shall be subject to approval by such Commission.

(B) Such by-laws shall include, among other items, provisions for:

- (1) Regular and special meetings, open to the public;
- (2) Records of its proceedings, to be open for inspection by the public;
- (3) Reporting to the City Commission and the public, from time to time and annually; and
- (4) For the holding of public hearings on its recommendations.

('62 Code, § 2-1-2)

**Statutory reference:**

*Open Meetings Act, see TEX. GOV'T CODE, §§ 551.001 et seq.*

*Public Information Act, see TEX. GOV'T CODE, §§ 552.001 et seq.*

**§ 3-3-17 POWERS AND DUTIES.**

The Planning and Zoning Commission shall have the power and it shall be its duty to make and recommend for adoption a master plan, as a whole or in parts, or the future development and redevelopment of the municipality and its environs and shall have the power and duty to prepare a comprehensive plan and zoning regulations for the city in accordance with Chapter 283, Acts of the Regular Session of the Legislature, 1927, (TEX. LOC. GOV'T CODE, §§ 211.001 et seq.). The Commission shall perform such other duties as may be prescribed by the provisions of this code. ('62 Code, § 2-1-3) (Ord. —, passed 12-12-49)

**COASTAL BEND REGIONAL PLANNING COMMISSION**

**§ 3-3-25 COMMISSION ESTABLISHED.**

(A) The Mayor, for and on behalf of the city, be and he is hereby authorized and directed to accept membership in the Coastal Bend Regional Planning Commission and execute such instruments as are necessary to complete such acceptance of membership of the city in the Coastal Bend Regional Planning Commission, including an agreement establishing the Coastal Bend Regional Planning Commission, as amended, and the amended by-laws of the Commission, a copy of which is by reference made a part hereof.

(B) Representatives of the city, up to the number permitted by the by-laws of the Coastal Bend Regional Planning Commission, shall hereafter be appointed by the City Commission. ('62 Code, § 2-6-1) (Ord. —, passed 2-27-67)

**Statutory reference:**

*Regional Planning Commission, see TEX. LOC. GOV'T CODE, see §§ 391.001 et seq.*

## **BOARD OF HEALTH**

### **§ 3-3-50 BOARD CREATED.**

There is hereby created a Board of Health for the city and for the county which shall be officially designated as the City-County Board of Health. The Board shall consist of seven members, not less than one of whom shall be of the male gender and one of whom shall be of the female gender. The members of the Board shall all be residents of Kleberg County, Texas. In addition to the regular members of the Board, the City Manager and the County Judge, or their duly designated representatives, shall serve as ex-officio members of such Board but without voting privileges.

('62 Code, § 2-7-1) (Ord. 2006-03, passed 1-30-06)

### **§ 3-3-51 MEMBERS; TERMS.**

Members of the City-County Health Board shall be appointed as follows: three members by the City Commission, three members by the County Commission and one member by joint approval of the City and County Commission. The term of office of each member shall be for three years. Appointments and vacancies on the Board occurring by death, resignation, expiration of term of office or otherwise, shall be filled according to the respective Commission that appointed the position then vacant or jointly in the case of the common appointee.

('62 Code, § 2-7-2) (Ord. 2006-03, passed 1-30-06)

### **§ 3-3-52 SALARIES; COMPENSATION.**

Board members shall not receive salaries nor compensation of any sort for their services. ('62 Code, § 2-7-3) (Ord. 2006-03, passed 1-30-06)

**§ 3-3-53 DIRECTOR OF HEALTH.**

There is hereby created the office of Director of Health of the City-County Health Board. The Director shall be a thoroughly qualified environmental and consumer health administrator. The City-County Health Board shall have authority to recommend appointment and removal of the Director of Health; however, the City Manager and the County Judge shall have final joint authority to appoint and remove the Director of Health. If, upon removal, however, the Director considers himself or herself to have been wrongfully removed, he or she may within ten days of the removal file an appeal to the City Commission and the County Commissioner's Court. Such appeal must be made in writing and filed with both the Mayor and the County Judge. The time limit in which an appeal may be filed shall be jurisdictional. Any appeal shall require joint action of the City Commission and the Commissioner's Court of the county. Among the duties of the Director shall be to prepare and file written monthly operational reports of the department with the Board, the City Commission and the Commissioner's Court. On or before January 10 of each year, the Director will prepare and file a written annual report reviewing operations and accomplishments of the department for the past year and projecting the level of services planned to be provided in the ensuing year. The Director shall perform his or her duties at the direction of the city and county.

('62 Code, § 2-7-4) (Ord. 2006-03, passed 1-30-06)

**§ 3-3-54 DUTIES OF THE BOARD.**

The Board shall make written recommendations to the City Commission and to the Commissioner's Court of the county concerning the status of health matters in the city and the county. It shall institute through the Director of Health the study of any condition which may affect the life, health or the preservation and improvement of health in the city and in the county. It shall concern itself with the elimination of causes of disease and shall make recommendations to the Director of Health and to the governing bodies of the city and county concerning the elimination of nuisances and conditions detrimental to health. It shall promote an active program of environmental and consumer health education. It shall make written recommendations to the Director and to the City Commission and Commissioner's Court concerning the needs and budget of such Department and in the manner prescribed by each governing body.

('62 Code, § 2-7-5) (Ord. 2006-03, passed 1-30-06)

**§ 3-3-55 ELECTION OF OFFICERS; MEETINGS.**

As soon as practicable after the appointment of the Board, it shall meet and elect a Chairman and Secretary and determine a time and place for regular meetings. Thereafter, the Board shall meet on its determined meeting day, not less than once every 60 days at its regular meeting place. A special meeting may be held at a time and place called by the Chairman and at least two other members of the Board, but only after three days written notice has been given of the time and place of such special meeting (with the exception of an emergency) to all members thereof, including the ex-officio members.

('62 Code, § 2-7-6) (Ord. 78-15, passed 12-18-78; Am. Ord. 2006-03, passed 1-30-06)

***LIBRARY DEPARTMENT*****§ 3-3-80 DEPARTMENT CREATED.**

Pursuant to the Charter of the city, a department is hereby created within the framework of the governmental organization of the city, which shall be known as the Library Department and it shall function according to the laws of the State of Texas, the Charter of the city, and the provisions of this enactment.

('62 Code, § 3-5-1)

**§ 3-3-81 GIFTS; DONATIONS.**

The city hereby accepts all gifts and donations of books and equipment heretofore made for the Robert J. Kleberg Public Library, with grateful thanks to the donors both of books and time, and it is ordained that such books and equipment, together with such additions as may be made from time to time, shall constitute and form the books and equipment of the Robert J. Kleberg Public Library.

('62 Code, § 3-5-2) (Ord. —, passed - -70)

**§ 3-3-82 LIBRARY BOARD.**

(A) *Composition.* The Library Board shall consist of nine members. Four members shall be appointed by the County Judge with the advice and consent of the Commissioners Court of the county; four members shall be appointed by the Commission of the city; and one member shall be appointed jointly. ('62 Code, § 2-3-1)

(B) *Terms; election of Chairman and Secretary.*

(1) The term of each Board member shall be for three years. The officers of such Board shall be a Chairman and Secretary and they shall serve one year or until their successors are elected and qualified. The Board shall elect from among the membership the Chairman and the Secretary of the Board for the next one year term. The Chairman shall be a voting member of such Board.

(2) The County Judge, City Manager, and the City Independent School District Superintendent shall be considered ex officio members of the Board and each shall be entitled to vote on all matters. ('62 Code, § 2-3-2) (Ord. 89006, passed 1-23-89)

(C) *Powers and duties.* The Library Board shall administer the affairs of the Robert J. Kleberg Public Library of the city under the budget approved by the Commission. The duties and powers of such Board shall be all inclusive except that their budget shall be approved by the Commission. ('62 Code, § 2-3-3) (Ord. —, passed 9-3-58)

***Statutory reference:***

*For authority, see TEX. LOC. GOV'T CODE, § 315.005*



## ARTICLE 4: POLICE DEPARTMENT

### Section

#### ***General Provisions***

- 3-4-1 Interlocal assistance; powers
- 3-4-2 Accident and offense report fees

#### ***Police Reserve Force***

- 3-4-21 Police Reserve established
- 3-4-22 Chief of Police to control
- 3-4-23 Eligibility requirements and qualifications
- 3-4-24 Application for appointment
- 3-4-25 Oath upon appointment
- 3-4-26 Duties
- 3-4-27 Power and authority
- 3-4-28 Limitations for reserve officers
- 3-4-29 Status of reserve officers

#### ***Disposal of Unclaimed Property***

- 3-4-40 Unclaimed property; disposal
- 3-4-41 Report of destroyed property

#### ***Cross-reference:***

*Abandoned and junked motor vehicles, see §§ 9-1-1 et seq.*

*Alarm systems, see §§ 9-2-1 et seq.*

*Educational incentive pay, see § 3-7-2*

*Parades, see §§ 7-1-35 et seq.*

**GENERAL PROVISIONS****§ 3-4-1 INTERLOCAL ASSISTANCE; POWERS.**

(A) The city hereby adopts in all respects, Senate Bill Number 233, Chapter 81 of the 61st Legislative Regular Session, Chapter 81, entitled "Law Enforcement Officers—Interlocal Assistance," also TEX. LOC. GOV'T CODE, §§ 362.001 et seq.

(B) The city acting by and through its Mayor, Mayor Pro Tem or in their absence or inability to act, the City Manager or in his absence or inability to act, the Chief of Police, may send or direct any of its regularly employed law enforcement officers to assist any other county or municipality, when a request is received for assistance from the Mayor, or other officer authorized to declare a state of civil emergency, in such other municipality or county, representing that there exists in such other county or municipality a need for additional law enforcement officers to protect the health, life and property of such other county or municipality or its inhabitants, and the visitors thereof, by reason of riot, unlawful assembly characterized by the use of force and violence, or threat by three or more persons acting together or without lawful authority, or during the time of natural or man-made calamity; and such law enforcement officers, so sent to another municipality or county shall be in all things subject to the foregoing Act and such officer or officers shall be and become peace officers of such other county or municipality under the command of the law enforcement officer therein, who is in charge in that city or county and, as provided in such Act, shall be vested with all the powers of a regular law enforcement officer in such other county or municipality to which sent, and such law enforcement officers of the city shall be considered under the terms of the foregoing described Act as being in compliance therewith, and shall be entitled to the same wage, salary, pension and all other compensations while performing police duties outside of the territorial limits of the city as though the same services were being rendered in the city and the city shall pay to such officers such wages, salary, pension and other benefits, together with medical, travel, food, lodging and other expenses incurred on account of performing services outside of the territorial limits of the city and the city shall be reimbursed by the other county or municipality requesting the services out of which such payments and expenses arose, as is provided by TEX. LOC. GOV'T CODE § 362.003.  
( '62 Code, § 3-3-8) (Ord. passed 9-14-70)

**§ 3-4-2 ACCIDENT AND OFFENSE REPORT FEES.**

(A) *Accident reports.* The charge for accident reports shall be \$10 for up to three pages. The charge for each additional page after three pages shall be \$2 per page. The fee shall be collected prior to copying and releasing such reports. The fee shall be waived for governmental agencies acting in an official capacity. ( '62 Code, § 6-17-1) (Ord. 88016, passed 8-22-88)

(B) *Offense reports.* The charge for offense reports shall be \$10 for up to three pages. The charge for each additional page after three pages shall be \$2 per page. The fee shall be collected prior to copying and releasing such reports. The fee shall be waived for governmental agencies acting in an official capacity. ('62 Code, § 6-17-2) (Ord. 89033, passed 9-11-89)

### ***POLICE RESERVE FORCE***

#### **§ 3-4-21 POLICE RESERVE ESTABLISHED.**

An auxiliary police force to be known as Police Reserve is hereby established. It shall be composed of personnel who have volunteered to join the organization; whose application for membership has been accepted; and who have complied with all the rules, regulations and orders provided for the conduct and control of the members thereof. It shall be composed of not to exceed 100 members. The Police Reserve shall be separate and distinct from the Police Department of this city, but shall be headed by the Chief of Police. ('62 Code, § 3-2-1) (Am. Ord. ORD-2001-12, passed 6-25-01)

***Statutory reference:***

*For authority, see TEX. LOC. GOV'T CODE § 341.012*

#### **§ 3-4-22 CHIEF OF POLICE TO CONTROL.**

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 Charter and the provisions of this code. The Chief of Police shall appoint the members of the reserve force from a list of eligibles compiled as hereinafter provided. Members shall serve at the Chief's discretion. ('62 Code, § 3-2-2) (Am. Ord. ORD-2001-12, passed 6-25-01)

#### **§ 3-4-23 ELIGIBILITY REQUIREMENTS AND QUALIFICATIONS.**

The minimum qualifications for appointment to the Police Reserve shall include:

- (A) Must be at least 21 years of age of the time of appointment;
- (B) Must have graduated from high school or attained a GED certificate;
- (C) Must possess a valid Texas driver's license (at least Class C);
- (D) Must be a citizen of the United States; and

(E) Must be licensed as peace officers by the Texas Commission on Law Enforcement Officer Standards and Education.  
(Ord. ORD-2001-12, passed 6-25-01)

#### **§ 3-4-24 APPLICATION FOR APPOINTMENT.**

Each applicant requesting appointment shall submit an application on a form prescribed by the Chief of Police and approved by the City Manager. The applicant shall provide satisfactory proof of good character and letters of recommendation. Upon verification of qualifications and submission of all necessary certifications or information, each candidate may be subject to a physical agility test, background investigation, psychological evaluation or physical examination, as may be required within the sole discretion of the Chief of Police.  
(Ord. ORD-2001-12, passed 6-25-01)

#### **§ 3-4-25 OATH UPON APPOINTMENT.**

Upon the Commission's approval of appointment to the Police Reserve Force, the successful candidate shall subscribe to an oath that he or she shall observe and obey the Constitution of the United States, the Constitution of the State of Texas, the laws of this nation, this state and this city, and shall carry out the duties of a member of the Police Reserve Force to the best of his or her ability.  
(Ord. ORD-2001-12, passed 6-25-01)

#### **§ 3-4-26 DUTIES.**

The Chief of Police may call the Police Reserve Force into service at any time the Chief considers it necessary to have additional officers to preserve the peace and enforce the law, subject at all times to the direction, supervision and control of the Chief of Police. During periods of emergency designated by the Chief of Police, reserve officers shall assist the regular members of the Police Department in the enforcement of law and the maintenance of peace and order. The Chief shall establish rules and regulations to govern the Police Reserve Force, to fix the specific duties of its members, and to provide for the maintenance of discipline.  
(Ord. ORD-2001-12, passed 6-25-01)

#### **§ 3-4-27 POWER AND AUTHORITY.**

(A) TEX. CRIM. PROC. CODE, Art. 2.12, describes a Reserve Officer who is not a peace officer:

A member of the Police Reserve Force who is not a peace officer as described by Article 2.12 of the Texas Code of Criminal Procedure may act as a peace officer only

during the actual discharge of official duties. Such members may carry a weapon only when authorized to do so by the Chief of Police and only when discharging official duties as a peace officer.

(B) TEX. CRIM. PROC. CODE, Art. 2.12, also describes a Reserve Officer who is a peace officer:

A Reserve Officer who qualifies as a peace officer pursuant to Article 2.12 of the Texas Code of Criminal Procedure may be authorized by the Chief of Police to carry a weapon or act as a peace officer at all times, regardless of whether the person is engaged in the actual discharge of official duties, or the Chief of Police may limit the authority of the person to carry a weapon or act as a peace officer to only those times during which the person is engaged in the actual discharge of official duties.

(Ord. ORD-2001-12, passed 6-25-01)

### **§ 3-4-28 LIMITATIONS FOR RESERVE OFFICERS.**

Regardless of whether he or she is a peace officer as described by TEX. CRIM. PROC. CODE, Art. 2.12, a Reserve Officer is:

(A) To act only in a supplementary capacity to the regular police force, and may not assume the full-time duties of regular police officers without complying with the requirements for regular police officers;

(B) Not eligible for participation in any program provided by the governing body that is normally considered a financial benefit of full-time employment, or in any pension fund created by statute for the benefit of full-time, paid peace officers; and

(C) Not exempt from the Private Investigators and Private Security Agencies Act (TEX. OCCUPATIONS CODE, §§ 1702.001 et seq.)

(Ord. ORD-2001-12, passed 6-25-01)

### **§ 3-4-29 STATUS OF RESERVE OFFICERS.**

(A) Regardless of whether he or she is a peace officer as described by TEX. CRIM. PROC. CODE, Art. 2.12, a Reserve Officer is not subject to collective bargaining or TEX. LOC. GOV'T CODE, Chapter 143.

(B) Regardless of whether he or she is a peace officer as described by TEX. CRIM. PROC. CODE, Art. 2.12, a Reserve Officer is not to be paid for his or her duties as a Reserve Officer; provided however, the Chief of Police may authorize the payment for services that cannot otherwise be provided by the regular police force.

(Ord. ORD-2001-12, passed 6-25-01)

***DISPOSAL OF UNCLAIMED PROPERTY*****§ 3-4-40 UNCLAIMED PROPERTY; DISPOSAL.**

All abandoned, stolen or recovered property of every kind, including motor vehicles, which shall remain unclaimed with the Police Department of the city for a period of 60 days without being claimed or reclaimed by the owners, whether known or not, may be sold and disposed of at public auction.

('62 Code, § 6-14-1)

**§ 3-4-41 REPORT OF DESTROYED PROPERTY.**

Any property which has been listed and offered for sale and for which no price or sum has been offered, if deemed in the opinion of the Purchasing Agent to be worthless and without value, shall be disposed of in such manner as the Purchasing Agent shall prescribe. The description of all property destroyed or disposed of by the Purchasing Agent as worthless or without value shall be reported to the City Commission, together with the date and manner of disposal.

('62 Code, § 6-14-7)

## ARTICLE 5: FIRE DEPARTMENT

### Section

- 3-5-1 Volunteer members
- 3-5-2 Social Security coverage for firefighters
- 3-5-3 Fire and ambulance reports

#### **Cross-reference:**

*Alarm systems, see §§ 9-2-1 et seq.*

*Fire prevention and protection, see §§ 9-5-1 et seq.*

### **§ 3-5-1 VOLUNTEER MEMBERS.**

Any volunteer members of the Fire Department shall conduct themselves in the same manner and under the same rules and regulations as regular members of the Department. They shall respond to all fire calls and ambulance calls according to a schedule prescribed by the Chief.

('62 Code, § 3-4-4) (Ord. 07935, passed 1-7-80)

### **§ 3-5-2 SOCIAL SECURITY COVERAGE FOR FIREFIGHTERS.**

(A) The City Manager is hereby authorized, on behalf of the city, to execute and enter into all necessary or supplementary or amendatory agreements with the State Department of Public Welfare for the purpose of extending to and including Social Security coverage for firefighters of the city.

(B) The City Manager is hereby directed to make such assessments, collections, payments and reports as may be required by the State Department of Public Welfare to provide Social Security coverage for the firefighters of the city.

(C) A sufficient sum of money shall be allocated and set aside from available funds for the purpose of providing Social Security coverage for firefighters of the city, such money so allocated and set aside to be a part of the city's Social Security Fund, which Fund shall be maintained in the regular city depository.

('62 Code, § 1-18-2)

**§ 3-5-3 FIRE AND AMBULANCE REPORTS.**

The charge for fire and ambulance reports shall be \$10 for up to three pages. The charge for each page beyond three pages shall be \$2 per page. The fee shall be collected prior to copying and releasing such reports. The fee shall be waived for governmental agencies acting in an official capacity. ('62 Code, § 7-6-1) (Ord. 88017, passed 8-22-88)

## **ARTICLE 6: MUNICIPAL COURT**

### **Section**

- 3-6-1 Creation of Municipal Court
- 3-6-2 Municipal Court Judge
- 3-6-3 Clerk of Municipal Court
- 3-6-4 Dismissal fees; pretrial intervention programs
- 3-6-5 Filing motion without consent; administrative fee
- 3-6-6 Perversion of prosecutorial process
- 3-6-9 Municipal Court Collection Fee
- 3-6-10 Municipal Court Technology Fee
- 3-6-11 Municipal Court Technology Fund
  
- 3-6-99 Penalty

### **§ 3-6-1 CREATION OF MUNICIPAL COURT.**

There is hereby created and established in the city a court to be known as the Municipal Court.  
(’62 Code, § 1-10-1)

### **§ 3-6-2 MUNICIPAL COURT JUDGE.**

(A) The Municipal Court shall be presided over by a judge known as “the Judge of the Municipal Court” who shall be selected under the provisions of the Charter and this article.

(B) A judge of the Municipal Court must be a U.S. citizen in good standing, not having ever been convicted of any felony and a resident of the city, who is not currently employed by the city. If the judge of the Municipal Court takes an office or employment with city government then he automatically vacates the judicial office.

(C) The City Commission is authorized to appoint one or more temporary or substitute judges to serve if the judge of the Municipal Court is temporarily unable to act. A temporary or substitute judge has the same powers and duties as that judge he replaces and is entitled to compensation as set by the City Commission.  
(’62 Code, § 1-10-3)

**§ 3-6-3 CLERK OF MUNICIPAL COURT.**

The Clerk of the Municipal Court shall be appointed by the City Manager or his designee. The Clerk's duties will be to keep the records of the Municipal Court, issue process and generally perform the duties for the Municipal Court that a County Clerk performs for a County Court. The Clerk and Assistant Clerks of the Municipal Court shall be directly under the supervision and control of the City Manager unless he directs otherwise by budget, organizational chart or written order.  
(‘62 Code, § 1-10-4) (Ord. 89021, passed 5-22-89)

**§ 3-6-4 DISMISSAL FEES; PRETRIAL INTERVENTION PROGRAMS.**

As a condition for dismissal of any case pending in Municipal Court, the Judge of the Municipal Court shall have authority to assess a dismissal fee in an amount he deems appropriate. The prosecuting attorney for Municipal Court in accordance with the duty imposed on him by TEX. CRIM. PROC. CODE, Art. 2.01, that is, “not to convict, but to see that justice is done,” shall have authority to enter into pretrial intervention programs to be administered by city employees with persons before the court. That the Judge of the Municipal Court and the prosecuting attorney for the Municipal Court by this article are granted the fullest authority, jurisdiction and power permitted by law and this article shall be so construed.  
(Ord. 95013, passed 6-12-95)

**§ 3-6-5 FILING MOTION WITHOUT CONSENT; ADMINISTRATIVE FEE.**

Any person who without consent of the prosecuting attorney shall file an affidavit to support a motion for nolle prosequi shall pay an administrative fee in an amount determined by the prosecuting attorney but not to exceed \$250.  
(Ord. 95013, passed 6-12-95)

**§ 3-6-6 PERVERSION OF PROSECUTORIAL PROCESS.**

Any person who files a criminal complaint or an affidavit which supports the filing of a criminal complaint in Municipal Court and thereafter knowingly, intentionally, or with criminal negligence fails or refuses to prosecute the case or knowingly, intentionally, or with criminal negligence on trial of the case fails or refuses to testify or appear as a witness in any case resulting from such complaint or affidavit shall be guilty of perversion of prosecutorial process.  
(Ord. 95013, passed 6-12-95) Penalty, see § 3-6-99

**§ 3-6-9 MUNICIPAL COURT COLLECTION FEE.**

There is created a Municipal Court Collection Fee pursuant to TEX. CRIM. PROC. CODE, Art. 103.0031. A Municipal Court defendant will pay a Municipal Court fee in the amount of 30% on each

debt or account receivable that is more than 60 days past due and referred to collection to a private attorney or a public or private vendor. "Debt or account receivable" means fines, fees, restitution and other debts or costs, other than forfeited bonds, ordered to be paid by the Municipal Court. A defendant is indigent or has insufficient income or otherwise is unable to pay all or part of the underlying fine or costs.

(Ord. ORD-2001-29, passed 12-10-01)

### **§ 3-6-10 MUNICIPAL COURT TECHNOLOGY FEE.**

(A) A Municipal Court Technology Fee of \$4 shall be assessed and collected from a defendant as court costs for any conviction of a misdemeanor offense. 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.

(B) The Clerk of Court shall collect the fee and deposit the fee into the Municipal Court Technology Fund as provided in § 3-6-11.

(Ord. 99032, passed 10-25-99)

### **§ 3-6-11 MUNICIPAL COURT TECHNOLOGY FUND.**

(A) Pursuant to TEX. CRIM. PROC. CODE, Article 102.0172 there is hereby created and established a Municipal Court Technology Fund for the deposit of all funds collected as Municipal Court Technology Fees. The proceeds of the Municipal Court Technology Fund shall be used only to finance the purchase of technological enhancements for the Municipal Court of the city including, but not limited to:

- (1) Computer systems;
- (2) Computer networks;
- (3) Computer hardware;
- (4) Computer software;
- (5) Imaging systems;
- (6) Electronic kiosks;
- (7) Electronic ticket writers; and

(8) Docket management systems.

(B) The fund shall be administered by or under the direction of the City Commission of the city.  
(Ord. 99032, passed 10-25-99)

**§ 3-6-99 PENALTY.**

Punishment upon conviction of perversion of prosecutorial process, as set out in § 3-6-6, shall be a fine of not less than \$250 nor more than \$500, unless such conviction results from a criminal complaint or affidavit supporting a criminal complaint which involved a city ordinance governing fire safety, zoning or public health and sanitation, in which event punishment shall be a fine of not less than \$500 nor more than \$2,000.

(Ord. 95013, passed 6-12-95)

## **ARTICLE 7: PERSONNEL POLICIES**

### **Section**

#### ***General Provisions***

- 3-7-1 Adoption of the job classification and compensation plan
- 3-7-2 Texas Municipal Retirement System (TMRS)—election to participate; adoption by reference
- 3-7-3 Employee Benefit Plan Trust

#### **GENERAL PROVISIONS**

##### **§ 3-7-1 ADOPTION OF THE JOB CLASSIFICATION AND COMPENSATION PLAN.**

(A) The City of Kingsville Classification and Compensation Plan dated effective as of October 1, 2006 is hereby adopted by reference providing for certain classifications and positions as more particularly defined therein. Classified positions and incumbents thereof who have completed the designated probationary period and any extensions thereof shall be subject to the terms and conditions of all policies incorporated by reference and adopted by the City Commission by resolution. Except members of the Fire and Police collective bargaining units, all other employees (executive, managerial, or hourly) serve at will, at the pleasure of the City Manager, or designee, or at the pleasure of the City Commission if appointed by the City Commission, and shall have and continue such at will status, notwithstanding any other provision of this Classification Plan, any other city ordinance, or any rule or regulation of the city.

(B) All hourly non-management non-civil service employees of the city, in their current positions, are placed in the step corresponding to the anniversary of their current hire date with the city according to Fiscal Year 2006-2007 Hourly Chart.

(C) Hourly employees promoted, transferred or temporarily assigned to a position in a higher classification range shall commence at the first step of the higher classification range that causes an increase in the employees' hourly pay rate. Each promoted, transferred or temporarily assigned employee shall then proceed to the next step after one year in their current position and shall proceed to each step thereafter on the 3rd, 6th, 10th, 15th, 20th and 25th year or until the employee reaches the last step of the compensation schedule.

(D) Employees demoted, transferred, temporarily assigned, or accepting a position in a lower classification range shall commence at the same step of pay in the lower classification range as the employee held at the time of such demotion, transfer, temporary assignment or acceptance of the lower range position. Employees meeting these criteria shall proceed to the next step of the compensation plan, as scheduled, based on years of city service.

(E) All management employees of the city shall be placed in a step program to receive a scheduled salary increase on the anniversary date of their 1st, 3rd, 6th, 10th, 15th, 20th and 25th year of service in their management level position. Percentage increases shall correspond to the Management Level Step Program included in the Classification and Compensation Plan for Fiscal Year 2006-2007.

(F) Executive Level 1 & 2 positions shall receive a cost of living adjustment when non-civil service employees receive a cost of living adjustment. The City Commission shall evaluate the performance of and recommend salaries for Executive Level 1 & 2 positions each July to prepare for the up-coming fiscal year.

(Ord. ORD-2001-25, passed 10-22-01; Am. Ord. ORD-2002-28, passed 10-28-02; Am. Ord. ORD-2002-33, passed 12-9-02; Am. Ord. ORD-2003-29, passed 10-13-03; Am. Ord. ORD-2004-33, passed 10-11-04; Am. Ord. 2005-41, passed 10-24-05; Am. Ord. ORD-2006-43, passed 10-16-06)

### **§ 3-7-2 TEXAS MUNICIPAL RETIREMENT SYSTEM (TMRS)—ELECTION TO PARTICIPATE; ADOPTION BY REFERENCE.**

(A) *Election to participate in the TMRS.* On behalf of the city, the City Commission hereby exercises its option and elects to have the city and all of the employees of all departments now existing participate in the Texas Municipal Retirement System (hereafter "TMRS") as provided in TEX. GOV'T CODE §§ 851.001 et seq., as amended; and all of the benefits and obligations of such system are hereby accepted.

(B) *Election to participate in the TMRS Supplemental Benefits Fund.* The City Commission elects to have the employees of all participating departments of the city participate in and be covered by the Supplemental Benefits Fund of the Texas Municipal Retirement System, as provided by TEX. GOV'T CODE §§ 851.001 et seq.; and all the benefits and obligations of participation in the fund are hereby accepted by the city as to such employees.

(C) *Adoption by reference.* Ordinances effecting the plan for participation in the TMRS, employee contributions, updated service credits, increases in benefits and retirement annuities and any other applicable legislation of the city and state are adopted by reference into this code of ordinances as if fully set forth herein and shall be kept on file in the office of the City Clerk. ('62 Code, § 1-16-1)

**§ 3-7-3 EMPLOYEE BENEFIT PLAN TRUST.**

There is hereby established a separate fund titled City of Kingsville Employee Benefit Plan Trust for the sole purpose of paying or settling claims under any employee group health plan approved by the City Commission. Such fund shall account for contributions from the city and employees toward health plans and disbursements for costs incurred in settling claims and expenses related to the administering of such health plans. Under no circumstance shall monies in the fund be appropriated for any purpose not stated in this section.

('62 Code, § 1-21-1) (Ord. 85003, passed 1-28-85; Am. Ord. ORD-2001-24, passed 10-22-01)

[Article 8 begins on Page 41]



## ARTICLE 8: RECORDS MANAGEMENT

### Section

- 3-8-1 Duties and responsibilities of governing body
- 3-8-2 Duties and responsibilities of custodian
- 3-8-3 Duties of Records Management Officer
- 3-8-4 Designation of Records Management Officer and custodian
- 3-8-5 Records Management Program
- 3-8-6 Establishment of fees for the furnishing of records

### § 3-8-1 DUTIES AND RESPONSIBILITIES OF GOVERNING BODY.

The duties and responsibilities of the governing body shall be to:

(A) Establish, promote, and support an active and continuing program for the efficient and economical management of all city records;

(B) Cause policies and procedures to be developed for the administration of the program under the direction of the Records Management Officer;

(C) Facilitate the creation and maintenance of city records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the city and designed to furnish the information necessary to protect the legal and financial rights of the city, the state, and persons affected by the activities of the city;

(D) Facilitate the identification and preservation of city records that are of permanent value;

(E) Facilitate the identification and protection of essential city records; and

(F) Cooperate with the Commission in its conduct of statewide records management surveys.

('62 Code, § 1-22-1)

**Statutory reference:**

*Similar provisions, see TEX. LOC. GOV'T CODE, § 203.021*

**§ 3-8-2 DUTIES AND RESPONSIBILITIES OF CUSTODIAN.**

(A) Cooperate with the Records Management Officer in carrying out the policies and procedures established by the city for the efficient and economical management of records and in carrying out the requirements of this article;

(B) Adequately document the transaction of government business and the services, programs, and duties for which the custodian and the custodian's staff are responsible; and

(C) Maintain the records in the custodian's care and carry out their preservation, microfilming, destruction, other disposition only in accordance with the policies and procedures of the Records Management Program and the requirements of this article and rules adopted under it.

('62 Code, § 1-22-2)

**Statutory reference:**

*Similar provisions, see TEX. LOC. GOV'T CODE, § 203.022(a)*

**§ 3-8-3 DUTIES OF RECORDS MANAGEMENT OFFICER.**

The duties of the Records Management Officer shall be to:

(A) Assist in establishing and developing policies and procedures for a Records Management Program for the city.

(B) Administer the Records Management Program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping.

(C) In cooperation with the custodians of the records:

(1) Prepare and file with the director and librarian the records control schedules and amended schedules required by TEX. LOC. GOV'T CODE, § 203.041 and the list of obsolete records as provided by TEX. LOC. GOV'T CODE, § 203.044; and

(2) Prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by TEX. LOC. GOV'T CODE, § 203.045, of requests to destroy the originals of permanent records that have been microfilmed as provided by TEX. LOC. GOV'T CODE, § 204.008, and of electronic storage authorization requests as provided by TEX. LOC. GOV'T CODE, § 205.007.

(D) In cooperation with custodians, identify and take adequate steps to preserve city records that are of permanent value.

(E) In cooperation with custodians, identify and take adequate steps to protect essential city records.

(F) In cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the city's Records Management Program and the requirements of this article and rules adopted under it.

(G) Disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies of the government relating to city records.

(H) In cooperation with custodians, establish procedures to ensure that the handling of records in any context of the Records Management Program by the Records Management Officer or those under the officer's authority is carried out with due regard for:

(1) The duties and responsibilities of custodians that may be imposed by law; and

(2) The confidentiality of information in records to which access is restricted by law.

('62 Code, § 1-22-3)

**Statutory reference:**

*Similar provisions, see TEX. LOC. GOV'T CODE, § 203.023*

#### **§ 3-8-4 DESIGNATION OF RECORDS MANAGEMENT OFFICER AND CUSTODIAN.**

The City Secretary shall be charged with the duties and responsibilities of Records Management Officer and custodian of public records and the designation shall be filed with the Texas State Library and Archives Commission, care of Director and Librarian, Local Records Division, Post Office Box 12927, Austin, Texas, 78711.

('62 Code, § 1-22-4)

**Cross-reference:**

*City Secretary as Records Management Officer, see § 3-2-2*

#### **§ 3-8-5 RECORDS MANAGEMENT PROGRAM.**

(A) All departments will store public records in accordance with all state, federal and local laws and rules pertaining to those departments. Records that are confidential and protected by law and kept by a certain city or city-county department are exempted from the provision of this article. The Records Management Officer/Custodian shall promulgate rules pertaining to the maintenance, storage and destruction of public records and shall prepare and file with the state all record central schedules and list of obsolete records as provided by law.

(B) This article is a record control procedure in addition to, and not exclusive of, the Texas Public Information Act, TEX. GOV'T CODE §§ 552.001 et seq., or any other public law relating to public records and documents.

(C) The retention period for each record on the records control schedule shall be five years unless a different time schedule or retention period is mandated by a state or federal law, regulation or case law.

(D) All record control schedules and all schedules used as a basis for the destruction of records shall be filed with the Librarian and Director of the Texas State Library and Archives Commission and no record shall be destroyed unless the state has approved such schedules. The original copy of a permanent record may not be destroyed until a destruction authorization request is submitted to the Librarian and Director of the State Library and Archives Commission certifying that a microfilm of the record has been prepared in accordance with state law. In lieu of destruction or microfilming, the record in question may be transferred to the custody of the State Library.

('62 Code, § 1-22-5) (Ord. 90018, passed 4-23-90)

### **§ 3-8-6 ESTABLISHMENT OF FEES FOR THE FURNISHING OF RECORDS.**

In accordance with the requirements of the laws of the state, the city hereby formally adopts the schedule of costs for copies of public information, attached to Ordinance 98002, passed 2-9-98, by reference as if set out in full.

(Ord. 98002, passed 2-9-98)

## **ARTICLE 9: EMERGENCY MANAGEMENT; PUBLIC DISTURBANCES**

### Section

#### ***Emergency Management***

- 3-9-1 Emergency Management Director; Coordinator
- 3-9-2 Powers and duties of Director
- 3-9-3 Emergency Management Council
- 3-9-4 Additional duties and responsibilities
- 3-9-5 Operational organization of emergency management
- 3-9-6 Oath
- 3-9-7 Precedence of article; conflict with other laws
- 3-9-8 Liability of city
- 3-9-9 Funds expended; approval
- 3-9-10 Obstruction and unauthorized representation
- 3-9-11 Sirens, signals; unauthorized operation
  
- 3-9-99 Penalty

#### ***EMERGENCY MANAGEMENT***

### **§ 3-9-1 EMERGENCY MANAGEMENT DIRECTOR; COORDINATOR.**

(A) There exists the office of Emergency Management Director of the city which shall be held by the Mayor in accordance with state law.

(B) The Emergency Management Coordinator may be appointed by and serve at the pleasure of the Director.

(C) The Director shall be responsible for conducting a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in § 3-9-4 herein. He may delegate authority for execution of these duties to the Coordinator, but ultimate responsibility for such execution shall remain with the Director.

('62 Code, § 2-2-1)

**§ 3-9-2 POWERS AND DUTIES OF DIRECTOR.**

The powers and duties of the Director shall include an ongoing survey of actual or potential major hazards which threaten life and property within the city; and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur. As part of his responsibility in hazard mitigation, the Director shall supervise the development of an Emergency Management Plan for the city, and shall recommend that plan for adoption by the City Commission along with any and all mutual aid plans and agreements which are deemed essential for the implementation of such Emergency Management Plan. The powers of the Director shall include the authority to declare a state of disaster, but such action may be subject to confirmation by the City Commission at its next meeting. The duties of the Director shall also include the causing of a survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein, as well as a continuing study of the need for amendments and improvements in the Emergency Management Plan.

('62 Code, § 2-2-2)

**§ 3-9-3 EMERGENCY MANAGEMENT COUNCIL.**

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 county-wide program of emergency management insofar as the program may affect the city.

('62 Code, § 2-2-3)

**§ 3-9-4 ADDITIONAL DUTIES AND RESPONSIBILITIES.**

The duties and responsibilities of the Emergency Management Director shall include the following:

(A) The direction and control of the actual disaster operations of the city Emergency Management Organization as well as the training of Emergency Management personnel.

(B) The determination of all questions of authority and responsibility that may arise within the Emergency Management Organization of the city.

(C) The maintenance of necessary liaison with other municipal, county, district, state, regional, federal, or other Emergency Management Organizations.

(D) The marshaling, after declaration of a disaster as provided for above, of all necessary personnel, equipment or supplies from any department of the city to aid in the carrying out of the provisions of the Emergency Management Plan.

(E) The issuance of all necessary proclamations as to the existence of a disaster and the immediate operational effectiveness of the city Emergency Management Plan.

(F) The issuance of reasonable rules, regulations or directives which are necessary for the protection of life and property in the city. Such rules and regulations shall be filed in the office of the City Secretary and shall receive widespread publicity unless publicity would be of aid and comfort to the enemy.

(G) The supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, or an agreement with the county in which the city is located and with other municipalities within the county, for the county-wide coordination of Emergency Management efforts.

(H) The supervision of, and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving Emergency Management within the city.

(I) The authorizing of agreements, after approval by the City Attorney, for use of private property for public shelter and other purposes.  
( '62 Code, § 2-2-4)

### **§ 3-9-5 OPERATIONAL ORGANIZATION OF EMERGENCY MANAGEMENT.**

The operational Emergency Management Organization of the city shall consist of the officers and employees of the city so designated by the Director in the Emergency Management Plan, as well as all organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the Emergency Management Plan. Such plan shall set forth the form of the organization, establish and designate divisions and functions, assign tasks, duties and powers, and designate officers and employees to carry out the provisions of this article. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the State Division of Emergency Management of the State of Texas and of the federal government.  
( '62 Code, § 2-2-5)

### **§ 3-9-6 OATH.**

Each employee or any individual that is assigned a function or responsibility shall solemnly swear or affirm to support and defend the Constitution of the United States, laws of the State of Texas and the ordinances of the city.  
( '62 Code, § 2-2-12) (Ord. 84011, passed 7-9-84)

**§ 3-9-7 PRECEDENCE OF ARTICLE; CONFLICT WITH OTHER LAWS.**

At all times when the orders, rules, and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.  
(‘62 Code, § 2-2-7)

**§ 3-9-8 LIABILITY OF CITY.**

This article is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of the activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license of privilege, or otherwise permits the city to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack 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.  
(‘62 Code, § 2-2-9)

**§ 3-9-9 FUNDS EXPENDED; APPROVAL.**

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 Commission, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the City Commission.  
(‘62 Code, § 2-2-10)

**§ 3-9-10 OBSTRUCTION AND UNAUTHORIZED REPRESENTATION.**

It shall be unlawful for any person wilfully 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. 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.  
(‘62 Code, § 2-2-11) Penalty, see § 3-9-99

**§ 3-9-11 SIRENS, SIGNALS; UNAUTHORIZED OPERATION.**

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 code.

('62 Code, § 2-2-6) Penalty, see § 3-9-99

**§ 3-9-99 PENALTY.**

(A) Convictions for violations of the provisions of § 3-9-10 of this article shall be punishable by a fine not to exceed \$200. ('62 Code, § 2-2-11)

(B) Any person who violates any provision of § 3-9-30 of this article shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than \$50 and not more than \$200. ('62 Code, § 6-10-6)

(C) Any person who violates any provisions of § 3-9-31 of this article shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed \$200 and each offense shall be deemed to be a separate violation and punishable as a separate offense. ('62 Code, § 6-10-6) (Ord. —, passed 10-21-68)



## **ARTICLE 10: REVENUE AND FINANCE**

### **Section**

#### ***Investment Policy***

- 3-10-1 Statement of purpose
- 3-10-2 Scope
- 3-10-3 Definitions
- 3-10-4 Public trust
- 3-10-5 Reports
- 3-10-6 Type of investments; liquidity
- 3-10-7 Dealings with institutions

#### ***Financing Paving and Street Improvements***

- 3-10-20 State law adopted
- 3-10-21 Definitions
- 3-10-22 Construction of improvements to conform
- 3-10-23 Submission of map or plat; estimate of cost
- 3-10-24 Hearing
- 3-10-25 Notice of hearing; personal notice
- 3-10-26 Right to contest; testify
- 3-10-27 Statement of objection
- 3-10-28 Adjournment of hearing
- 3-10-29 Record of hearings to be kept
- 3-10-30 Determination of amount of assessment
- 3-10-31 Costs paid by city; costs to property owners
- 3-10-32 Equality of assessment as to benefits
- 3-10-33 Terms of payment to be provided
- 3-10-34 Issuance of assessment certificates
- 3-10-35 Improvements effected by contract
- 3-10-36 Voluntary lien contracts
- 3-10-37 Payments to Secretary; receipt; collection of lien
- 3-10-38 Invalidity; reassessment
- 3-10-39 Nonliability of city for payment
- 3-10-40 Public service corporation; duties

**INVESTMENT POLICY****§ 3-10-1 STATEMENT OF PURPOSE.**

(A) *General.* The purpose of this investment policy is to provide the city with specific policy guidelines so that the absolute return on invested capital may be maximized, while the risk to invested capital may be minimized.

(B) *Principal.* Safety of principal is the foremost objective of the investment policy of the city. Each transaction shall seek to first ensure that the capital losses are avoided, whether they be from defaults or erosion of market value.

(C) *Return on investment.* A secondary objective of this investment policy is to attain a market-average rate of return on investment.

(D) *Liquidity.* Another secondary objective of this investment policy, of equal importance with attaining an acceptable return on investments, is liquidity to the extent needed to pay the city's obligations as they become due.

('62 Code, § 1-8-1) (Am. Ord. 200021, passed 11-13-00)

**§ 3-10-2 SCOPE.**

(A) This investment policy applies to all financial assets of the government of the city. These funds are accounted for in the city's comprehensive financial report and include:

(1) The General Fund;

(2) Special revenue funds;

(3) Debt service funds, including reserves and sinking funds, to the extent not required by law or existing contract, to be kept segregated and managed separately;

(4) Capital project funds;

(5) Special assessment funds;

(6) Enterprise funds;

(7) Trust and agency funds, to the extent not required by law or existing contract, to be kept segregated and managed separately; and

(8) Any new fund created by the city, unless specifically exempted from the policy by the City Commission or by law.

(B) This investment policy shall apply to all transactions involving the financial assets and related activity of all the foregoing funds. However, this policy does not apply to the Volunteer Firefighter's Pension Fund administered by the city.  
(’62 Code, § 1-8-2) (Am. Ord. 200021, passed 11-13-00)

### § 3-10-3 DEFINITIONS.

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

**CITY.** The City of Kingsville, the Assistant City Manager of Management Services, and any and all city employees who have direct or indirect responsibility for investing city funds.

**DEPOSIT ACCOUNTS.** Demand deposit accounts, time deposit accounts, savings accounts, certificate of deposit accounts, or any other similar account offered by any depository institution.

**DEPOSITORY INSTITUTION.** Any commercial bank authorized to accept funds from the public for deposit, whether federally or state chartered.

**MARKET-AVERAGE RATE OF RETURN.** The average interest rate earned on three month United States Treasury Bills.

**PERSON.** Any depository institution, corporation, general partnership, limited partnership, trust association, group, individual, or entity.

**PRIMARY DEALER.** A dealer in securities issued or guaranteed by the United States Government which dealer regularly reports to the Federal Reserve Bank of New York its sales of such securities.  
(’62 Code, § 1-8-8) (Ord. 86018, passed 9-2-86)

### § 3-10-4 PUBLIC TRUST.

(A) *Public trust.* All city officials having either a direct or indirect role in the process of investing city funds shall act responsibly as custodians of the public trust. Investment officials shall avoid any transaction that might involve a conflict of interest, give the appearance of a conflict of interest, or otherwise impair public confidence in the city government's ability to govern effectively.

(B) *Prudence.* The standard of care to be used by investment officials shall be that of the “prudent person,” which standard shall be applied in the context of managing an overall portfolio.  
Investment



officers acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for losses resulting from an individual security, provided that deviations from expectation are reported in a timely fashion and appropriate action is taken to control adverse developments.

(C) *Management responsibility.* Management responsibility for the investment process shall rest with the Director of Finance, as monitored and reviewed by the city's Investment Committee, who shall establish written procedures for the operation of the investment program, consistent with this investment policy. As adopted by resolution by the City Commission, such investment policy shall include the explicit delegation of authority to persons responsible for investment transactions.

(D) *Approval of investment policy.* The City Commission shall annually review and adopt changes to the investment policy by resolution, on or before December 31 of each calendar year. The resolution shall confirm the Commission's review of the investment policy, and shall record any changes made to the policy.

(E) *Annual goals.* The City Manager shall prepare an annual report detailing the goals which the city's investment practices are to attain. Such goals are to include: the expected annual funds available for investment, the expected average annual yield expressed as a percentage, and the expected annual absolute dollar return on investment.

('62 Code, § 1-8-3) (Am. Ord. 200021, passed 11-13-00)

### **§ 3-10-5 REPORTS.**

(A) *Annual goals.* The Assistant City Manager of Management Services shall prepare an annual report detailing the goals which the city's investment practices are to attain. Such goals are to include the expected annual funds available for investment, the expected average annual yield expressed as a percentage, and the expected annual absolute dollar return on investment.

(B) *Investment strategy statement.* The Assistant City Manager of Management Services shall adopt on a quarterly basis an investment strategy specifically detailing planned investments by type, maturity, and investment date.

(C) *Evaluation.* The Assistant City Manager of Management Services shall review on a quarterly basis the results of investment decisions and prepare a report showing whether the quarter's performance was consistent with the annual goals described in division (A) above.

('62 Code, § 1-8-4)

**§ 3-10-6 TYPE OF INVESTMENTS; LIQUIDITY.**

(A) City funds shall be invested only in deposit accounts with a depository institution and in securities issued and fully guaranteed by the United States Government. ('62 Code, § 1-8-5)

(B) The city shall not be permitted to invest in any deposit accounts or government securities having a maturity in excess of one year. Its investments in government securities shall have maturities reasonably related to its predictable needs for cash. ('62 Code, § 1-8-7)

**§ 3-10-7 DEALINGS WITH INSTITUTIONS.**

(A) *Depository institutions generally.* The city shall maintain its funds in a depository institution selected in accordance with TEX. LOC. GOV'T CODE, Chapter 105. The city shall deposit its funds only in deposit accounts that are insured by the Federal Deposit Insurance Corporation or fully collateralized by securities which are authorized by law to be used to collateralize the city's deposits.



(B) *Securities dealers.* The city shall not purchase or sell any securities issued and guaranteed by the federal government from or to any person, other than a depository institution meeting the requirements of division (A) above, unless such person is a primary dealer (as that term is defined in § 3-10-3 hereof) or is a securities dealer which is registered under the provisions of § 15 of the Securities Exchange Act of 1934, being 15 USC 78o, which is registered as a securities dealer under the Securities Act of the State of Texas, being TEX. REV. CIV. STAT. ART. 581-1 et seq., which has its principal office in the State of Texas, and which has net capital, according to its most recent financial statement filed with the United States Securities and Exchange Commission, of at least \$5,000,000. Prior to effecting purchases or sales of securities, the city shall obtain bids from at least three dealers, and, except for good cause, shall execute the transaction with the dealer offering the best price to the city.

(C) *Payment against delivery.* In all cases in which the city purchases securities, the city must receive delivery of the securities prior to or at the same time as it releases its funds in payment. In all cases in which the city sells securities, the city must receive payment in full for the securities prior to or at the same time as it delivers the securities to the buyer.  
(‘62 Code, § 1-8-6)

## ***FINANCING PAVING AND STREET IMPROVEMENTS***

### **§ 3-10-20 STATE LAW ADOPTED.**

The Act of the State Legislature incorporated in the TEX. TRANS. CODE §§ 313.001 et seq. relating to “Street Improvements,” is hereby wholly adopted by the Commission and is hereby declared to be in full force and effect as a part of the organic law of the city, and such Act with all its powers, terms and provisions, shall be deemed a part of this subarticle as if fully contained herein.

(‘62 Code, § 9-7-1)

#### ***Cross-reference:***

*Streets and sidewalks, see §§ 9-10-1 et seq.*

### **§ 3-10-21 DEFINITIONS.**

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

***CONTRACTOR.*** In any contract for such improvement, same shall be taken to include and bind the corporation and the successors, if any, of such corporation, or the person, and the heirs, executors and administrators, if any, of such person contracting to effect the improvement in question.

***STREET or HIGHWAY.*** A street, highway, avenue, alley or public place or square, or portion thereof, dedicated to public use.

(‘62 Code, § 9-7-23) (Ord. —, passed - -14)

**§ 3-10-22 CONSTRUCTION OF IMPROVEMENTS TO CONFORM.**

All permanent street improvements of the kinds mentioned or referred to in such Act, excepting only sewers and storm sewers, shall hereafter be made or contracted for by the city under the authority of any ordinance, shall be done, constructed, effected and arranged under such Street Improvement Law and the terms and provisions of this subarticle, unless the Commission, with reference to any such improvement, shall otherwise expressly direct; and it shall always be understood that the Commission will in all cases upon and after ordering any such improvement provide for the payment of the cost of such improvements, or proper parts thereof, by special assessment or levy as in such Street Improvement Law and this subarticle provided, whether or not hereafter so declared in advance of any advertisement or instruction to bidders, or in any specifications, proposal, bid or contract or any ordinance, resolution or order of the Commission; and all bidders, contractors and owners of abutting property or railroads and other public utility corporations, and all persons interested in any such property, are hereby required to take notice hereof.

('62 Code, § 9-7-2) Penalty, see § 1-1-99

**§ 3-10-23 SUBMISSION OF MAP OR PLAT; ESTIMATE OF COST.**

Whenever the Commission shall determine to proceed with any improvement, it shall be the immediate duty of the Engineer, or such other engineer as may be designated for such purpose by the Commission, to submit to the Commission, a map or plat of the street lines, property lines, roadway and curb lines, sidewalk lines, existing lines and proposed lines when different, or other lines necessary to show existing conditions and the proposed improvement on a small but convenient scale, showing each parcel of property abutting thereon with the dimensions of the same in figures, and a part of the division lines extended; each block, lot and parcel to be correctly numbered or otherwise identified; and such map or plat shall be accompanied by a detailed statement and quantitative estimate showing the total estimated cost of such improvement, and upon the basis hereinafter set forth, preliminary estimates of the portion thereof payable by the city, the portion thereof, if any, to be assessed against railroads; and the portion thereof to be assessed against all abutting property owners; and also showing the total number of lineal or front feet of abutting property to be so assessed, and the estimated cost per front foot to all owners thereof; the statement shall also show in detail, for each separate parcel of such property, progressively from one end of the highway to the other, the names of the persons, owning or supposed to own the same, together with the city block and lot numbers thereof, the number of assessed against each parcel of property and the owner thereof and also stating separately and for each parcel of property the estimated cost of any sidewalks or curbing included in such proposed improvement and to be assessed against such property and the respective owners thereof. If the name of the owner of such property be unknown to the Engineer he shall designate such owner by the name shown by the last completed assessment rolls of the Assessor. The Commission shall examine such plat and statement upon the same being filed, and shall correct the errors or omissions if any found therein, and shall thereupon approve the same, but no error, omission or informality therein shall invalidate the same or affect any assessment for any part of the cost of such improvement. And it shall be sufficient to designate the owners of such property as "unknowns" when the names of such owners cannot be so ascertained.

('62 Code, § 9-7-3)

**§ 3-10-24 HEARING.**

Upon approving the plat and statement, the Commission shall by resolution order that a hearing before the Commission be given to owners of property abutting on the proposed improvement, in which hearing the owners of railroads may participate if they so desire. Such resolution shall be addressed to the owners of the property abutting on the proposed improvement, or to their agents or attorneys and shall fix the date, hour and place of the hearing, and shall set forth in general terms the nature and general extent of the proposed improvements, and shall also state the total estimated cost of the entire improvement, and all other data required in the statement of the Engineer excepting the quantitative estimate which may be omitted. The resolution shall state the description of the several parcels of property and the names of the known or supposed owners thereof as same shall appear in the statement of the Engineer, after the correction under the direction of the Commission of any errors or omissions discovered therein, but no error, omission or informality in the resolution, or in the notice of hearing as published or issued, shall invalidate such resolution or notice or affect any agreement made for any part of the cost of such improvement.

('62 Code, § 9-7-4)

**§ 3-10-25 NOTICE OF HEARING; PERSONAL NOTICE.**

(A) Notice of the hearing shall be given to the owners, their agents or attorneys, as provided by law, by advertisement inserted at least three times before the hearing in some newspaper of general circulation published in the city, the first of which publications shall be at least 21 days before the date fixed for the hearing. Such notice shall be prepared and signed by the Secretary, who shall cause the same to be published as aforesaid, and shall require sworn proof of such publication to be made by the editor or publisher of the newspaper publishing such notice, which proof shall be retained carefully among the archives of the city. The resolution ordering the hearing shall be made a part of such notice, and the signature of the Secretary to such notice shall be sufficient authentication of the notice and resolution, without publishing a certificate of true copy. ('62 Code, § 9-7-5)

(B) As additional notice of the hearing a copy of the notice as published shall be at least 14 days before the date fixed for the hearing, by the Secretary forwarded by messenger or by registered mail, to each of the known or supposed owners, or to the executor, administrator, guardian or other representative of any estate known or supposed to have ownership, or any parcel of property abutting on the improvement in question, at their respective addresses, if known; or if unknown, then to their respective agents or attorneys, if known. Delivery of such notice to any adult member of the family of the addressee at the place of residence of the addressee shall in any case be sufficient. Whether such notice be sent by registered mail or by messenger, the Secretary shall require and preserve a receipt or other evidence of delivery. Such personal service shall be only cumulative of the published notice which shall in all cases be deemed valid, sufficient and binding. ('62 Code, § 9-7-6)

**§ 3-10-26 RIGHT TO CONTEST; TESTIFY.**

The hearing before the Commission shall be held on the date and at the place designated in such published notice, and all owners of or persons interested in property liable or proposed to be assessed for any part of the cost of the improvement in question, shall be entitled to a full and fair hearing, at which hearing such persons shall have the right to contest the assessment and personal liability, and the regularity of all proceedings with reference to the improvement and the proposed assessment therefor, and the benefits of such improvement to their property, and any other matter with reference to the business. All such property owners may appear at the hearing in person or by attorney or agent, and shall have the right to testify and produce any competent witness and to have the benefits of such powers as the Commission may have to require the attendance of witnesses by subpoena or to enforce the same upon payment by such contestant of lawful witness fees. And all such contestants shall appear and present their views or objections, and their evidence, if any, in the order of the filing of their respective statements and as their names shall be called, or upon permission of the Commission at any time thereafter during the continuance of the hearing.

('62 Code, § 9-7-7)

**§ 3-10-27 STATEMENT OF OBJECTION.**

All persons desiring to object to the assessment of any property liable to be assessed for such improvement shall prepare a written statement of such objection, which shall contain a brief and informal declaration of the grounds thereof, and he shall file such statement with the Secretary on or before the date and hour fixed for the hearing or may file same upon permission of the Commission at any time during such hearing before any such person presents his objection to the Commission.

('62 Code, § 9-7-8)

**§ 3-10-28 ADJOURNMENT OF HEARING.**

The Commission or any members thereof present, if fewer than a quorum, may, in case they deem it necessary or proper, by public announcement at the time and place appointed for such hearing, or for any continuation of such hearing, adjourn or continue the same from day to day or from time to time; and the hearing shall be so continued until all contestants shall have an opportunity to be heard and present their views and evidence, if any, fully and fairly before a lawful quorum of the Commission; and no further notice of such hearing shall be or become necessary by reason of any continuance or adjournment to a later fixed time or date.

('62 Code, § 9-7-9)

**§ 3-10-29 RECORD OF HEARINGS TO BE KEPT.**

The Secretary shall keep in a well bound book a record for each such hearing showing the date of the publication of the notice and the name of the paper in which same was published, and showing a copy of the notice and the manner of service of each personal notice and the return made thereof, and also showing the date when and by whom each statement or objection was filed, and also showing

the continuances from time to time, if any, of such hearing, and the names of all contestants appearing or heard during such hearing, and the conclusions reached by the Commission in the several matters presented, and the final adjournment of such hearing.  
(’62 Code, § 9-7-10)

### **§ 3-10-30 DETERMINATION OF AMOUNT OF ASSESSMENT.**

After such hearing has been closed the Commission, after due consideration of the statements and evidence adduced thereat and from any other evidence at hand shall determine what respective amounts, if any, may be lawfully and properly assessed against each parcel of property, and the owner or owners thereof, and thereupon by ordinance and strictly in accordance with the provisions of the street improvement law, shall assess against the owners of property abutting on such improvement and against their abutting property benefitted thereby the whole cost of constructing sidewalks or curbing in front of or along such property if included in the improvement, and shall assess against such property and owners two-thirds of the cost of paving or any permanent street improvements other than sidewalks or curbs included within the scope of such Street Improvement Law and this subarticle; provided, however, that no part of the cost of any paving in street intersections shall be included in the amount assessed against abutting. The Commission shall also by ordinance assess against any railroad occupying any such highway ordered to be improved, and against the owners of such railroad, the whole cost of that part of the improvement between or under the tracks and rails of the railroad and two feet on the outside thereof, and also, if such action becomes necessary and proper, to enforce payment for the cost of such work, shall levy a special tax therefor and fix a lien and collect and enforce the same all as provided for in such Street improvement Law. In all cases the cost of the improvement of that portion or section of the street chargeable to railroads shall be added to the cost of improving the remaining portions or sections of the street to determine the whole cost of any paving whether the work be effected by one contractor or several or wholly or in part by the city. But for the purpose of calculating the amounts to be assessed against owners of abutting property, the cost of those portions of the street assessable against railroads shall be estimated at the same cost per square yard as if no railroad were located there, it being the intention not to allow the cost of extra concrete foundations or other extra expense, occasioned by the presence of railroads, in any manner to enter into the calculation of the amounts to be assessed against owners of abutting property. While such extra expense shall be chargeable to the railroads, same is not permitted to operate to increase or diminish the assessments of owners of abutting property. The whole amount to be assessed against abutting property owners and their property, except as hereinafter provided, shall be by the ordinance apportioned among them severally in accordance with the front foot plan or rule, in the ratio which the frontage of each owner bears to the total frontage to be improved.

(’62 Code, § 9-7-11)

### **§ 3-10-31 COSTS PAID BY CITY; COSTS TO PROPERTY OWNERS.**

(A) The city shall always pay one-third of the cost of all paving or other improvement, excepting curbs and sidewalks, and in street intersections shall pay the entire cost of paving; provided, further, that the cost of paving in such street intersections which is to be paid by the city shall be estimated by the same rule as the part paid by owners of abutting property, that is to say, the city shall pay in the

same ratio which the aggregate number of lineal feet in such street intersections improved bears to the total number of lineal feet of the entire improvement; so that it may not be necessary to estimate the actual cost of each such intersection separately, but only to estimate the proportionate cost as aforesaid. ('62 Code, § 9-7-12)

(B) Persons owning property abutting on the highway improved or to be improved under the provisions of this subarticle shall pay two-thirds of the cost of the improvement, except as to curbs and sidewalks for which they shall pay all, and also except as to the cost of paving in street intersections for which they shall not pay anything; provided, further, that, notwithstanding anything in this subarticle contained no assessment against any abutting property or the owner thereof made in accordance with the rules contained in this subarticle shall upon any construction of such Street Improvement Law be deemed to be invalid by reason of being excessive unless the amount actually so assessed shall exceed the maximum amount which could have been so assessed under the terms and provisions of the Street Improvement Law.  
( '62 Code, § 9-7-13)

### **§ 3-10-32 EQUALITY OF ASSESSMENT AS TO BENEFITS.**

If, however, it be ascertained that the application of the rule, as set forth in the preceding actions, would result in individual cases, in an assessment in excess of the actual or special benefit to any owner of abutting property in the enhanced value of such property, then and in every such case, the Commission in making such assessments, shall adopt such rule of apportionment as shall effect a substantial equality and uniformity between the abutting owners, considering the benefits received by and the burdens imposed on their property and themselves. The final apportionment and assessment, however, shall be made after determining what, if any, should be made as aforesaid in individual cases, and that part of the cost of the improvement to be assessed against all abutting property and the owners thereof, as herein provided, shall thereupon be apportioned and adjusted among the several parcels of abutting property and the respective owners thereof, so that after making allowances for all such individual cases the aggregate amount assessed against all abutting property and the owners thereof shall not be more than two-thirds of the cost of the improvement as herein provided; but no assessment shall be made against any abutting property or the owners thereof in any event in excess of the amount permitted by law to be so assessed, or in excess of the actual benefit to such owner, in the enhanced value of his property, by reason of such improvement, as ascertained at the hearing hereinbefore provided for.  
( '62 Code, § 9-7-14)

### **§ 3-10-33 TERMS OF PAYMENT TO BE PROVIDED.**

(A) (1) The Commission, by the assessment ordinance, in addition to declaring the persons, property and respective amounts to be assessed, shall provide for the time and terms of payment of such assessments, and same shall be thereby made due and payable at the office of the Secretary, as follows: In five equal installments, of which the first shall be payable 30 days after the date of the certificate of the Engineer evidencing the completion of the improvement and the final acceptance thereof by the city; the second payable one year after the date; the third payable two years after the

date; the fourth payable three years after the date; and the fifth payable four years after the date; and by the ordinance shall also fix the rate of interest payable upon the deferred payments at the rate of 8% per annum, payable annually, from and after the date of the assessment certificates; and by the ordinance shall also declare and fix a lien upon the property to secure each respective assessment, and shall declare the same to be a personal liability of the respective owners of such abutting property. The assessment ordinance in cases of improvements effected by the city otherwise than by contract shall direct that assignable assessment certificates shall be issued and made payable to the city or its assigns; or to such person, bank or corporation as may provide the materials or money needed for such improvement or may purchase such assessment certificates from the city under authority of an ordinance; and in cases of improvements effected by contract shall also provide that assignable certificates shall be issued and made payable to the contractor or to the assigns of such contractor.

(2) The assessment ordinance shall also require that the assessment certificates shall contain proper clauses for the payment of costs and reasonable attorney's fee if incurred, and for the maturity at the election of the holder, of the entire assessment or certificate upon default in the payment of any installment of principal or interest due thereon; together with other and further provisions, as hereinafter set forth, regulating payments of such assessments and providing for the collection thereof in cases of default and any other lawful provisions necessary or proper for the better security of or enforcement of such assessments against abutting property or the owners thereof, or any assessment or levy of special tax against railroads. It is specially provided, however, that in case any such improvement shall not be completed by the contractor or first undertaking same, and the city subsequently contracts for the completion of same; or in case the city shall complete such work without contract; or in case the city shall effect all or any part of any improvement without contract; or in case several contractors shall severally undertake different parts of the work; or in case the city shall purchase materials for such improvement from any person contracting to furnish same; or in any other similar case the Commission shall by ordinance passed after the completion and acceptance of such work direct the issuance of the assessment certificates on account of the cost of such improvement, to the city or its assigns, or to the contractor or material men, or to the several contractors in proportion to the amount of work effected, or material furnished and used for such improvement, and the several amounts, if any, payable therefor to each such party at interest, to each of them, respectively, such improvement certificates shall be by the ordinance made payable.

(B) The Commission shall by the ordinance making the assessment, or by an ordinance levying a special tax, declare, fix and determine the amount of the cost of the paving, if any, to be assessed against and paid by railroads, together with the lien therefor, all as provided in such Street Improvement Law, and shall in such ordinance prescribe when such amount so assessed or levied shall become due and delinquent, and the method of collecting and enforcing the same; and the Commission may by the ordinance make such assessment of tax against railroads payable in cash upon the completion of the work and the acceptance thereof by the city, or may allow such time and terms for the payment thereof as the Commission may deem proper, but such assessments and special taxes shall in all cases be payable in the city, and all deferred payments thereof, if any, shall bear interest at the rate of 8% per annum from the date of the certificate of the Engineer evidencing the completion and final acceptance of the improvement.

(C) The City Commission may by ordinance provide for alternative payment terms when the income or age of the property owners or the amount assessed would result in an undue hardship in the opinion of the City Commission. Such alternative assessment shall in no case provide for initial payment to be due more than one year after the date of the certificate of acceptance of the City Engineer evidencing completion and final acceptance of the improvements by the city. All such alternative payments shall be for such period as provided by ordinance, but shall in no case exceed 10 years. Any ordinance providing extended payment terms shall also set the interest rate for deferred payments at the amount specified by this subarticle.

('62 Code, § 9-7-15) (Ord. 85021, passed 9-16-85)

### **§ 3-10-34 ISSUANCE OF ASSESSMENT CERTIFICATES.**

(A) After the passage of the assessment ordinance, and upon completion and final acceptance of the improvement, the assignable assessment certificate in accordance with such ordinance shall be issued by the city, signed by the Mayor and attested by the Secretary, who shall affix thereto the corporate seal of the city. Such certificate shall bear date as of the date of the assessment ordinance which shall be made and issued by the Engineer, after the final completion of the work and improvement, and upon the final acceptance thereof by the city; provided, however, that before such assessment certificates may be issued such certificates of final acceptance shall have been approved by the Mayor by his signature affixed thereto or by resolution of the Commission.

(B) Each such certificate shall have attached thereto four numbered coupons, each of which shall be authenticated by the signature of the Mayor, and each such coupon shall fully identify the assessment certificate to which same is originally attached, and shall be made payable to the original payee of the certificate by name or to the bearer; but each such coupon shall be attested by the signature of the Secretary, which signature must be affixed by the Secretary in person. Each of the four coupons shall evidence one of the first four installments of principal and interest payable upon the assessment certificate, including one installment of the principal and all interest payable on the entire certificate to the date of the maturity of such coupon. The final or fifth installment shall be evidenced by the assessment certificate itself, which shall be presented for final payment at the time of the maturity of the final installment, together with a release of the lien as hereinafter provided.

(C) Each certificate shall, if in accordance with the facts, recite that the proceedings with reference to making such improvements have been regularly had in compliance with the law, and that all prerequisites to the fixing of the assessment lien against the property described in the certificate and to create the personal liability therein declared have been fully done and performed. The assessment certificates shall also provide that any owner of property assessed, or from any person liable thereon, shall have the right to pay such assessment, or any installment thereon in advance of its maturity upon payment of all accrued interest on the certificate or installment so paid. The assessment certificates may contain such other lawful provisions as are customary, and shall be in such form as may be hereafter adopted by the Commission; provided, however, that in case any such assessment ordinance, assessment or certificate may purport to declare or fix a lien on any exempt property, the invalidity of such lien shall not render such ordinance or certificate void, but the owner of such exempt property shall nevertheless be personally liable as in such certificates declared; and provided, further, that it shall be a sufficient compliance with this subarticle and all parts thereof if the proceedings had and

assessment certificate issued hereunder, shall describe the lots or parcels of abutting property by any description sufficient, whether by lot and block number or otherwise to identify and indicate the same either taken alone or in connection with any other facts or recitals in the proceedings, and if the name of the owner of any abutting property be "unknown" it shall be sufficient in such assessment certificate or elsewhere so to state, but nothing herein contained shall be deemed to preclude the right and power of the Commission to proceed subsequently by reassessment or correction, as hereinafter provided, to remedy or supply any error, mistake or omission, whether or not same shall render void or voidable any assessment or certificate already made or issued, the city reserving all its rights and powers by such Street Improvement Law to declare personal liability or liens in a clear and effective manner whenever it deems it necessary by such reassessment and correction.

('62 Code, § 9-7-16)

### **§ 3-10-35 IMPROVEMENTS EFFECTED BY CONTRACT.**

(A) In all cases where such permanent street improvements are effected by contract, each contractor shall be paid for the performance of the contract at the prices specified therein and subject to all the terms, conditions, covenants, stipulations and provisions thereof.

(B) Such work shall be completed at the time and in the manner as follows:

(1) For each portion or section of any street so improved which is occupied by rails or tracks of any railroad and for two feet on the outside of such rails and tracks, the contractor undertaking and effecting such portion or section of the improvement shall receive and accept from the city in full payment for the cost thereof, at their face value the assessment certificates to be issued by the city therefor against such railroads and the owners thereof, or in lieu of such certificate the money which may be by the city collected from such railroad upon the levy of a special tax for the cost of such portion or section of the improvement;

(2) For all that proportion or part of the cost of such improvement which by the terms and provisions of this subarticle is required to be assessed against abutting property and the owners thereof the contractor shall receive and accept from the city in full payment for all such proportion or part of such improvement effected by such contractor at their face value the assessment certificates to be issued by the city against such abutting property and the owners thereof; provided, that the contractor shall be in all cases authorized to take from the owners of abutting property proper voluntary lien contracts for the cumulative and additional security of the amounts so assessed;

(3) For all that proportion or part of the cost of such improvement which by the terms and provisions of this subarticle the city undertakes to pay as its part of the cost of such improvement, the city shall make payments to the contractor on monthly estimates and final estimate of the Engineer by warrants drawn on the Street Improvement Fund of the city, at such times and under such conditions as may be provided by the contract.

(4) The assessment certificate shall be issued by the city and delivered to the contractor entitled thereto promptly after the completion and final acceptance of the work. In the event several contractors have been engaged in effecting the improvement and two or more are entitled to receive assessment certificates, the city shall apportion same fairly among them in accordance with their just claims, the work effected by each and the circumstances of each case. In all cases where property abutting on any such improvement is owned by the city, or is cemetery property held and owned for the purposes of sepulture, the city shall upon completion and final acceptance of the improvement pay the same proportion or part of the cost of the improvement which would be assessed against the same property if same were privately owned and not exempt.

('62 Code, § 9-7-17)

### **§ 3-10-36 VOLUNTARY LIEN CONTRACTS.**

(A) In all cases where abutting property is not exempt by the Laws of Texas or of the United States from sale under execution, the contractor shall effect the improvement along or in front of such abutting property and shall accept the assessment certificates against such property and its owner, but the contractor may also at any time after the contract is accepted by the Commission or signed by the Mayor accept from the owners voluntary lien contracts on such property; but when any abutting property is so exempt or in the event the contractor shall have reasonable grounds to believe that same is so exempt, then contractor may insist that the owner of such property, including the husband and wife or other necessary parties to such instrument, shall execute and acknowledge in due form of law and deliver to the contractor a contract in writing granting to the contractor a voluntary lien on such exempt abutting property to secure the payment of the amount assessed, or to be assessed, against same, such contract to contain such reasonable and customary provisions as may be desired by the contractor, and to be in some form approved by the Commission; and the contractor shall receive and accept all such contracts when tendered to the contractor and shall thereupon effect the improvement along and in front of all such abutting property for which such lien contracts have been so delivered or tendered to the contractor, and shall in such cases receive and accept, as additional and cumulative security, the assessment certificate against the property in question and the owner thereof, even though such property be "exempt." Contractors shall use the utmost diligence and tact to procure such voluntary lien contracts from the owners of all exempt abutting property, but in case the property be exempt and the owner thereof shall neglect or refuse to execute, acknowledge and deliver such voluntary lien contract, or make other arrangements satisfactory to the contractor, the contractor may then as herein provided be authorized to omit that part of the improvement upon which such exempt property abuts, in the proportion that would have been represented by the assessment against the same, and such omission shall not invalidate the assessments or the liens against such property on the highway improved, but the contractor shall not be paid any sum, or receive any assessment certificate, on account of any such portion of the highway upon which the improvement is so omitted or on account of any work performed on such portion of the street or any expense caused by such omission.

(B) It is specially provided, however, that in the event the contractor shall desire to omit any part of the improvement along or in front of exempt abutting property, then the contractor, before the expiration of one-half of the time stipulated in the contract for the completion of the improvement undertaken, or within such further time as the Commission may allow, shall file with the Secretary for the information of the Commission a declaration in writing stating with reference

to each such

parcel of abutting property, the location, description, frontage, name of the owner and the reason for the proposed omission; and after consideration of such statement the Commission shall in all cases where it shall find such reasons to be good order by resolution that the improvement not be made along or in front of such property unless and until the owner thereof shall either by such voluntary lien contract or by other means make arrangement for payment satisfactory to the contractor; but if the Commission shall find that such reasons are not sufficient, and that, under the terms of the provisions of this subarticle and contract, any such omission or any part thereof, should not be permitted, then by such resolution the Commission shall require that such omission or omissions or such parts thereof, be supplied, and contractor shall effect such part of the improvement and shall receive and accept the assessment certificate therefor; and provided further, that in the exercise of such discretion, the Commission shall merely consider the questions:

(1) Whether such property is "exempt;"

(2) Whether the voluntary lien contract, if any, which the contractor has received from the owner of such property, is in proper form and duly executed by the proper parties as herein provided; and

(3) Whether the contractor has accepted from the owner of such property any other security; but the Commission shall not in the exercise of such discretion require the contractor to execute any work or improvement along or in front of any exempt property unless the owner thereof shall have executed and delivered, or have tendered, to the contractor the voluntary lien contract, or other security accepted by the contractor, all as herein before provided. The Engineer shall not give his certificate of final acceptance of any work or improvement, until he shall have ascertained that no such omission has been made otherwise than as herein authorized.

('62 Code, § 9-7-18)

### **§ 3-10-37 PAYMENTS TO SECRETARY; RECEIPT; COLLECTION OF LIEN.**

(A) The ordinance making such assessment shall provide that all installments of principal and interest thereof shall be payable at the office of the Secretary and the Secretary is hereby authorized and directed to receive such payments when so tendered to him in the full amount due and payable to the date of such payment, and shall upon any such payment being made issue to the person paying same his official written receipt for the amount received which shall be evidence of such payment or any demand for the same.

(B) The Secretary shall prepare each such receipt in duplicate, preserving a stub, such receipts and stub to show, among other things, the date of the payment, the name of the person making such payment, the description of the property against which the assessment was made, the nature of the improvement for which it was made, the name of the original payee or contractor, the date of the assessment certificate and its number, if any, and the Secretary shall preserve as a permanent record in his office the stub of each receipt issued by him or under his authority. The Secretary shall immediately or at regular intervals as prescribed for other collections, deposit with the Treasurer all sums paid in on such assessments since the last previous deposit, accompanied by one copy of the duplicate receipts as issued for each payment so deposited. Thereafter upon the presentation to the

Treasurer of any coupon of any such assessment certificate duly issued by the city representing any installment of principal and interest, and upon the surrender to the Treasurer of such coupon, with a receipt for the payment to be made properly endorsed thereon and signed by the person presenting same or in cases of the maturity of the fifth installment upon the presentation and surrender of the assessment certificate, receipt and release as hereinafter provided, the Treasurer shall pay over to the bearer of each such coupon or certificate the amount so paid into the Treasury, on account of such installment of principal and interest represented by such coupon or certificate. The coupons being intended for surrender and delivery to the property owner or person paying the amounts due thereon to the Secretary, the bearer, person or bank presenting such coupon or certificate for payment shall also execute to the Treasurer a separate receipt to be preserved in the files of the city evidencing the payment of same by the city and describing each coupon or certificate so presented and paid and stating the name and address of the person, or bank transmitting same for collection. Such separate receipts so to be taken by the Treasurer may be endorsed or stamped or signed on the back of the respective duplicate receipts prepared for the Treasurer by the Secretary as hereinbefore required, and all such receipts shall be carefully preserved by the Treasurer.

(C) Upon the full and final payment of all sums due by the terms of any such certificate the original payee or holder of such certificate shall thereupon immediately surrender to the owner of the premises described herein, or to the Treasurer for them, such assessment certificate together with all coupons not theretofore paid and surrendered, and also a good and sufficient quittance and release in writing, duly acknowledged, evidencing the satisfaction of such indebtedness and the full release of the lien securing same; and such written release and surrender of the assessment certificate by the holder thereof shall in all cases operate to release also the lien securing any voluntary contract taken for the same improvement in connection with such assessment certificate.

(D) In case of default in the payment of any installment of principal or interest due on any certificate, and upon the maturity thereof as evidenced by its terms or by the written declaration of the holder thereof, it is hereby also made the duty of the Secretary, on the written demand of the holder of such certificate, to advertise and sell the premises and property subject to the lien securing such certificate for the purpose of realizing any sum remaining unpaid thereon, together with interest and costs, the sale and the conveyance of the property thereupon to be made in the manner provided by law for the sale of property for ad valorem taxes; or in case of such default and on the written demand of the holder of any such certificate, the city shall exercise its charter powers and the powers conferred by such Street Improvement Law, and shall institute and prosecute a proper suit to foreclose or enforce such lien and to collect such assessment certificate, together with all interest and costs in the name of the city but for the benefit of the holder thereof; provided, that each such holder shall in advance deliver such assessment certificate and other necessary evidence to the Secretary and to the satisfaction of the Commission provided for and indemnify the city against any claims for damages and all costs or expenses which might be incurred in any such proceedings or suit, and provided further, that neither the city nor any official of the city shall be or become obligated or liable for any error or omission in the matter or computing the amounts payable upon such certificates or in the matter of identifying the holders of such certificates; and should the city or any official thereof, for any reason whatever fail to enforce, or not proceed with effect in the enforcement of any such certificate or claim, the city shall not thereby incur any financial loss or liability, nor shall any official of the city thereby in any manner incur any personal liability; and provided further, that nothing herein contained shall be

deemed to deprive the holder of any such certificate of his personal right to use any lawful means of collecting such certificate, including the right at his own cost and expense to bring and conduct suit thereon in his own name in any court of competent jurisdiction.

('62 Code, § 9-7-19)

### **§ 3-10-38 INVALIDITY; REASSESSMENT.**

In the event of any mistake or irregularity in any proceedings with reference to such improvement, or the assessment of the cost thereof against any abutting property and its owner and in case of any error or invalidity in any such proceeding, the Commission shall by ordinance reassess against such abutting property and its owner the cost or a part of the cost of such improvement, all as provided by such Street Improvement Law and this subarticle; and such reassessment shall be made under the same rules and regulations, and after corresponding notice, as are herein provided for the original assessment. And upon the written request of any contake, irregularity, error or invalidity wrongfully affects or renders defective or insufficient any such assessment, proceedings or certificate, the Commission shall in such case reassess against the abutting property and the owner thereof as hereinbefore provided, and upon the surrender of each such impaired or invalid assessment certificate shall issue a new and valid certificate based upon such reassessment in lieu thereof. In like manner the Commission shall make corrections, reassessments or new levy of special tax in case of similar necessity for that part of the cost of any improvement chargeable to railroads or street railroads.

('62 Code, § 9-7-20)

### **§ 3-10-39 NONLIABILITY OF CITY FOR PAYMENT.**

The city shall not be or become liable or responsible, either directly or indirectly, for the payment of any sum of money whatever for or on account of any assessment certificate, levy, lien or special tax, nor on account of any error or omission in or concerning same, nor on account of any property being exempt, nor on account of the failure of any person to pay the amount levied or assessed; nor shall the city be or become liable or responsible, either directly or indirectly, for the payment of any part of the cost of any improvement other or further than that portion of the cost of such improvement which the city herein expressly undertakes to pay; provided that the cost of "extras," if any, shall be paid by the city, or as may be provided in the contract, unless the same be included in the cost of the improvement for which assessments are made.

('62 Code, § 9-7-21)

### **§ 3-10-40 PUBLIC SERVICE CORPORATION; DUTIES.**

All public service corporations having rails, tracks, mains, pipes, poles, conduits, wires or other fixtures or appliances in the public streets of the city are hereby required to take notice of the resolution of the Commission and the advertisement inviting bids for the permanent improvement of any street; and it is hereby made the special and imperative duty of each such public service corporation after first obtaining a proper "permit" from the city authorities, to lay, place, repair or renew in such time and manner as not to hinder or interfere with such work of improvement, all

proper rails, tracks, mains, conduits, pipes or other fixtures and appliances, of such size, condition, character, material weight and arrangement as to suffice fully for all needs of the service to be rendered by or which may reasonably be required of such public service corporation on such street for the period of at least 10 years from and after the time of such improvement, so that it may not be necessary to disturb the pavement of any such street for any such purpose during such period of at least 10 years.

('62 Code, § 9-7-22) Penalty, see § 1-1-99

## **ARTICLE 11: TAXATION**

### **Section**

#### ***General Provisions***

- 3-11-1 Residence homestead exemption for the elderly
- 3-11-2 Telecommunication services tax

#### ***Hotel Occupancy Tax***

- 3-11-20 Definitions
- 3-11-21 Levy of tax; rate; exception
- 3-11-22 Collection
- 3-11-23 Reports
- 3-11-24 Rules and regulations
- 3-11-25 Delinquency; failure to file
- 3-11-26 Interest

#### ***Historic Sites Property Tax Relief***

- 3-11-40 Definitions
- 3-11-41 Historic sites; tax relief
- 3-11-42 Application
- 3-11-43 Certification
- 3-11-44 Verification
  
- 3-11-99 Penalty

**GENERAL PROVISIONS****§ 3-11-1 RESIDENCE HOMESTEAD EXEMPTION FOR THE ELDERLY.**

(A) *Exemption.* Upon compliance with all requirements of this section and all other applicable laws and ordinances, each person, married or unmarried, 65 years of age or older, including those living alone, shall be eligible to exempt \$8,400 from the fair market value of his or her residence homestead which may be subject to ad valorem taxes levied by the city. ('62 Code, § 1-19-1) (Ord. 86022, passed 9-22-86)

(B) *Application for exemption.* The exemption provided for by this section shall not be allowed unless the person claiming such exemption shall file with the City Tax Assessor-Collector, between January 1 and April 30 of the year for which such exemption is claimed, documentary proof of age satisfactory to the Tax Assessor-Collector and a sworn claim for such exemption, describing the property for which exemption is sought, on forms prescribed by the Tax Assessor-Collector, giving complete information as provided for by such forms. In the event of good cause shown to the satisfaction of the Tax Assessor-Collector, late applications may be accepted but no later, in any event, than 10 days prior to time for submission of assessment rolls to the Board of Equalization. After the filing of such proof of age and claim for exemption, the Tax Assessor-Collector may, if he deems it necessary, request further information in order to determine eligibility for such exemption, which such information shall be provided by the applicant as a prerequisite to obtaining such exemption. Such application for exemption shall be made annually for each year that such exemption is sought. ('62 Code, § 1-19-3)

(C) *Determination of Tax Assessor-Collector.* After the application, all necessary proof and any other necessary information has been filed, the Tax Assessor-Collector shall determine eligibility for such exemption. The determination of the Tax Assessor-Collector shall be final and the property in question shall be placed on the tax rolls of the city in accordance with such determination. However, in the event the Tax Assessor-Collector should deny such application for exemption, notice shall be given to the applicant within 10 days of such determination and in any event no later than the submission of all assessment lists to the Board of Equalization. However, there shall be no appeal of the Tax Assessor-Collector's determination. ('62 Code, § 1-19-4)

(D) *Limitations of exemption.* The exemption authorized hereby shall extend only to a residential homestead as same may be defined by the laws of the state. Such exemptions shall be allowed only if the property in question is in fact the residential homestead of the applicant and such person has attained the age of 65 years on January 1 of the taxable year in question. The exemption shall be granted if one spouse has attained the age of 65 years on such applicable date even though the other has not attained such age. ('62 Code, § 1-19-5)

(E) *Determinative date for exemption.* January 1 of each tax year shall be the determinative date for eligibility for such exemption and qualification therefor shall be determined each year as of that date. Determination of eligibility for such exemption shall be for only the year in question with each

subsequent year requiring application and determination of eligibility as provided herein. There shall be no proration of the exemption provided for in this section for any taxable year either in the event of qualification or disqualification of either any applicable person or property for such exemption after January 1 of the applicable year. ('62 Code, § 1-19-6) (Ord. —, passed 2-12-73)

### **§ 3-11-2 TELECOMMUNICATION SERVICES TAX.**

(A) A tax is hereby authorized on all telecommunication services sold within the city. For the 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. The tax provided for hereunder shall not serve as an offset to, be in lieu of or in any way reduce any amount payable to the city pursuant to any franchise, street use ordinance, charter provision, statute or, without limitation by the foregoing enumeration, otherwise payable by any provider of telecommunications service; it being the express intent hereof that all such obligations, impositions and agreements of every kind and nature shall remain in full force and effect without reduction or limitation hereby.

(B) The rate of the tax imposed by this section shall be the same as the rate imposed by the city for all other local sales and use taxes as authorized by the legislature of the State of Texas.

(C) The City Secretary shall forward to the Comptroller of the State of Texas by United States registered mail a copy of this section along with a certified copy of the minutes of the City Commission's vote and discussion of this article.

('62 Code, § 5-16-1) (Ord. 87010, passed 5-18-87; Am. Ord. 87012, passed 7-13-87)

**Statutory reference:**

*Telecommunications tax authorized, see TEX. TAX CODE, § 321.210*

### **HOTEL OCCUPANCY TAX**

#### **§ 3-11-20 DEFINITIONS.**

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

**CONSIDERATION.** The cost of the room, sleeping space, bed or other facilities in such hotel and shall not include the cost of any food served or personal services rendered to the occupant not related to cleaning and readying such room or space for occupancy, and shall not include any tax assessed for occupancy thereof by any other governmental agency.

**HOTEL.** Any building or buildings, trailer or other facility in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, apartments not occupied by "permanent residents," as that term is hereinafter defined, and all other facilities where rooms or sleeping facilities or spaces are furnished for a consideration, but **HOTEL** shall not be defined so as to include hospitals, sanitariums, nursing homes or school dormitories.

**OCCUPANCY.** The use or possession, or the right to use or possession of any room, space or sleeping facility in a hotel for any purpose.

**OCCUPANT.** Anyone, who for a consideration, uses, possesses, or has a right to use or possess any room or rooms, or sleeping space or facility in a hotel under any lease, concession, permit, right of access, license, contract or agreement.

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

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

**QUARTERLY PERIOD.** 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.** The Tax Assessor-Collector of the city.  
( '62 Code, § 5-14-1) (Ord. —, passed 3-10-75)

### **§ 3-11-21 LEVY OF TAX; RATE; EXCEPTION.**

(A) There is hereby derived a tax upon the occupant of any room or space furnished by any hotel where such cost of occupancy is at the rate of \$2 or more per day, such tax to be equal to 7% of the consideration paid by the occupant of such room, space or facility to such hotel, exclusive of other occupancy taxes imposed by any other governmental agencies.

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

(C) The revenue derived from the occupancy tax imposed in division (A) hereof may only be used for those purposes set forth in the TEX. TAX CODE, §§ 351.001 et seq., as the statute is amended.

( '62 Code, § 5-14-2) (Ord. —, passed 3-10-75; Am. Ord. 88013, passed 6-27-88; Am. Ord. 89022, passed 6-12-89)

**§ 3-11-22 COLLECTION.**

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in § 3-11-21 hereof for the city.

('62 Code, § 5-14-3) (Ord. —, passed 3-10-75) Penalty, see § 3-11-99

**§ 3-11-23 REPORTS.**

On the last day of the month following each quarterly period, every person required in § 3-11-22 hereof to collect the tax imposed herein, shall file a report with the Tax Collector showing the consideration paid for all room occupancies in the preceding quarter, that amount of the tax collected on such occupancies, and any other information as the Tax Collector 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.

('62 Code, § 5-14-4) (Ord. 89022, passed 6-12-89) Penalty, see § 3-11-99

**§ 3-11-24 RULES AND REGULATIONS.**

The Tax Assessor-Collector shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied herein, and shall upon reasonable notice have access to books and records necessary to enable him to determine the correctness of any report filed as required by this subarticle and the amount of taxes due under the provisions of this subarticle.

('62 Code, § 5-14-5) (Ord. —, passed 3-10-75) Penalty, see § 3-11-99

**§ 3-11-25 DELINQUENCY; FAILURE TO FILE.**

(A) If any person shall fail to collect the tax imposed herein, or shall fail to file a report as required herein, or shall fail to pay to the Tax Collector the tax as imposed herein when the report for payment is due, or shall file a false report, then such person shall pay to the city a penalty of 5% of the amount of the tax due.

(B) If the person who is required to pay the tax to the Tax Collector does not file a report or pay the tax within 30 days after it is due, the person shall pay to the city a penalty of an additional 5% of the tax due.

(C) The minimum penalty under this section is \$5.

('62 Code, § 5-14-6) Penalty, see § 3-11-99

**§ 3-11-26 INTEREST.**

Any tax imposed by § 3-11-21(A) of this subarticle which remains unpaid 61 days after the day due accrues interest at 10% per annum from that day to the date of payment.  
(’62 Code, § 5-14-7) Penalty, see § 3-11-99

***HISTORIC SITES PROPERTY TAX RELIEF*****§ 3-11-40 DEFINITIONS.**

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

**BOARD.** The Historical Development Board of the city.

**CERTIFICATION.** The attestation by the Historical Development Board that the structure in question is an “historically significant site in need of tax relief to encourage preservation” and that the plans submitted will substantially rehabilitate or restore the structure.

**CERTIFIED APPLICANT.** An applicant pursuant to this subarticle whose plans for the restoration or rehabilitation of an historic structure have been approved pursuant to § 3-11-43 herein.

**COMMERCIAL BUILDING.** A building whose use after rehabilitation or restoration will be for other than a single-family dwelling, duplex, or three or four family dwelling.

**HISTORICALLY SIGNIFICANT SITE IN NEED OF TAX RELIEF TO ENCOURAGE PRESERVATION.** A structure together with the land necessary for access and use of the structure which is determined by the Historical Development Board to be in substantial need of rehabilitation or restoration and is one or more of the following:

- (1) Listed in the National Register; or
- (2) Located in a National Register Historic District and certified by the Secretary of Interior as being of historic significance to the District; or
- (3) Designated as a “recorded Texas historical landmark” by the Texas Historical Commission; or
- (4) Designated as an historical landmark by the city as provided in Ordinance 91003 passed March 27, 1991; or
- (5) Located in an historic district designated by the city and certified by the Historical Development Board as being of historic significant to the District.

**REHABILITATION.** The act or process of returning a structure to a state of utility through repair or alteration which makes possible an official contemporary use while preserving those portions or features of the structure that are significant to its historical, architectural and cultural values.

**RESIDENTIAL BUILDING.** A building whose use after rehabilitation or restoration will be for a single-family dwelling, duplex, or three or four family dwelling.

**RESTORATION.** The act or process of aggregately recovering the form and details of a structure and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

**STRUCTURE.** A building located within the city.

**TAX ASSESSOR-COLLECTOR.** The Assessor and Collector of taxes for the city.

**VERIFICATION.** The approval by the city Historical Development Board that an "historically significant site in need of tax relief to encourage preservation" was substantially completed. ('62 Code, § 1-20-1) (Ord. 91035, passed 10-28-91)

### **§ 3-11-41. HISTORIC SITES; TAX RELIEF.**

(A) That the City Commission shall have and exercise the authority granted to it in section 11.24 of the Texas Tax Code, as amended or hereinafter amended, provided that tax relief, if any, may be granted only after all of the following prerequisites hereinafter set out are satisfactorily met.

(B) The tax relief, if any, may be granted only after all improvements, if any, are satisfactorily completed.

(C) That prior to consideration by the City Commission the Board shall consider and make recommendation to the City Commission on the following matters, to wit:

(1) The Board shall and must determine and recommended whether or not the structure or archeological site, is or should be designated as a historical or archeological significant site in need of tax relief to encourage its preservation.

(2) The Board shall consider and may recommend at its sole discretion what part, if any, including all of the assessed value of the structure or archeological site and the land necessary for access to and use of the structure or archeological site should be exempt from taxation. (Ord. 99004, passed 1-25-99)

**§ 3-11-42 APPLICATION.**

(A) Application for an historic structure preservation tax relief pursuant to this subarticle are to be filed with the Board. The Board shall be the agent of the city for the purposes of administering this subarticle.

(B) If an applicant is in the process of or has completed rehabilitation work on a structure and would like to apply for tax relief status and local historical landmark designation, the applicant should follow the same procedures as other tax relief applicants. The applicant must be able to document completed rehabilitation work photographically.

(C) Each application shall be signed and sworn to by the owner of the property and shall:

(1) State the legal description of the property proposed for certification;

(2) Include a "city application for ad valorem tax relief for historically significant property in need of tax relief" form.

(3) Include a final complete set of plans for the historic structure's restoration or rehabilitation if available;

(4) Include a statement of costs for the restoration or rehabilitation work;

(5) Include a projection of the estimated construction, time and predicted completion date of the historic restoration or rehabilitation;

(6) Authorize the members of the Board, the City Tax Assessor-Collector, and city officials to visit and inspect the property proposed for certification and the records and books of the owners as necessary to certify that the property in question is in substantial need of restoration or rehabilitation;

(7) Include a detailed statement of the proposed use for the property; and

(8) Provide a completed "city historical site register" form along with any additional information which the owner deems relevant or useful such as the history of the structure or access to the structure by the public.

(D) Each application shall contain sufficient documentation confirming or supporting the information submitted therein.

('62 Code, § 1-20-3) (Ord. 91035, passed 10-28-91)

**§ 3-11-43 CERTIFICATION.**

(A) Upon receipt of the sworn application, the Board shall make an investigation of the property and shall certify the facts to the City Tax Assessor-Collector within 30 days along with the Board's documentation for approval or disapproval of the application for tax relief.

(B) Upon receipt of the certified application for tax relief as well as the recommendation of the Board, the City's Tax Assessor-Collector shall within 30 days approve or disapprove eligibility of the property for tax relief pursuant to this subarticle. In determining eligibility, the Tax Assessor-Collector shall first determine that all the requirements of this subarticle have been complied with and that only the historic structure and the land reasonably necessary for access and use thereof is to be provided favorable tax relief as provided in § 3-11-41 herein.

('62 Code, § 1-20-4) (Ord. 91035, passed 10-28-91)

**§ 3-11-44 VERIFICATION.**

Upon completion of the restoration and rehabilitation the certified applicant shall submit a sworn statement of completion acknowledging that the "historically significant site in need of tax relief to encourage preservation" has been substantially rehabilitated or restored as certified by the Board. The Board, upon receipt of the sworn statement of completion, but no later than 30 days thereafter, shall make an investigation of the property and shall approve or disapprove the fact that the property has been substantially completed as required for certification. If verification of completion shall be deemed unfavorable the certified applicant shall be required to complete the restoration or rehabilitation in order to secure the tax relief provided herein. If the verification of completion is favorable, the Board shall notify the Tax Assessor-Collector, in writing, of compliance. Thereafter, the Tax Assessor-Collector shall provide the property with the historic tax relief provided in § 3-11-41 herein.

('62 Code, § 1-20-5) (Ord. 91035, passed 10-28-91)

**§ 3-11-99 PENALTY.**

A person commits an offense if the person fails to file a report with the Tax Collector, collect a tax for the city, or pay a tax to the Tax Collector as the person is required to by §§ 3-11-20 through 3-11-26, or fails to follow any procedure, rule, or regulation promulgated by §§ 3-11-20 through 3-11-26. An offense under these sections shall be a misdemeanor punishable as set forth by § 1-1-99 of this code upon conviction. Each offense shall be deemed a separate violation.

('62 Code, § 5-14-8) (Ord. 89022, passed 6-12-89)



## ARTICLE 12: CITY POLICIES

### Section

3-12-1 Liability of city

3-12-2 Naming or renaming streets

#### **Cross-reference:**

*Establishment of fees for the furnishing of records, see 3-8-6*

### **§ 3-12-1 LIABILITY OF CITY.**

Before the city shall be liable for accidental death, personal injuries of any kind or for injuries to or destruction of or damages to property of any kind, the claimants or survivors in a death claim, or the persons injured, or the owner of the property so injured, damaged or destroyed, or someone on his behalf, shall give the Mayor and Commission notice in writing reasonably describing the injury or damage claimed and the time, manner and place of the incident from which it arose, within six months from the date of the incident, stating on such written notice when, where and how the injury, damage or destruction occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the claimant will settle, the street and residence number of the claimant at the time and date the claim was presented and the actual residence of such claimant for the six months immediately preceding the occurrence of such injuries, damage or destruction, and the names and addresses of the witnesses upon whom he relies to establish his claim; and a failure so to notify the Mayor and Commission within the time and manner provided herein shall exonerate, excuse and except the city from any liability whatsoever.

('62 Code, § 1-14-1) (Ord. 86001, passed 1-6-86)

#### **Statutory reference:**

*Governmental liability, see TEX. CIV. PRAC. & REM. CODE, Chapter 101*

### **§ 3-12-2 NAMING OR RENAMING STREETS**

(A) Any resident of the city may petition the City Commission to name or rename a city street.

(B) The City Commission may on its own motion or on petition of a resident name or rename any street within the city, provided that, the renaming of a street shall require an affirmative vote of four members of the City Commission. A street shall be deemed named and therefore require renaming if that name has been either expressly or inferentially recognized. "Expressly recognized" shall mean any formal act of the City Commission which clearly establishes the intent to provide a particular name for a given street. This may be accomplished by ordinance, resolution, approval of a subdivision plat or a similar act. "Inferentially recognized," and therefore requiring renaming, shall mean an indirect action by the City Commission which implies that although an overt act was not performed that the



city intended to recognize the name of the street. This may be accomplished inferentially by setting speed limits on such street, prohibiting parking on such street, or other similar acts. (Ord. 96023, passed 8-26-96)

## ARTICLE 13: CODE OF ETHICS

### Section

#### ***Declaration of Policy***

- 3-13-1 Statement of purpose
- 3-13-2 Definitions

#### ***Present City Officials and Employees***

- 3-13-3 Improper economic benefit
- 3-13-4 Unfair advancement of private interests
- 3-13-5 Gifts
- 3-13-6 Confidential information
- 3-13-7 Representation of private interests
- 3-13-8 Conflicting outside employment
- 3-13-9 Public property and resources
- 3-13-10 Political activity
- 3-13-11 Actions of others
- 3-13-12 Prohibited interests in contracts
- 3-13-13 City Commission contract personnel
- 3-13-14 Persons required to report; time to report; place to report

#### ***Former City Officials and Employees***

- 3-13-15 Continuing confidentiality
- 3-13-16 Subsequent representation
- 3-13-17 Prior participation in negotiating or awarding of contracts
- 3-13-18 Discretionary contracts

#### ***Persons Doing Business with the City***

- 3-13-19 Persons seeking discretionary contracts
- 3-13-20 Disclosure of association with city official or employee
- 3-13-21 Disclosure of benefit to city official or employee

***Lobbyists***

- 3-13-22 Definitions
- 3-13-23 Persons required to register as lobbyists
- 3-13-24 Exceptions
- 3-13-25 Registration
- 3-13-26 Activity reports
- 3-13-27 Restricted activities
- 3-13-28 Identification of clients
- 3-13-29 Timeliness of filing registrations and reports
- 3-13-30 Administration
- 3-13-31 Constitutional rights

***Members of the Public and Others***

- 3-13-32 Forms of responsibility

***Financial Disclosure***

- 3-13-33 Travel reporting requirements
- 3-13-34 Items received on behalf of the city
- 3-13-35 Violation of reporting requirements

***Ethics Review Board***

- 3-13-36 Definitions
- 3-13-37 Structure of the Ethics Review Board
- 3-13-38 Jurisdiction and powers
- 3-13-39 Complaints
- 3-13-40 Ethics Compliance Officer
- 3-13-41 Ethics panels
- 3-13-42 Hearings
- 3-13-43 Disposition
- 3-13-44 Petition for declaratory ruling
- 3-13-45 Advisory opinions
- 3-13-46 Annual report
- 3-13-47 Public records and open meetings

***Enforcement Mechanisms***

- 3-13-48 Disciplinary action
- 3-13-49 Damages and injunctive relief
- 3-13-50 Civil fine
- 3-13-51 Prosecution for perjury
- 3-13-52 Voiding or ratification of contract
- 3-13-53 Disqualification from contracting
- 3-13-54 Failure to report; penalty

***Administrative Provisions***

- 3-13-55 Other obligations
- 3-13-56 Distribution and training
- 3-13-57 Severability

***DECLARATION OF POLICY*****§ 3-13-1 STATEMENT OF PURPOSE.**

It is essential in a democratic system that the public have confidence in the integrity, independence, and impartiality of those who act on their behalf in government. Such confidence depends not only on the conduct of those who exercise official power, but on the availability of aid or redress to all persons on equal terms and on the accessibility and dissemination of information relating to the conduct of public affairs. For the purpose of promoting confidence in the government of the City of Kingsville and thereby enhancing the city's ability to function effectively, this Code of Ethics is adopted. The Code establishes standards of conduct, disclosure requirements, and enforcement mechanisms relating to city officials and employees and others whose actions inevitably affect public faith in city government, such as former city officials and employees, candidates for public office, persons doing business with the city, and lobbyists. By prohibiting conduct incompatible with the city's best interests and minimizing the risk of any appearance of impropriety, this Code of Ethics furthers the legitimate interests of democracy. (Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-2 DEFINITIONS.**

For purposes of this article the following definitions shall apply unless the context clearly indicates or requires a different meaning or more specific definitions set forth elsewhere in this Code apply.

**ACCEPTANCE.** A written or verbal indication that someone agrees; **ACCEPTANCE** of an offer of subsequent employment or business opportunities includes legally binding contracts and all informal understandings that the parties expect to be carried out. An agreement, either by express act or by implication from conduct, to the terms of an offer so that a binding contract is formed.

**AFFILIATED.** Business entities are affiliated if one is the parent or subsidiary of the other or if they are subsidiaries of the same parent business entity.

**AFFINITY.** Relationship by affinity (by marriage) is defined in TEX. GOV'T. CODE, §§ 573.024 and 573.025.

**BEFORE THE CITY.** Representation or appearance before the city means before the City Commission; before a board, commission, or other city entity; or before a city official or employee.

**BENEFIT.** Anything reasonably regarded as pecuniary gain or pecuniary advantage, including a benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

**BUSINESS ENTITY.** A sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

**CANDIDATE.** A person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include:

(1) The filing of a campaign treasurer appointment, except that the filing does not constitute candidacy or an announcement of candidacy for purposes of automatic resignation provisions of TEX. CONSTITUTION, Article XVI, Section 65, or Article XI, Section 11;

(2) The filing of an application for a place on a ballot;

(3) The making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;

(4) Before a public announcement of intent, the making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication; and

(5) The soliciting or accepting of a campaign contribution or the making of a campaign expenditure.

**CITY.** The City of Kingsville.

**CODE OF ETHICS.** This article, its amendment and/or enhanced definitions. (Also referred to herein as **ETHICS CODE** or **THIS CODE**.)

**COMPLAINANT.** An individual who has filed a sworn complaint with the City Secretary as provided in § 3-13-39.

**CONFIDENTIAL GOVERNMENT INFORMATION.** Includes all information held by the city that is not available to the public under the Texas Open Records Act and any information from a meeting closed to the public pursuant to the Texas Open Meetings Act, regardless of whether disclosure violates the Act.

**CONSANGUINITY.** Relationship by consanguinity (by blood) is defined in TEX. GOV'T CODE, §§ 573.022 and 573.023.

**DISCRETIONARY CONTRACT.** Any contract other than those which by law must be awarded on a low or high qualified bid basis.

**ECONOMIC INTEREST.** Includes, but is not limited to, legal or equitable property interests in land, chattels, and intangibles, and contractual rights having more than de minimis value. Service by a city official or employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that city official or employee an economic interest in the property of the organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund.

**EMPLOYEE.** Except as provided in §§ 3-13-12, 3-13-18(C) and 3-13-33 through 3-13-35, the term **EMPLOYEE** or **CITY EMPLOYEE** is any person listed on the city payroll as an employee, whether part-time or full-time.

**FORMER CITY OFFICIAL OR EMPLOYEE.** A person whose city duties terminate on or after the effective date of this Code.

**GIFT.** A voluntary transfer of property (including the payment of money) or the conferral of a benefit having pecuniary value (such as the rendition of services or the forbearance of collection on a debt), unless consideration of equal or greater value is received by the donor.

**INDIRECT OWNERSHIP.** A person indirectly owns an equity interest in a business entity where the interest is held through a series of business entities, some of which own interests in others.

**INTENTIONALLY.** A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

**KNOWINGLY.** A person acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he or she is aware of the nature of his or her conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his or her conduct when he or she is aware that his or her conduct is reasonably certain to cause the result.

**OFFICIAL.** Except in §§ 3-13-22 through 3-13-31, the term includes the following persons:

- (1) The Mayor;
- (2) Members of the City Commission;
- (3) Municipal Court judges;
- (4) The City Manager;
- (5) Assistant City Manager;
- (6) City Secretary;
- (7) All department heads and assistant department heads;
- (8) Assistant to Mayor;
- (9) Executive secretaries; and

(10) Members of all boards, commissions, committees, and other bodies created by the City Commission pursuant to federal or state law or city ordinance, including entities that may be advisory only in nature; and board members of any entity who are appointed by the City Commission to such board membership.

**OFFICIAL** has a different meaning in §§ 3-13-22 through 3-13-31, which is defined in § 3-13-22(A). **OFFICER** is defined in §§ 3-13-12(C)(2) and 3-13-18(C)(2) and is not synonymous with any use of the term **OFFICIAL** in this Code.

**OFFICIAL ACTION.** Includes:

- (1) Any affirmative act (including the making of a recommendation) within the scope of, or in violation of, an official or employee's duties, and
- (2) Any failure to act, if the official or employee is under a duty to act and knows that inaction is likely to affect substantially an economic interest of the official or employee or any person or entity listed in § 3-13-3(A)(2) through (9).

**OFFICIAL INFORMATION.** Includes information gathered pursuant to the power or authority of city government.

**OWNERSHIP.** Ownership of an interest in a mutual or common investment fund that holds securities or other assets does not constitute direct or indirect ownership of such securities or other assets unless the person in question participates in the management of the fund.

**PARTNER.** Someone who engages in an activity or undertaking with another; includes partners in general partnerships, limited partnerships, and joint ventures. One who shares or takes part with another especially in a venture with shared benefits and shared risks.

**PERSONALLY AND SUBSTANTIALLY PARTICIPATED.** To have taken action as an official or employee through decision, approval, disapproval, recommendation, giving advice, investigation or similar action. The fact that the person had responsibility for a matter does not by itself establish that the person **PERSONALLY AND SUBSTANTIALLY PARTICIPATED** in the matter.

**RECKLESSLY.** A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

**REPRESENTATION.** Presentation of fact, either by words or by conduct, made to induce someone to act. **REPRESENTATION** does not include appearance as a witness in litigation or other official proceedings.

**RESPONDENT.** An individual identified in a sworn complaint to have allegedly violated the Ethics Code.

**SOLICITATION.** Solicitation of subsequent employment or business opportunities includes all forms of proposals and negotiations relating thereto.  
(Ord. ORD-2004-10, passed 5-10-04)

## **PRESENT CITY OFFICIALS AND EMPLOYEES**

### **§ 3-13-3 IMPROPER ECONOMIC BENEFIT.**

(A) *General rule.* To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect the economic interests of:



- (1) The official or employee;
  - (2) His or her parent, child, spouse, or other family member within the second degree of consanguinity or affinity;
  - (3) His or her outside client;
  - (4) A member of his or her household;
  - (5) The outside employer of the official or employee or of his or her parent, child, or spouse;
  - (6) A business entity in which the official or employee knows that any of the persons listed in divisions (A)(1) or (A)(2) holds an economic interest;
  - (7) A business entity which the official or employee knows is an affiliated business or partner of a business entity in which any of the persons listed in division (A)(2) or holds an economic interest;
  - (8) A business entity or nonprofit entity for which the city official or employee serves as an officer or director or in any other policy making position; or
  - (9) A person or business entity:
    - (a) From whom, within the past 12 months, the official or employee, or his or her spouse, directly or indirectly has:
      1. Solicited,
      2. Received and not rejected, or
      3. Accepted an offer of employment; or
    - (b) With whom the official or employee, or his or her spouse, directly or indirectly is engaged in negotiations pertaining to business opportunities.
- (B) *Recusal and disclosure.* A city official or employee whose conduct would otherwise violate division (A) must recuse himself or herself. From the time that the conflict is, or should have been recognized, he or she shall:
- (1) Immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter; and

(2) Promptly file with the City Secretary the appropriate form for disclosing the nature and extent of the prohibited conduct; and in addition:

(3) A supervised employee shall promptly bring the conflict to the attention of his or her supervisor, who will then, if necessary, reassign responsibility for handling the matter to another person; and

(4) A member of a board shall promptly disclose the conflict to other members of the board and shall not be present during the board's discussion of, or voting on, the matter.

(C) *Definitions.* For purposes of this section:

(1) An action is likely to affect an economic interest if it is likely to have an effect on that interest that is distinguishable from its effect on members of the public in general or a substantial segment thereof; and

(2) **CLIENT** includes business relationships of a highly personalized nature, but not ordinary business-customer relationships.  
(Ord. ORD-2004-10, passed 5-10-04)

#### **§ 3-13-4 UNFAIR ADVANCEMENT OF PRIVATE INTERESTS.**

(A) *General rule.* A city official or employee may not use his or her official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons.

(B) *Special rules.* The following special rules apply in addition to the general rule:

(1) *Acquisition of interest in impending matters.* A city official or employee shall not acquire an interest in, or affected by, any contract, transaction, zoning decision, or other matter, if the official or employee knows, or has reason to know, that the interest will be directly or indirectly affected by impending official action by the city.

(2) *Reciprocal favors.* A city official or employee may not enter into an agreement or understanding with any other person that official action by the official or employee will be rewarded or reciprocated by the other person, directly or indirectly.

(3) *Appointment of relatives.* A city official or employee shall not appoint or employ or vote to appoint or employ any relative within the third degree of consanguinity or affinity to any office or position of employment within the city.

(4) *Supervision of relatives.* No official or employee shall be permitted to be in the line of supervision of a relative within the third degree of consanguinity or second degree of affinity. Department heads are responsible for enforcing this policy. If an employee, by reason of marriage, promotion, reorganization, or otherwise, is placed into the line of supervision of a relative, one of the employees will be reassigned or other appropriate arrangements will be made for supervision.

(5) *Recusal and disclosure.* A city official or employee whose conduct would otherwise violate division (B)(3) shall adhere to the recusal and disclosure provisions provided in § 3-13-3(B)(1).

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-5 GIFTS.**

#### *(A) General rule.*

(1) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit for himself or herself or his or her business:

(a) That reasonably tends to influence or reward official conduct; or

(b) That the official or employee knows or should know is being offered with the intent to influence or reward official conduct.

(2) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit, save and except for items received that are of nominal value and meals in an individual expense of \$100 or less at any occurrence, from:

(a) Any individual or business entity doing or seeking to do business with the city; or

(b) Any registered lobbyist or public relations firm.

(3) Doing business with the city includes, but is not limited to, individual and business entities that are parties to a discretionary contract, individuals and business entities that are subcontractors to a discretionary contract, and partners and/or parents and/or subsidiary business entities of any individuals a business entities that are parties to a discretionary contract.

#### *(B) Special applications.* Divisions (A)(1) and (A)(2) do not include:

(1) A gift to a city official or employee relating to a special occasion, such as a wedding, anniversary, graduation, birth, illness, death, or holiday, provided that the value of the gift is fairly commensurate with the occasion and the relationship between the donor and recipient;

(2) Reimbursement of reasonable expenses for travel authorized in accordance with city policies;

(3) A public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion;

(4) A loan from a lending institution made in its regular course of business on the same terms generally available to the public;

(5) A scholarship or fellowship awarded on the same terms and based on the same criteria that are applied to other applicants;

(6) Admission to an event in which the city official or employee is participating in connection with official duties;

(7) Any solicitation for civic or charitable causes; or

(8) Admission to an event in which the city official or employee is participating in connection with his or her spouse's position.

(C) *Campaign contribution exception.* The general rule stated in division (A) does not apply to a campaign contribution made pursuant to the Texas Election Code.

(D) *Gifts to closely related persons.*

(1) A city official or employee shall take reasonable steps to persuade a parent, spouse, child, or other relative within the second degree of consanguinity or affinity, or an outside business associate not to solicit, accept or agree to accept any gift or benefit:

(a) That reasonably tends to influence or reward the city official's or employee's official conduct, or

(b) That the official or employee knows or should know is being offered with the intent to influence or reward the city official's or employee's discharge of official duties.

(2) If a city official or employee knows that a gift or benefit meeting the requirements of divisions (D)(1)(a) or (b) has been accepted and retained by a person identified in division (D)(1), the official or employee shall promptly file a report with the City Secretary's office disclosing the donor, the value of the gift or benefit, the recipient, and the recipient's relationship to the official or employee filing the report.

(E) *Definition.* For purposes of this section, a person is an ***OUTSIDE BUSINESS ASSOCIATE*** if both that person and the city official or employee own, with respect to the same business entity:

(1) Ten percent or more of the voting stock or shares of the business entity, or

(2) Ten percent or more of the fair market value of the business entity.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-6 CONFIDENTIAL INFORMATION.**

(A) *Improper access.* A city official or employee shall not use his or her position to obtain official information about any person or entity for any purpose other than the performance of official duties.

(B) *Improper disclosure or use.* A city official or employee shall not intentionally, knowingly, or recklessly disclose any confidential information gained by reason of said official's or employee's position concerning the property, operations, policies or affairs of the city. This rule does not prohibit:

(1) Any disclosure that is no longer confidential by law; or

(2) The confidential reporting of illegal or unethical conduct to authorities designated by law.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-7 REPRESENTATION OF PRIVATE INTERESTS.**

(A) *Representation by a member of the board.* A city official or employee who is a member of a board or other city body shall not represent any person, group, or entity:

(1) Before that board or body;

(2) Before city staff having responsibility for making recommendations to, or taking any action on behalf of, that board or body, unless the board or body is only advisory in nature; or

(3) Before a board or other city body which has appellate jurisdiction over the board or body of which the city official or employee is a member, if any issue relates to the official's or employee's official duties.

(B) *Representation before the city.*

(1) *General rule.* A city official or employee shall not represent for compensation any person, group, or entity, other than himself or herself, or his or her spouse or minor children, before the city.

2005 S-7

For purposes of this division, **COMPENSATION** means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

(2) *Exception for board members.* The general rule stated in division (B)(1) does not apply to a person who is classified as a city official only because he or she is an appointed member of a board or other city body.

(3) *Prestige of office and improper influence.* In connection with the representation of private interests before the city, a city official or employee shall not:

(a) Assert the prestige of the official's or employee's city position for the purpose of advancing private interests; or

(b) State or imply that he or she is able to influence city action on any basis other than the merits.

(C) *Representation in litigation adverse to the city.*

(1) *Officials and employees (other than board members).* A city official or employee, other than a person who is classified as an official only because he or she is an appointed member of a board or other city body, shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city.

(2) *Board members.* A person who is classified as a city official only because he or she is an appointed member of a board or other city body shall not represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to interests of the city and the matter is substantially related to the official's duties to the city.  
(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-8 CONFLICTING OUTSIDE EMPLOYMENT.**

(A) *General rule.* A city official or employee shall not solicit, accept, or engage in concurrent outside employment which could reasonably be expected to impair independence of judgment in, or faithful performance of, official duties.

(B) *Special application.* The following special rule applies in addition to the general rule: a city official or employee shall not provide services to an outside employer related to the official's or employee's city duties.

(C) *Other rules.* The general rule stated above applies in addition to all other rules relating to outside employment of city officials and employees, including requirements for obtaining prior approval of outside employment as applicable.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-9 PUBLIC PROPERTY AND RESOURCES.**

A city official or employee shall not use, request, or permit the use of city facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:

(A) Pursuant to duly adopted city policies, or

(B) To the extent and according to the terms that those resources are lawfully available to the public.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-10 POLITICAL ACTIVITY.**

Limitations on the political activities of city officials and employees are imposed by state law, the City Charter, and city personnel rules. In addition, the following ethical restrictions apply:

(A) *Influencing subordinates.* A city official or employee shall not, directly or indirectly, induce or attempt to induce any city subordinate of the official or employee to do the following and a general statement merely encouraging another person to vote does not violate this rule:

(1) To participate in an election campaign, contribute to a candidate or political committee, or engage in any other political activity relating to a particular party, candidate, or issue, or

(2) To refrain from engaging in any lawful political activity.

(B) *Paid campaigning.* A city official or employee shall not accept any thing of value, directly or indirectly, for political activity relating to an item pending on the ballot, if he or she participated in, or provided advice relating to, the exercise of discretionary authority by a city body that contributed to the development of the ballot item. Any thing of value does not include a meal or other item of nominal value the city official or employee receives in return for providing information on an item pending on the ballot.

(C) *Official vehicles.* A city official or employee shall not display or fail to remove campaign materials on any city vehicle under his or her control. Limitations on the use of public property and resources for political purposes are imposed by § 3-13-9.

(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-11 ACTIONS OF OTHERS.**

(A) *Violations by other persons.* A city official or employee shall not intentionally or knowingly assist or induce, or attempt to assist or induce, any person to violate any provision in this Code of Ethics.

(B) *Using others to engage in forbidden conduct.* A city official or employee shall not violate the provisions of this Code of Ethics through the acts of another.  
(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-12 PROHIBITED INTERESTS IN CONTRACTS.**

(A) *Charter provision.* The Charter of the City of Kingsville, in Article V, Section 4, states: "The Mayor, Commissioners, and other officers and employees shall not hold any other public office of emolument, except the Office of Notary Public, and shall not be interested in the profits or emoluments or any contract, job work or service for the municipality, or interested in the sale to or by the City of any property, real or personal.... No elected official shall otherwise accept any service, or anything of value, directly or indirectly, from any entity, upon terms more favorable than are granted to the public...".

(B) *Financial interest.* An officer or employee has a prohibited financial interest in a contract with the city, or in the sale to the city of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:

(1) The officer or employee;

(2) His or her parent, child, or spouse;

(3) A business entity in which the officer or employee, or his or her parent, child or spouse, directly or indirectly owns:

(a) Ten percent or more of the voting stock or shares of the business entity, or

(b) Ten percent or more of the fair market value of the business entity; or

(4) A business entity of which any individual or entity listed in divisions (B)(1), (2) or (3) is:

(a) A subcontractor on a city contract;

(b) A partner; or

(c) A parent or subsidiary business entity.

(C) *Definitions.* For purposes of enforcing Article V, Section 4 of the City Charter under the provisions of this section:

(1) **CITY EMPLOYEE** is any employee of the city.

(2) **CITY OFFICER** is:

(a) The Mayor or any City Commission member;

(b) A Municipal Court judge; or

(c) A member of any board or commission which is more than advisory in nature.

The term does not include members of the board of another governmental entity even if some or all of these members are appointed by the city.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-13 CITY COMMISSION CONTRACT PERSONNEL.**

(A) A member of the City Commission who, in the course of official duties, has direct supervisory authority over contract personnel shall make reasonable efforts to ensure that the conduct of contract personnel is compatible with the obligations imposed on city officials and employees by this Code of Ethics.

(B) Contract personnel employed by a member of the City Commission shall comply with all obligations imposed by this Code of Ethics on city employees.

(C) All contracts for administrative services between a member of the City Commission and independent contractors shall contain a provision requiring the independent contractor to comply with all requirements imposed by this Code on city employees.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-14 PERSONS REQUIRED TO REPORT; TIME TO REPORT; PLACE TO REPORT.**

(A) A city official or employee who has knowledge of a violation of any of the provisions of this Code of Ethics shall report this violation as provided below within a reasonable time after the person has knowledge of a violation. A city official or employee shall not delegate to, or rely on, another person to make the report.

(B) Unless waived in writing by the person making the report, the identity of an individual making a report under this section is confidential and may be disclosed only to the proper authorities for the purposes of conducting an investigation of the report.

(C) A report made under this section shall be made to:

- (1) The Ethics Compliance Officer or his or her designee; or
- (2) The Ethics Review Board.

(D) A report shall state:

- (1) The name of the city official or employee who believes that a violation of a provision of the Code of Ethics has been or may have been committed;
- (2) The identity of the person or persons who allegedly committed the violation;
- (3) A statement of the facts on which the belief is made; and
- (4) Any other pertinent information concerning the alleged violation.

(Ord. ORD-2004-10, passed 5-10-04)

### ***FORMER CITY OFFICIALS AND EMPLOYEES***

#### **§ 3-13-15 CONTINUING CONFIDENTIALITY.**

A former city official or employee shall not use or disclose confidential government information acquired during service as a city official or employee. This rule does not prohibit:

(A) Any disclosure that is no longer confidential by law; or

(B) The confidential reporting of illegal or unethical conduct to authorities designated by law.  
(Ord. ORD-2004-10, passed 5-10-04)

#### **§ 3-13-16 SUBSEQUENT REPRESENTATION.**

(A) *Representation by a former board member.* A person who was a member of a board or other city body shall not represent any person, group, or entity for a period of two years after the termination of his or her official duties:

- (1) Before that board or body;

(2) Before city staff having responsibility for making recommendations to, or taking any action on behalf of, that board or body, unless the board or body is only advisory in nature; or

(3) Before a board or other city body which has appellate jurisdiction over the board or body of which the former city official or employee was a member, if any issue relates to his or her former duties.

(B) *Representation before the city.*

(1) A former city official or employee shall not represent for compensation any person, group, or entity, other than himself or herself, or his or her spouse or minor children, before the city for a period of two years after termination of his or her official duties. This division does not apply to a person who was classified as a city official only because he or she was an appointed member of a board or other city body. For purposes of this division, **COMPENSATION** means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

(2) In connection with the representation of private interests before the city, a former city official or employee shall not state or imply that he or she is able to influence city action on any basis other than the merits.

(C) *Representation in litigation adverse to the city.* A former city official or employee shall not, absent consent from the city, represent any person, group, or entity, other than himself or herself, or his or her spouse or minor children, in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city and the matter is one in which the former city official or employee personally and substantially participated prior to termination of his or her official duties.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-17 PRIOR PARTICIPATION IN NEGOTIATING OR AWARDING OF CONTRACTS.**

A former city official or employee may not, within two years of the termination of official duties, perform work on a compensated basis relating to a discretionary contract, if he or she personally and substantially participated in the negotiation or awarding of the contract. A former city official or employee, within two years of termination of official duties, must disclose to the City Secretary immediately upon knowing that he or she will perform work on a compensated basis relating to a discretionary contract for which he or she did not personally and substantially participate in its negotiation or award.

(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-18 DISCRETIONARY CONTRACTS.**

(A) *Impermissible interest in discretionary contract or sale.* This division applies only to contracts or sales made on a discretionary basis, and does not apply to contracts or sales made on a competitive bid basis. Within one year of the termination of official duties, a former city officer or employee shall neither have a financial interest, direct or indirect, in any discretionary contract with the city, nor have a financial interest, direct or indirect, in the sale to the city of any land, materials, supplies, or service. Any violation of this section, with the knowledge, expressed or implied, of the individual or business entity contracting with the Commission shall render the contract involved voidable by the City Manager or the Commission. A former city officer or employee has a prohibited financial interest in a discretionary contract with the city, or in the sale to the city of land, materials, supplies, or service, if any of the following individuals or entities is a party to the contract or sale:

(1) The former officer or employee;

(2) His or her parent, child, or spouse;

(3) A business entity in which the former officer or employee, or his or her parent, child or spouse, directly or indirectly owns:

(a) Ten percent or more of the voting stock or shares of the business entity, or

(b) Ten percent or more of the fair market value of the business entity; or

(4) A business entity of which any individual or entity listed in divisions (A)(1), (2) or (3) is:

(a) A subcontractor on a city contract;

(b) A partner; or

(c) A parent or subsidiary business entity.

(B) *Exception: Prior employment or status.* Notwithstanding division (A) and § 3-13-17 , a former city official or employee may upon leaving official duties return to employment or other status enjoyed immediately prior to commencing official city duties.

(C) *Definitions.* For purposes of this section:

(1) **FORMER CITY EMPLOYEE** is any person who, prior to termination of employee status, was an employee of the city.

(2) **FORMER CITY OFFICER** is any person who, immediately prior to termination of official duties, was:

(a) The Mayor or a member of the City Commission;

(b) A Municipal Court judge; or

(c) A member of any board or commission which is more than advisory in nature. The term does not include members of the board of another governmental entity even if some or all of these members are appointed by the city.

(3) **CONTRACT** means any discretionary contract other than a contract for the personal services of the former city official or employee.

(4) **SERVICE** means any services other than the personal services of the former official or employee.

(Ord. ORD-2004-10, passed 5-10-04)

### ***PERSONS DOING BUSINESS WITH THE CITY***

#### **§ 3-13-19 PERSONS SEEKING DISCRETIONARY CONTRACTS.**

(A) *Disclosure of parties, owners, and closely related persons.*

(1) For the purpose of assisting the city in the enforcement of provisions contained in the City Charter and this Code of Ethics, an individual or business entity seeking a discretionary contract from the city is required to disclose in connection with a proposal for a discretionary contract on a form provided by the city:

(a) The identity of any individual who would be a party to the discretionary contract;

(b) The identity of any business entity that would be a party to the discretionary contract and the name of:

1. Any individual or business entity that would be a subcontractor on the discretionary contract; and

2. Any individual or business entity that is known to be a partner, or a parent or subsidiary business entity, of any individual or business entity who would be a party to the discretionary contract; and

(c) The identity of any lobbyist or public relations firm employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

(2) An individual or business entity seeking a discretionary contract is required to supplement this filing on a form provided by the city in the event there is any change in the information required of the individual or business entity under division (A)(1). The individual or business entity seeking a discretionary contract must supplement this filing before the discretionary contract is the subject of Commission action, and no later than five business days after any change about which information is required to be filed.

(B) *Political contributions.* Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract, on a form provided by the city, all political contributions totaling \$100 or more within the past 24 months made directly or indirectly to any current or former member of City Commission, any candidate for City Commission, or to any political action committee that contributes to City Commission elections, by any individual or business entity whose identity must be disclosed under division (A). Indirect contributions by an individual include, but are not limited to, contributions made by an individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

(C) *Briefing papers and open records.* Briefing papers prepared for the City Commission concerning any proposed discretionary contract to be considered for ordinance action shall reveal the information disclosed in compliance with divisions (A) and (B), and that information shall constitute an open record available to the public.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-20 DISCLOSURE OF ASSOCIATION WITH CITY OFFICIAL OR EMPLOYEE.**

(A) *Disclosures during appearances.* A person appearing before a city board or other city body shall disclose to it any known facts which, reasonably understood, raise a question as to whether any member of the board or body would violate § 3-13-3 by participating in official action relating to a matter pending before the board or body.

(B) *Disclosures in proposals.* Any individual or business entity seeking a discretionary contract with the city shall disclose, on a form provided by the city, any known facts which, reasonably understood, raise a question as to whether any city official would violate § 3-13-3 by participating in official action relating to the discretionary contract.

(C) *Definition.* For purposes of this section, facts are **REASONABLY UNDERSTOOD TO RAISE A QUESTION** about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-21 DISCLOSURE OF BENEFIT TO CITY OFFICIAL OR EMPLOYEE.**

If a person who requests official action on a matter knows that the requested action will confer an economic benefit on any city official or employee that is distinguishable from the effect that the action will have on members of the public in general or a substantial segment thereof, he or she shall disclose that fact in a signed writing to the city official, employee, or body that has been requested to act in the matter, unless the interest of the city official or employee in the matter is apparent. The disclosure shall also be made in a signed writing filed with the City Secretary.

(Ord. ORD-2004-10, passed 5-10-04)

**LOBBYISTS****§ 3-13-22 DEFINITIONS.**

As used in this subarticle, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY OFFICIAL.** The Mayor, members of the City Commission, Municipal Court judge, the City Manager, City Secretary, Assistant City Manager, all department heads, assistant department heads, Assistant to Mayor; Executive secretaries; and members of the following boards and commissions: Zoning Board of Adjustment; Fire Fighter's and Police Officer's Civil Service Commission; Electrical Board; Ethics Review Board established pursuant to this Ethics Code; Historic Commission; Housing Authority of Kingsville; Planning and Zoning Commission; and any other board or commission that is more than advisory in nature.

**CLIENT.** Any person on whose behalf lobbying is conducted. If a person engages in lobbying on that person's own behalf, whether directly or through the acts of others, the person is both a client and a lobbyist (as defined below). In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

**COMPENSATION.** Money or any other thing of value that is received, or is to be received, in return for or in connection with lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying.

(1) **COMPENSATION** does not include a payment made to any individual regularly employed by a person if:

(a) The payment ordinarily would be made regardless of whether the individual engaged in lobbying activities; and

(b) Lobbying activities are not part of the individual's regular responsibilities to the person making the payment.

(2) **COMPENSATION** does not include the financial gain that a person may realize as a result of the determination of a municipal question, unless that gain is in the form of a contingency fee.

(3) If a lobbyist engages in both lobbying activities and other activities on behalf of a person, **COMPENSATION FOR LOBBYING** includes all amounts received from that person, if, for the purpose of evading the obligations imposed under this subarticle, the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities.

(4) **COMPENSATION** which has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise, it is received on the date on which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first.

(5) **COMPENSATION** does not include any amounts previously reported under § 3-13-26.

**EXPENDITURES.** A payment, distribution, loan, advance, reimbursement, deposit, or gift of money or anything of value, including a contract, promise, or agreement to make an expenditure, regardless of whether such contract, promise, or agreement is legally enforceable.

(1) **EXPENDITURE** does not include an amount paid to any individual regularly employed by a person if:

(a) The amounts paid to the individual are ordinarily paid regardless of whether the individual engages in lobbying activities and

(b) Lobbying activities are not part of the individual's regular responsibilities to the person making the payment.

(2) The date on which an expenditure is incurred is determined according to generally accepted accounting principles.

(3) **EXPENDITURE** does not include the cost of photocopying city documents, if those costs are the only expenditures made by the person in question on lobbying activities.

**GIFT.** The same meaning as in § 3-13-2.

**IMMEDIATE FAMILY.** A spouse and dependent children.

**KNOWINGLY.** The same meaning as in § 3-13-2.



**LOBBY or LOBBYING.** Except as provided below, means any oral or written communication (including an electronic communication) to a city official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question. The term does not include a communication:

- (1) Merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a city official;
- (2) Made by a public official or employee (including, but not limited to, an official or employee of the city) acting in his or her official capacity;
- (3) Made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;
- (4) Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;
- (5) Made at a meeting open to the public under the Open Meetings Act;
- (6) Made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;
- (7) Made in writing as a petition for official action and required to be a public record pursuant to established city procedures;
- (8) Made in writing to provide information in response to an oral or written request by a city official for specific information;
- (9) The content of which is compelled by law;
- (10) Made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;
- (11) Made on behalf of an individual with regard to that individual's employment or benefits;
- (12) Made by a fact witness or expert witness at an official proceeding; or
- (13) Made by a person solely on behalf of that individual, his or her spouse, or his or her minor children.

**LOBBYING FIRM.**

- (1) A self-employed lobbyist, or
- (2) A person that has one or more employees who are lobbyists on behalf of a client or clients other than that person.

**LOBBYIST.** A person who engages in lobbying, whether directly or through the acts of another. If an agent or employee engages in lobbying for a principal or employer, both the agent and the principal, or the employee and the employer, are lobbyists.

**MUNICIPAL QUESTION.** A public policy issue of a discretionary nature pending or impending before City Commission or any board or commission, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. **MUNICIPAL QUESTION** does not include the day-to-day application, administration, or execution of city programs and policies such as permitting, platting, and zoning matters (other than the amendment, modification or revision of the City of Kingsville Code of Ordinances Chapter XV: Land Usage). **MUNICIPAL QUESTION** does include all matters before the Zoning Board of Adjustment.

**PERSON.** An individual, corporation, association, firm, partnership, committee, club, organization, or a group of persons voluntarily acting in concert.

**REGISTRANT.** A person required to register under § 3-13-23.  
(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-23 PERSONS REQUIRED TO REGISTER AS LOBBYISTS.**

Except as provided by § 3-13-24, a person who engages in lobbying must register with the City Secretary if:

(A) With respect to any client, the person engages in lobbying activities for compensation; or

(B) The person expends monies for lobbying activities. **COMPENSATION** and **EXPENDITURES** are defined in § 3-13-22.  
(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-24 EXCEPTIONS.**

The following persons are not required to register under § 3-13-25 or file an activity report under § 3-13-26:

(A) *Media outlets.* A person who owns, publishes or is employed by:

- (1) A newspaper;
- (2) Any other regularly published periodical;
- (3) A radio station;
- (4) A television station;
- (5) A wire service; or

(6) Any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote municipal questions or seek to influence official action relating thereto, if the person does not engage in other activities that require registration under this subarticle. This division does not exempt the news media or a person whose relation to the news media is only incidental to a lobbying effort or if a position taken or advocated by a media outlet directly impacts, affects, or seeks to influence a municipal question in which the media outlet has a direct or indirect economic interest.

(B) *Mobilizing entity constituents.* A person whose only lobbying activity is to encourage or solicit the members, employees, or owners (including shareholders) of an entity by whom the person is compensated to communicate directly with one or more city officials to influence municipal questions. This exception is intended to apply to neighborhood associations and other similar not-for-profit organizations.

(C) *Governmental entities.* Governmental entities and their officials and employees, provided the communications relate solely to subjects of governmental interest concerning the respective governmental bodies and the city.

(D) *Unknown municipal questions.* A person who neither knows nor has reason to know that a municipal question is pending at the time of contact with a city official. This division does not apply if the existence of a municipal question is discovered during on-going contacts with a city official and the person then engages in additional lobbying of the same official or other city officials with respect to that municipal question.

(E) *Dispute resolution.* An attorney or other person whose contact with a city official is made solely as part of resolving a dispute with the city, provided that the contact is solely with city officials who do not vote on or have final authority over any municipal question involved and so long as such an attorney complies with Rule 4.02 of the Texas Disciplinary Rules of Professional Conduct, as amended.

(F) *Compensation of registrant.* A client who would only be required to register under § 3-13-23 because of any expenditure to compensate a registrant, other than an employee, to lobby on a municipal question of interest to the client, provided that the compensated registrant files a registration statement or activity report for the period in question.

(G) *Agent or employee.* An agent or employee of a lobbying firm or other registrant that files a registration statement or activity report for the period in question fully disclosing all relevant information known to the agent or employee.

(H) *Individual.* An individual who engages in lobbying but who neither receives compensation nor expends monies for lobbying with respect to any client.  
(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-25 REGISTRATION.**

(A) *Separate registrations.* A person required to register as a lobbyist under § 3-13-23 must file a separate registration form for each client. A registrant who makes more than one lobbying contact for the same client shall file a single registration form covering all lobbying contacts for that client. Each registration form must be signed under oath. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form.

(B) *Initial registration.* An initial registration form relating to a client must be filed by a person required to register under § 3-13-23 within 90 days after the start of lobbying activity for that client. However, in no event shall a registrant knowingly fail to register, or knowingly fail to disclose such registration to relevant city officials, prior to official city action relating to the subject matter of the lobbying activity.

(C) *Subsequent annual registration.* Except as provided in division (E) below, subsequent registration forms must be filed annually each January for each client for whom a registrant previously filed, or was required to file, an initial registration form.

(D) *Required disclosures.* Initial or subsequent registration shall be on a form prescribed by the City Secretary and shall include, to the extent applicable:

(1) The full name, telephone number, permanent address, and nature of the business of:

(a) The registrant;

(b) The client;

(c) Any person, other than the client, on whose behalf the registrant has been engaged by the client to lobby;

(d) Any person, other than the client, who is known by the registrant to contribute financially to the compensation of the registrant, or which, in whole or in major part, plans, supervises, or controls the registrant's lobbying activities on behalf of the client;

(e) Any lobbying firm for which the registrant is an agent or employee with respect to the client; and

(f) Each employee or agent of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client;

(2) A statement of all municipal questions on which the registrant has lobbied for the client in the year preceding the filing of the registration or foreseeably will lobby;

(3) A list of any positions held by the registrant as an official or employee of the city, as those terms are defined in § 3-13-2 during the past two years. If the registrant is a former city official or employee, a statement that the registrant's lobbying activities have not violated and will not foreseeably violate § 3-13-2(A) or (B) or § 3-13-17(B) of this Code of Ethics.

(E) *Termination of registration.* A registrant shall file a notice of termination of registration with the City Secretary if the registrant is no longer required to register by § 3-13-23. A filing under this division does not relieve the registrant of reporting requirements imposed by § 3-13-26 for the reporting period in question.

(F) *Fee.* At the time of initial or subsequent annual registration with respect to a client, a registrant shall pay to the city, and the City Secretary shall collect, a fee in the amount of \$125. All lobbyist registration fees shall be deposited into a separate account within the general fund, which account shall be used to offset the costs of administering the city's lobbying ordinance and the costs of handling disclosure filings.  
(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-26 ACTIVITY REPORTS.**

(A) *Required disclosures.* Except as provided in § 3-13-24, each registrant shall file with the City Secretary a separate report signed under oath concerning the registrant's lobbying activities for each

client from whom, or with respect to whom, the registrant received compensation of, or expended, monies for lobbying during the prior calendar quarter. The report for the preceding calendar quarter shall be filed between the first and fifteenth day of April, July, October, or January, or on the date registration on behalf of the client is required, whichever comes later. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. The report shall be on the form prescribed by the City Secretary and shall include, with respect to the previous calendar quarter, to the extent applicable:

(1) The name of the registrant, the name of the client, and any changes or updates in the information provided in the most recent registration statement filed pursuant to § 3-13-25.

(2) A list of the specific issues upon which the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions;

(3) A list of the city officials contacted by the registrant on behalf of the client with regard to a municipal question;

(4) A list of the employees or agents of the registrant who acted as lobbyists on behalf of the client;

(5) In the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenditures as defined in § 3-13-22 that the registrant and its agents or employees incurred in connection with lobbying activities;

(6) Each gift, benefit, or expenditure greater than \$50 made to, conferred upon, or incurred on behalf of a city official or his or her immediate family by the registrant, or by anyone acting on behalf of the registrant, shall be itemized by date, city official, actual cost, and circumstances of the transaction;

(7) (a) Each exchange of money, goods, services, or anything of value by the registrant, or by anyone acting on behalf of the registrant, with any business entity in which the registrant knows or should know that a city official has an economic interest, or for which the city official serves as a director or officer, or in any other policy making position, if:

1. The total of such exchanges is \$1,000 or more in a calendar quarter; and

2. The city official:

a. Has been lobbied by the registrant during the calendar quarter; or

b. Serves on a board or other city body that has appellate jurisdiction over the subject matter of the lobbying.

(b) Each exchange shall be itemized by date, business entity and address city official, amount, and nature of transaction. For purposes of this division, **EXCHANGE** does not include a routine purchase from a commercial business establishment, if the city official in question is neither aware, nor likely to become aware, of the transaction; and

(8) The name and position of each city official or member of a city official's immediate family who is employed by the registrant.

(B) *Preservation of records.* Each registrant shall obtain and preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the activity reports required to be made pursuant to this section for five years from the date of filing of the report containing such items.

(C) *No activity or changes.* No quarterly activity report is required if there is no activity during the preceding quarter calendar year and there are no other changes to items required to be reported.

(D) *Estimates of income or expenses.* For purposes of divisions(A)(5), (6), and (7), required estimates of compensation or expenses shall be made to the nearest \$100, for amounts totaling less than \$5,000, and to the nearest \$1,000, for amounts totaling more than \$5,000.

(E) *Contingent fees.* A person shall disclose employment to lobby on a contingent fee basis as well as any arrangement to engage in lobbying activities on a contingent fee arrangement. (Ord. ORD-2004-10, passed 5-10-04)

### § 3-13-27 RESTRICTED ACTIVITIES.

(A) *False statements.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not intentionally or knowingly make any false or misleading statement of fact to any city official, or, knowing a document to contain a false statement, cause a copy of such document to be received by a city official without notifying such official in writing of the truth.

(B) *Failure to correct erroneous statement.* A registrant who learns that a statement contained in a registration form or activity report filed by the registrant during the past three years is false shall not fail to correct that statement by written notification to the City Secretary within 30 days of learning of the falsehood.

(C) *Personal obligation of city officials.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any city official under personal obligation to such lobbyist or person.

(D) *Improper influence.* A registrant shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment thereto for the purpose of thereafter being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

(E) *False appearances.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a city official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(F) *Prohibited representations.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or indirectly, orally or in writing, that that person can control or obtain the vote or action of any city official.

(G) *Legislator's exclusion.* At any time within 60 days of a date when the Texas Legislature is to be in session, or at any time the Texas Legislature is in session, or when the Texas Legislature sits as a Constitutional Convention, members of the Texas Legislature and their agents and employees are prohibited from lobbying as that term is defined in § 3-13-22.

(H) *Lobbying by commission members.* At any time within 60 days of a date when the Texas Legislature is to be in session, or at any time the Texas Legislature is in session, or when the Texas Legislature sits as a Constitutional Convention, members of the City Commission are prohibited from lobbying members of the Texas Legislature on behalf of the Commission member's private client(s) or employer. Commission members are not prohibited from meeting with members of the Texas Legislature on behalf of the city concerning legislation, administrative action, or any other action in their official city capacity. For the purposes of this division, lobbying means any oral or written communication (including an electronic communication) to a member of the legislative branch, made directly or indirectly, by a City Commission member in an effort to influence or persuade a member of the legislative branch to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any legislation or administrative action on behalf of the Commission member's private client(s) or employer.

(I) *Limitations on gifts.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not give gifts to a city official or a city employee or his or her immediate family, save and except for items received that are of nominal value and meals in an individual expense of \$100 or less at any occurrence.  
(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-28 IDENTIFICATION OF CLIENTS.**

(A) *Appearances.* Each person who lobbies or engages another person to lobby appearing before the City Commission or an official body identified in the definition of city official in § 3-13-22 shall



orally identify himself or herself and the client(s) he or she represents upon beginning an address. Each person who lobbies or engages another person to lobby shall also disclose on appropriate sign-in sheets his or her identity, the identity of the client he or she represents, and whether he or she is registered as a lobbyist as required by § 3-13-23.

(B) *Oral lobbying contacts.* Any person who makes an oral lobbying contact with an official shall, on the request of the official at the time of the lobbying contact, state whether the person is registered under this subarticle and identify the client or clients on whose behalf the lobbying contact is made.

(C) *Written lobbying contacts.* Any registrant who makes a written lobbying contact (including an electronic communication) with a city official shall identify the client(s) on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist. (Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-29 TIMELINESS OF FILING REGISTRATIONS AND REPORTS.**

A registration or report filed by first-class United States mail or by common or contract carrier is timely if:

(A) It is properly addressed with postage and handling charges prepaid; and

(B) It bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline, or if the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period or before that deadline. (Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-30 ADMINISTRATION.**

The City Secretary shall:

(A) Provide guidance and assistance on the registration and reporting requirements for lobbyists and develop common standards, rules, and procedures for compliance with this subarticle;

(B) Review for completeness and timeliness registrations and reports;

(C) Maintain filing, coding, and cross-indexing systems to carry out the purposes of this subarticle, including:

(1) A publicly available list of all registered lobbyists, lobbying firms, and their clients; and



(2) Computerized systems designed to minimize the burden of filing and maximize public access to materials filed this subarticle;

(D) Make available for public inspection and copying at reasonable times the registrations and reports filed under this subarticle; and

(E) Retain registrations and reports in accordance with the Local Government Records Act. (Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-31 CONSTITUTIONAL RIGHTS.**

Nothing in this subarticle shall be construed to prohibit or interfere with any person's rights guaranteed by the United States and Texas Constitutions. (Ord. ORD-2004-10, passed 5-10-04)

## ***MEMBERS OF THE PUBLIC AND OTHERS***

[**Editor's Note:** This subarticle applies to current and former city officials and employees, persons doing business with the city and lobbyists, as well as to members of the public and any other person (including entities and nonprofit entities).]

### **§ 3-13-32 FORMS OF RESPONSIBILITY.**

No person shall intentionally or knowingly induce, attempt to induce, conspire with, aid or assist, or attempt to aid or assist another person to engage in conduct violative of the obligations imposed by this Code of Ethics. (Ord. ORD-2004-10, passed 5-10-04)

## ***FINANCIAL DISCLOSURE***

### **§ 3-13-33 TRAVEL REPORTING REQUIREMENTS.**

(A) Any person listed in division (B) who, in connection with his or her official duties, accepts a trip or excursion involving the gratuitous provision of transportation, accommodations, entertainment, meals, or refreshments paid for by a person or entity other than a public agency must file with the City Secretary, before embarking on the travel, a disclosure statement identifying:

- (1) The name of the sponsor;
- (2) The places to be visited; and
- (3) The purpose and dates of the travel.

(B) The following persons are required to report under this section: the Mayor, members of the City Commission, Municipal Court judges, City Manager, City Secretary, Assistant City Manager, and all department heads, assistant department heads, and employees in positions listed on the Management Level Chart "A-1" and "A-2" of the City of Kingsville Compensation Plan.

(C) Acceptance of a trip or excursion by an individual listed above other than the Mayor or a member of the City Commission must receive prior written approval of the City Manager.  
(Ord. ORD-2004-10, passed 5-10-04)

#### **§ 3-13-34 ITEMS RECEIVED ON BEHALF OF THE CITY.**

A city official or employee who accepts any item by way of gift valued over \$100 or loan on behalf of the city must promptly report that fact to the City Manager, who shall have the item appropriately inventoried as city property.  
(Ord. ORD-2004-10, passed 5-10-04)

#### **§ 3-13-35 VIOLATION OF REPORTING REQUIREMENTS.**

Failure to timely file a report required by this subarticle is a violation hereof, as is the filing a report with incorrect, misleading, or incomplete information.  
(Ord. ORD-2004-10, passed 5-10-04)

### ***ETHICS REVIEW BOARD***

#### **§ 3-13-36 DEFINITIONS.**

As used in this subarticle, ***ETHICS LAWS*** includes this Code of Ethics, TEX. LOCAL GOV'T CODE, Article V, §§ 4 and 171. ***ETHICAL VIOLATION*** includes violations of any of those enactments. Other terms used in this subarticle are defined in § 3-13-2.  
(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-37 STRUCTURE OF THE ETHICS REVIEW BOARD.**

(A) *Establishment.* There is hereby established an Ethics Review Board, which shall have the powers and duties specified in this subarticle.

(B) *Composition.* The Ethics Review Board shall consist of five members. The Mayor and each member of the City Commission shall nominate one member of the Board. Each nominee must be confirmed by a majority of City Commission members. Nomination and confirmation of Board members shall be conducted at separate open meetings of the City Commission.

(C) *Terms of office.* Board members shall be appointed to two-year terms. Initial appointments shall be made so that terms are staggered. No member shall serve for more than three two-year terms.

(D) *Qualifications.* Members of the Board shall have good moral character and shall be residents of the city. No member of the Board shall be:

- (1) A salaried city official or employee;
- (2) An elected public official;
- (3) A candidate for elected public office;
- (4) An officer of a political party;
- (5) A parent, spouse, child, or other relative within the second degree of consanguinity or affinity of an elected public official; or
- (6) A lobbyist required to register under §§ 3-13-22 through 3-13-31.

(E) *Removal.* Members of the Ethics Review Board may be removed from office for cause by a majority of the City Commission only after a public hearing at which the member was provided with the opportunity to be heard. Grounds for removal include: failure to satisfy, or to continue to satisfy, the qualifications set forth in division (D); substantial neglect of duty; gross misconduct in office; inability to discharge the powers or duties of office; or violation of any provision in this Code of Ethics.

(F) *Vacancies.* A vacancy shall be filled by a person who will serve for the remainder of the unexpired term. The appointment shall be made by the member of City Commission who is entitled to make appointments to the seat that was vacated, and must be confirmed by a majority of the City Commission.



(G) *Recusal.*

(1) A member of the Ethics Review Board shall recuse himself or herself from any case in which, because of familial relationship, employment, investments, or otherwise, his or her impartiality might reasonably be questioned. A Board member may not participate in official action on any complaint:

(a) That the member initiated;

(b) That involves the member of City Commission who nominated him or her for a seat on the Ethics Review Board; or

(c) During the pendency of an indictment or information charging the member with an offense, or after a finding of guilt of such an offense.

(2) If the number of Board members who are recused from a case is so large that an Ethics Panel cannot be constituted, as provided for in § 3-13-41, the Mayor shall nominate a sufficient number of ad hoc members so that the case can be heard. Ad hoc members of the Ethics Review Board must be confirmed by a majority vote of the City Commission and serve only for the case in question.

(H) *Chair and vice-chair.* Each year, the Board shall meet and elect a chair and a vice-chair from among its members, who will serve one-year terms and may be re-elected. The chair or a majority of the Board may call a meeting of the Board. The chair shall preside at meetings of the Ethics Review Board and perform other administrative duties. The vice-chair shall assume the duties of the chair in the event of a vacancy in that position.

(I) *Reimbursement.* The members of the Ethics Review Board shall not be compensated but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-38 JURISDICTION AND POWERS.**

(A) *Jurisdiction.*

(1) If a complaint is filed pursuant to § 3-13-39 within two years of the date of an alleged violation of the ethics laws, the Ethics Review Board shall have jurisdiction to investigate and make findings and recommendations concerning:

(a) Any alleged violation of this Code of Ethics or Article V, Section 4 of the City Charter by any person subject to those provisions, including, but not limited to, current city officials and employees, former city officials and employees, persons doing business with the city, and persons required to register as lobbyists, or

(b) Any alleged violation by a city official of TEX. LOCAL GOV'T CODE, § 171, the state conflict-of-interest law applicable to certain local public officials.

(2) The Board shall not consider any alleged violation that occurred more than two years prior to the date of the filing of the complaint.

(B) *Termination of city official's or employee's duties.* The termination of a city official's or employee's duties does not affect the jurisdiction of the Ethics Review Board with respect to alleged violations occurring prior to the termination of official duties.

(C) *Powers.* The Ethics Review Board has power:

(1) To establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with this subarticle;

(2) To meet as often as necessary to fulfill its responsibilities;

(3) To designate Ethics Panels with the power to render decisions on complaints or issue advisory opinions on behalf of the Board;

(4) To request from the City Manager through the City Commission the appointment of such staff as are necessary to carry out its duties;

(5) To review, index, maintain on file, and dispose of sworn complaints;

(6) To make notifications, extend deadlines, and conduct investigations both on complaint and as a result of an issue raised out of said complaint;

(7) To render, index, and maintain on file advisory opinions;

(8) To provide assistance to the Ethics Compliance Officer of the city in the training and education of city officials and employees with respect to their ethical responsibilities;

(9) To prepare an annual report and to recommend to the Mayor and City Commission needed changes in ethical standards or procedures; and

(10) To take such other action as is necessary to perform its duties under this subarticle.  
(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-39 COMPLAINTS.***(A) Filing.*

(1) Any person (including a member of the Ethics Review Board or its staff, acting personally or on behalf of the Board) who believes that there has been a violation of the ethics laws may file a sworn complaint with the City Secretary.

(2) A complaint filed in good faith is qualifiedly privileged. A person who knowingly makes a false statement in a complaint, or in proceedings before the Ethics Review Board, is subject to criminal prosecution for perjury under § 3-13-51 or civil liability for the tort of abuse of process.

*(B) Form.*

(1) A complaint filed under this section must be in writing and under oath and must set forth in simple, concise, and direct statements:

(a) The name of the complainant;

(b) The street or mailing address and the telephone number of the complainant;

(c) The name of each person complained about;

(d) The position or title of each person complained about;

(e) The nature of the alleged violation, including, if possible, the specific rule or provision of law alleged to have been violated;

(f) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and

(g) All documents or other material available to the complainant that are relevant to the allegation;

(h) A list of all documents or other material relevant to the allegation and available to the complainant but that are not in the possession of the complainant, including the location of the documents, if known; and

(i) A list of all documents or other material relevant to the allegation but unavailable to the complainant, including the location of the documents, if known.

(2) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of the Ethics Code. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.

(3) The complaint must state on its face an allegation that, if true, constitutes a violation of a rule adopted by or a law administered and enforced by the Board.

(C) *Frivolous complaint.*

(1) For purposes of this section, **FRIVOLOUS COMPLAINT** is a sworn complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.

(2) By a vote of at least two-thirds of those present, the Board may order a complainant to show cause why the Board should not determine that the complaint filed by the complainant is a frivolous complaint.

(3) In deciding if a complaint is frivolous, the Board will be guided by the Texas Rules of Civil Procedure, Rule 13, and interpretations of that rule, and may also consider:

(a) The timing of the sworn complaint with respect to when the facts supporting the alleged violation became known or should have become known to the complainant, and with respect to the date of any pending election in which the respondent is a candidate or is involved with a candidacy, if any;

(b) The nature and type of any publicity surrounding the filing of the sworn complaint, and the degree of participation by the complainant in publicizing the fact that a sworn complaint was filed with the Board;

(c) The existence and nature of any relationship between the respondent and the complainant before the complaint was filed;

(d) If respondent is a candidate for election to office, the existence and nature of any relationship between the complainant and any candidate or group opposing the respondent;

(e) Any evidence that the complainant knew or reasonably should have known that the allegations in the complaint were groundless; and

(f) Any evidence of the complainant's motives in filing the complaint.

(4) Notice of an order to show cause shall be given to the complainant, with a copy to the respondent, and shall include:

- (a) An explanation of why the complaint appears to be frivolous; and
- (b) The date, time, and place of the hearing to be held under this section.

(5) Before making a determination that a sworn complaint is a frivolous complaint, the Board shall hold a hearing at which the complainant may be heard; the complainant may be accompanied by counsel retained by the complainant.

(6) By a record vote of at least two-thirds of those present after the hearing under division (C)(5) above, the Board may determine that a complainant filed a frivolous complaint and may recommend sanctions against that complainant.

(D) *Sanctions.*

(1) Before recommending a sanction for filing a frivolous complaint, the Board shall consider the following factors:

(a) The seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;

(b) The sanction necessary to deter future violations; and

(c) Any other matters that justice may require.

(2) The Board may recommend the following sanctions:

(a) A civil penalty of not more than \$500;

(b) Prosecution for perjury;

(c) Any other sanction permitted by law.

(3) The Board may notify the appropriate regulatory or supervisory agency for their appropriate action.

(E) *Confidentiality.* No city official or employee shall reveal information relating to the filing or processing of a complaint except as required for the performance of official duties. Ex parte communications by members of the Ethics Review Board are prohibited by § 3-13-41(D). All papers relating to a pending complaint are confidential.

(1) Except as otherwise provided by this section, all information relating to a sworn complaint known to or in the possession of the Board is confidential. The Board and its staff shall not communicate any information about a sworn complaint, including whether or not a complaint has been filed, to any person other than the respondent, the complainant, and a witness or potential witness identified by the respondent, the complainant, or another witness or potential witness.

(2) Information otherwise confidential under this section may be disclosed by entering it into the record of a formal hearing or a judicial proceeding.

(3) Confidentiality may be waived only if the complainant and each respondent named in the sworn complaint provides a verified, written waiver of confidentiality to the Board.

(F) *Notification.* A copy of a complaint shall be promptly forwarded by the City Secretary to the Ethics Compliance Officer and to the respondent(s), even if the complaint fails to meet the filing requirements of division (B). A complaint that is not sworn as required by division (A), shall not be forwarded by the City Secretary to the Ethics Compliance Officer, but shall be returned to the complainant. The respondent(s) shall also be provided with a copy of the ethics rules and shall be informed:

(1) That, within 14 days of receipt of the complaint, he or she may file a sworn response with the City Secretary;

(2) That failure to file a response does not preclude the Ethics Review Board from adjudicating the complaint;

(3) That a copy of any response filed by the respondent(s) will be provided by the City Secretary to the complainant, who may, within seven days of receipt, respond by sworn writing filed with the City Secretary, a copy of which shall be provided by the City Secretary to the respondent(s);

(4) That the respondent(s) may request a hearing; and;

(5) That city officials and employees have a duty to cooperate with the Ethics Review Board, pursuant to § 3-13-41(E).

(G) *Assistance.* The City Secretary shall provide information to persons who inquire about the process for filing a complaint.

(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-40 ETHICS COMPLIANCE OFFICER.***(A) City Attorney's Office.*

(1) The City Attorney or an Assistant City Attorney designated by the City Attorney shall serve as the Ethics Compliance Officer for the city. The Ethics Compliance Officer shall:

(a) Receive and promptly transmit to the Ethics Review Board complaints and responses filed with the City Secretary;

(b) Investigate, marshal, and present to the Ethics Review Board the evidence bearing upon a complaint;

(c) Act as legal counsel to the Ethics Review Board;

(d) Issue advisory opinions to city officials and employees about the requirements imposed by the ethics laws; and

(e) Be responsible for the training and education of city officials and employees with respect to their ethical responsibilities;

(f) Review complaints for legal sufficiency;

(g) Recommend acceptance or rejection of complaint within 60 days of date made to the Ethics Review Board; and

(h) Request additional information from complainant as needed.

(2) At least once each year, the Ethics Compliance Officer shall cause to be distributed to each city official and employee a notice setting forth the duties of the Ethics Review Board and the procedures for filing complaints. The Ethics Compliance Officer shall also ensure that such notices are posted in prominent places in city facilities.

*(B) Outside independent counsel.*

(1) An independent outside attorney, who does not otherwise represent the city, shall be appointed at the recommendation of the City Attorney, to serve as the Ethics Compliance Officer for a particular case:

(a) When a complaint is filed relating to an alleged violation of the ethics laws by:

1. The Mayor or a member of the City Commission, or

2. A city employee who is a department head or of higher rank;

(b) When the Ethics Review Board, at the recommendation of the City Attorney, requests such an appointment; or

(c) When requested by the City Attorney.

(2) An independent outside attorney who is appointed has the same duties and authority as the Ethics Compliance Officer under this section.

(C) *Exculpatory evidence.* The Ethics Compliance Officer shall disclose to the Ethics Panel and provide to the person charged with violating the ethics laws evidence known to the Ethics Compliance Officer tending to negate guilt or mitigate the seriousness of the offense. (Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-41 ETHICS PANELS.**

(A) *Assignment to an Ethics Panel.* A complaint received by the Ethics Review Board from the Ethics Compliance Officer shall be promptly assigned to an Ethics Panel consisting of three or more members of the Board, who shall have full power to investigate and dispose of the complaint. Each Ethics Panel shall be constituted according to procedures established by the Board. Any member of an assigned Ethics Panel who recuses himself or herself shall be replaced by another member of the Board according to established procedures if that is necessary to ensure that the Panel has at least three members. The identity of the members of the Ethics Panel shall be revealed to the person charged in the complaint who, for good cause, may request the recusal of any member of the panel.

(B) *Notice of charges.* The Ethics Panel shall consider whether the facts of the case establish a violation of any provision in the ethics laws, regardless of which provisions, if any, were identified in the complaint as having been allegedly violated. However, before the Ethics Panel may find that a violation of a particular rule, the respondent must be on notice that compliance with that rule is in issue and must have an opportunity to respond. Notice is conclusively established: if the complaint alleged that the rule was violated; if compliance with the rule is raised by the a member of the Board or the Ethics Compliance Officer as a disputed issue at a hearing before the Ethics Panel; or if the Board or the Ethics Compliance Officer provides the respondent with written notice of the alleged violation and a 14-day period within which to respond in writing to the charge.

(C) *Scheduling of a hearing.* Regardless of whether the complainant or the respondent requests a hearing, the Ethics Panel has discretion to decide whether to hold a hearing.

(D) *Ex parte communications.* It is a violation of this Code:

(1) For the complainant, the respondent, or any person acting on their behalf to engage or attempt to engage, directly or indirectly, in ex parte communication about the subject matter of a complaint with a member of the Ethics Panel, any other member of the Ethics Review Board, or any known witness to the complaint; or

(2) For a member of an Ethics Panel or any other member of the Ethics Review Board to:

(a) Knowingly entertain an ex parte communication prohibited by division (D)(1); or

(b) Communicate directly or indirectly with any person, other than a member of the Ethics Review Board, its staff, or the Ethics Compliance Officer, about any issue of fact or law relating to the complaint.

(E) *Duty to cooperate.* All city officials and employees shall cooperate with the Ethics Review Board and shall supply requested testimony or evidence to assist it in carrying out its charge. Failure to abide by the obligations imposed by this division is a violation of this Code of Ethics.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-42 HEARINGS.**

At any hearing held by an Ethics Panel during the investigation or disposition of a complaint, the following rules apply:

(A) *General rules.* At least three members of the Ethics Panel must be present for the hearing. Any member of the Ethics Panel who is not present ceases to be a member of the Ethics Panel and may not participate in the disposition of the case. All witnesses must be sworn and all questioning of witnesses shall be conducted by the members of the Ethics Panel or the Ethics Compliance Officer. The Ethics Panel may establish time limits and other rules relating to the participation of any person in the hearing. No person may be held to have violated the ethics laws unless a majority of the Ethics Panel so finds by a preponderance of the evidence.

(B) *Evidence.* The Ethics Panel shall rely on evidence of which a reasonably prudent person commonly relies in the conduct of the person's affairs. The Ethics Panel shall further abide by the following:

(1) The Panel shall hear evidence relevant to the allegations; and

(2) The Panel shall not consider hearsay unless it finds the nature of the information is reliable and useful.

(C) *The person charged.* The person charged in the complaint has the right to attend the hearing, the right to make a statement, the right to present witnesses, and the right to be accompanied by legal counsel or another advisor. Only legal counsel to the person charged in the complaint may advise that person during the course of the hearing, but may not speak on his or her behalf, except with the permission of the Ethics Panel. The time permitted for presentation will be at the discretion of the Board.

(D) *The complainant.* The complainant has the right to attend the hearing, the right to make a statement, and the right to be accompanied by legal counsel or another advisor. Only legal counsel to the complainant may advise the complainant during the course of the hearing, but may not speak on behalf of the complainant, except with the permission of the Ethics Panel. Witnesses may not be presented by the complainant, except with the permission of the Ethics Panel.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-43 DISPOSITION.**

(A) *Written opinion.*

(1) The Ethics Panel shall issue a decision within 90 days after the filing of a complaint. The Ethics Panel shall state in a written opinion its findings of fact and conclusions of law. The written opinion shall either:

(a) Dismiss the complaint; or

(b) Upon finding that there that there has been a violation of the ethics laws:

1. Recommend criminal prosecution and/or civil remedies, in accordance with this section; or

2. State why no remedial action is recommended.

(2) If the Ethics Panel determines that a violation has occurred, the opinion shall identify in writing the particular rule or rules violated. If the complaint is dismissed, the grounds for the dismissal shall be set forth in the opinion. The failure of the Ethics Panel to comply within the above time limits may result in the charge being dismissed for want of prosecution. Prior to such dismissal, the complainant will be given notice and an opportunity to request continuance of the action.

(B) *Notification.* Copies of the opinion shall be forwarded to the complainant, the person charged in the complaint, the Ethics Compliance Officer, and any member of the Ethics Review Board who did not participate in the disposition of the case. A copy of the opinion shall also be forwarded to the City Secretary, who shall make it available as authorized by law.



(C) *Recommendations.* A recommendation for criminal prosecution shall be forwarded to the appropriate law enforcement agency. A recommendation of civil remedies shall be forwarded through the Ethics Compliance Officer to the City Commission for action.

(D) *Similar charges barred.* If the complaint is dismissed because the evidence failed to establish a violation of the ethics laws, the Ethics Review Board shall not entertain any other similar complaint based on substantially the same evidence.

(E) *Factors relevant to sanctions.* In deciding whether to recommend, in the case of a violation of the Code of Ethics, criminal prosecution and/or civil remedies, the Ethics Panel shall take into account relevant considerations, including, but not limited to, the following:

- (1) The culpability of the person charged in the complaint;
- (2) The harm to public or private interests resulting from the violation;
- (3) The necessity of preserving public confidence in the conduct of local government;
- (4) Whether there is evidence of a pattern of disregard for ethical obligations; and

(5) Whether remedial action has been taken that will mitigate the adverse effect of the ethical violation.

(F) *Civil remedies.* The following civil remedies may be recommended by an Ethics Panel which finds that the ethics laws have been violated:

- (1) Review of the case by the City Manager, or his or her designate, for disciplinary action;
- (2) A suit by the city for damages or injunctive relief in accordance with § 3-13-49;
- (3) Disqualification from contracting in accordance with § 3-13-53;
- (4) Voiding of a contract in accordance with § 3-13-52; and
- (5) A fine in accordance with § 3-13-54.

(G) *Criminal prosecution.* An Ethics Panel may recommend to the appropriate law enforcement agency criminal prosecution under § 3-13-51 or TEX. LOCAL GOV'T CODE, § 171. Prosecution of any person by the City Attorney for a violation of this Code of Ethics shall not be undertaken until a complaint is disposed of in accordance with this section. However, the absence of a recommendation to prosecute from an Ethics Panel to the City Attorney shall not preclude the City Attorney from exercising his or her prosecutorial discretion to prosecute a violation of this Code of Ethics.

(H) *Commission action.* City Commission shall dispose of a recommendation from the Ethics Review Board within 90 days of receiving such recommendation. The recommendation(s) of the Ethics Review Board may be accepted, rejected, modified, or recommitted one time to said Board for further action or clarification within 15 days of receipt of the recommendation by the City Commission. Within five days of the initial recommendation being recommitted to the Ethics Review Board by the City Commission, the Ethics Review Board shall take further action or make clarification of the matter requested and resubmit the matter to the City Commission.  
(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-44 PETITION FOR DECLARATORY RULING.**

Any city official or employee against whom public allegations of ethics violations have been made in the media or elsewhere shall have the right to file a sworn statement with the City Secretary affirming his or her innocence, and to request the Ethics Review Board to investigate and make known its findings, and make any relevant recommendations concerning the issue.  
(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-45 ADVISORY OPINIONS.**

(A) *Opinions issued by the Ethics Review Board.*

(1) *Requests by persons other than city officials and employees.*

(a) By writing filed with the City Secretary, any person other than a city official or employee may request an advisory opinion with respect to the interpretation of the ethics laws, but only with respect to whether proposed action by that person would violate the ethics laws. The City Secretary shall promptly transmit all requests for advisory opinions to the Ethics Compliance Officer and the chair of the Ethics Review Board. (City officials and employees may request advisory opinions from the City Attorney pursuant to division (B)).

(b) Within 30 days of receipt by the chair of the Ethics Review Board of a request for an advisory opinion, the Board, acting en banc or through a designated Ethics Panel, shall issue a written advisory opinion. During the preparation of the opinion, the Board may consult with the Ethics Compliance Officer of the city and other appropriate persons. An advisory opinion shall not reveal the name of the person who made the request, if that person requested anonymity, in which case the opinion shall be written in the form of a response to an anonymous, hypothetical fact situation. A copy of the opinion shall be indexed and kept by the Ethics Review Board as part of its records for a period of not less than five years. In addition, copies of the opinion shall be forwarded by the chair of the Ethics Review Board, or the Ethics Compliance Officer, to the person who requested the opinion, to the

members of the Ethics Review Board, and to the City Secretary. The City Secretary shall make the opinion available as a public record in accordance with the Local Government Records Act. The Ethics Compliance Officer shall promptly post the opinion for a period of no less than five years on the Internet via the City of Kingsville homepage.

(2) *Opinions initiated by the Board.* On its own initiative, the Ethics Review Board, acting as the full board or through a designated Ethics Panel, may issue a written advisory opinion with respect to the interpretation of the ethics laws as they apply to persons other than city officials and employees if a majority of the Board determines that an opinion would be in the public interest or in the interest of such person or persons subject to the provisions of the ethics laws. Such an opinion may not include the name of any individual who may be affected by the opinion. A copy of any such opinion shall be indexed and kept by the Ethics Review Board as part of its records for a period of not less than five years. In addition, copies of the opinion shall be forwarded by the chair of the Ethics Review Board, or his or her designate, to the Ethics Compliance Officer and to the City Secretary. The City Secretary shall make the opinion available as a public record in accordance with the Local Government Records Act. The Ethics Compliance Officer shall promptly post the opinion for a period of no less than five years on the Internet via the City of Kingsville homepage.

(3) *Reliance.* If a person reasonably and in good faith acts in reliance on an advisory opinion issued by the Ethics Review Board, that fact may be considered by an Ethics Panel in adjudicating a complaint filed against that person, but does not by itself bar the finding of a violation.

(B) *Opinions issued by the Ethics Compliance Officer.*

(1) *Requests by city officials and employees.*

(a) By writing filed with the Office of the City Attorney, any city official or employee may request an advisory opinion with respect to whether proposed action by that person would violate the ethics laws.

(b) Within 30 days of receipt of the request by the Office of the City Attorney, the Ethics Compliance Officer shall issue a written advisory opinion. The advisory opinion shall not reveal the name of the person who made the request, if that person requested anonymity, in which case the opinion shall be written in the form of a response to an anonymous, hypothetical fact situation. Copies of the opinion shall be forwarded by the Ethics Compliance Officer to the members of the Ethics Review Board, to the person who requested the opinion, and to the City Secretary, and promptly posted by the Ethics Compliance Officer for a period of no less than five years on the Internet via the City of Kingsville homepage. The City Secretary shall make the opinion available as a public record in accordance with the Local Government Records Act.

(2) *Reliance.* A person who reasonably and in good faith acts in accordance with an advisory opinion issued by the Ethics Compliance Officer may not be found to have violated the ethics laws by engaging in conduct approved in the advisory opinion, provided that:

(a) He or she requested the issuance of the opinion;

(b) The request for an opinion fairly and accurately disclosed all relevant facts; and

(c) Less than five years elapsed between the date the opinion was issued and the date of the conduct in question.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-46 ANNUAL REPORT.**

The Ethics Review Board shall prepare and submit an annual report to the Mayor and City Commission detailing the activities of the Board during the prior year. The format for the report shall be designed to maximize public and private understanding of the Board's operations, and shall include a summary of the content of ethics opinions issued by the Board and a listing of current city lobbyists based on information gathered by the Board from records on file with the City Secretary. The report may recommend changes to the text or administration of this Code of Ethics. The Ethics Compliance Officer of the city shall take reasonable steps to ensure wide dissemination and availability of the annual report of the Ethics Review Board.

(Ord. ORD-2004-10, passed 5-10-04)

### **§ 3-13-47 PUBLIC RECORDS AND OPEN MEETINGS.**

Except as otherwise provided in this subarticle, records relating to an alleged violation of the ethics laws, or the preparation of an ethics opinion requested by a person who asked for anonymity, shall not be open to the public and shall be treated as information that is excepted from public disclosure as required or permitted under the Texas Open Records Act or other law. No meeting or other proceeding relating to an alleged violation of the ethics law shall be treated as open to the public unless closed sessions in connection therewith are not permitted or required by the Texas Open Meetings Act or other law.

(Ord. ORD-2004-10, passed 5-10-04)

**ENFORCEMENT MECHANISMS**

**[Editor's Note:** In addition to other remedies provided by law, the following remedies are available with respect to violations of this Code of Ethics.]

**§ 3-13-48 DISCIPLINARY ACTION.**

Civil service employees who violate this Code of Ethics may be disciplined in accordance with city personnel rules and procedures. Other city officials and employees who engage in conduct that violates this Code may be notified, warned, reprimanded, suspended, or removed from office or employment by the appointing authority, or by a person or body authorized by law to impose such remedies. Disciplinary action under this section may be imposed in addition to any other penalty or remedy contained in this Code of Ethics or any other law.  
(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-49 DAMAGES AND INJUNCTIVE RELIEF.**

This Code of Ethics has been enacted not only to further the purposes stated in § 3-13-1, but to protect the city and any other person from any losses or increased costs incurred by the city or other person as a result of the violation of these provisions. It is the intent of the city that this legislative enactment can and should be recognized by a court as a proper basis for a civil cause of action for damages or injunctive relief based upon a violation of its provisions, and that such forms of redress should be available in addition to any other penalty or remedy contained in this Code of Ethics or any other law.  
(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-50 CIVIL FINE.**

Any person, whether or not an official or employee of the city, who violates any provision of this Code of Ethics is subject to a fine not exceeding \$500. Each day after any deadline imposed by §§ 3-13-22 through 3-13-35 for which any required statement has not been filed, or for which a statement on file is incorrect, misleading, or incomplete, constitutes a separate offense.  
(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-51 PROSECUTION FOR PERJURY.**

Any person who files a false sworn statement under §§ 3-13-22 through 3-13-47 is subject to criminal prosecution for perjury under the laws of the State of Texas.  
(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-52 VOIDING OR RATIFICATION OF CONTRACT.**

If an Ethics Panel finds that there has been a violation of any provision in §§ 3-13-3 through 3-13-11, 3-13-15 or 3-13-16, 3-13-19 through 3-13-21, or 3-13-27 that is related to the awarding of a contract, the City Commission must vote on whether to ratify or void the contract. Such action shall not affect the imposition of any penalty or remedy contained in this Code of Ethics or any other law.

(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-53 DISQUALIFICATION FROM CONTRACTING.**

(A) Any person (including business entities and non-profit entities) who intentionally or knowingly violates any provision of §§ 3-13-19 through 3-13-21 or 3-13-22 through 3-13-31 may be prohibited by the City Commission from entering into any contract with the city for a period not to exceed three years.

(B) It is a violation of this Code of Ethics:

(1) For a person debarred from entering into a contract with the city to enter, or attempt to enter, into a contract with the city during the period of disqualification from contracting; or

(2) For a city official or employee to knowingly assist a violation of division (B)(1).

(C) Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public, according to the same terms.

(D) A business entity or nonprofit entity may be disqualified from contracting based on the conduct of an employee or agent, if the conduct occurred within the scope of the employment or agency.

(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-54 FAILURE TO REPORT; PENALTY.**

Any city official or employee who has knowledge that a violation of the Code of Ethics has been committed and intentionally fails to report such violation as provided in § 3-13-14 is subject to the penalties herein.

(Ord. ORD-2004-10, passed 5-10-04)



**ADMINISTRATIVE PROVISIONS****§ 3-13-55 OTHER OBLIGATIONS.**

(A) This Code of Ethics is cumulative of and supplemental to applicable state and federal laws and regulations. Compliance with the provisions of this Code of Ethics shall not excuse or relieve any person from any obligation imposed by state or federal law regarding ethics, financial reporting, lobbying activities, or any other issue addressed herein.

(B) Even if a city official or employee is not prohibited from taking official action by this Code of Ethics, action may be prohibited by duly promulgated personnel rules, which may be more stringent.

(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-56 DISTRIBUTION AND TRAINING.**

(A) Prior to the effective date of this Code of Ethics, and periodically thereafter as appropriate, the City Attorney or designated Ethics Compliance Officer shall provide information about the Code of Ethics to every official and employee of the city, and copies of the Code of Ethics shall be made readily available to city officials, employees, and the public. Within 30 days after entering upon the duties of his or her position, every new official or employee shall be furnished with information about this Code of Ethics. The failure of any person to receive a copy of this Code of Ethics shall have no effect on that person's duty to comply with this Code of Ethics or on the enforcement of its provisions. Upon appointment to a board or commission, such official shall be provided with a copy of the Code of Ethics.

(B) The City Attorney or designated Ethics Compliance Officer, in consultation with the Ethics Review Board, shall develop educational materials and conduct educational programs for the officials and employees of the city on the provisions of this Code of Ethics, Article V, Section 4 of the City Charter, and TEX. LOCAL GOV'T CODE § 171. Such materials and programs shall be designed to maximize understanding of the obligations imposed by these ethics laws.

(Ord. ORD-2004-10, passed 5-10-04)

**§ 3-13-57 SEVERABILITY.**

If any provision of this Code of Ethics is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this Code of Ethics to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code of Ethics which can be given effect without the invalid or unconstitutional provision or application.

(Ord. ORD-2004-10, passed 5-10-04)

## **CHAPTER V: PUBLIC WORKS**

### **Article**

- 1. GARBAGE**
- 2. SEWERS**
- 3. WATER**
- 4. WATER AND SEWER MAIN EXTENSIONS**



## **ARTICLE 1: GARBAGE**

### **Section**

#### ***General Provisions***

- 5-1-1 Definitions
- 5-1-2 Solid Waste Management Superintendent
- 5-1-3 Use of city landfill without charge

#### ***Container Requirements***

- 5-1-15 Capacity and design; furnished by city
- 5-1-16 Condition of containers
- 5-1-17 City containers
- 5-1-18 Certain matter not to be placed in receptacles
- 5-1-19 Unauthorized use of receptacles; duty of owners to remove
- 5-1-20 Supervision of receptacles; notice required
- 5-1-21 Parking interfering with containers
- 5-1-22 Damaging containers or pilfering prohibited

#### ***Collection; Disposal Procedures***

- 5-1-35 When collections made
- 5-1-36 Placement for collection
- 5-1-37 Construction of vehicles; loads
- 5-1-38 Private haulers
- 5-1-39 Disposal at landfill only
- 5-1-40 Refuse becomes city property
- 5-1-41 Dead animals; manure; waste oils
- 5-1-42 Heavy accumulations
- 5-1-43 Placement in street prohibited
- 5-1-44 Burning prohibited
- 5-1-45 Sanitary requirements; exposing garbage prohibited

***Rates and Charges; Billing***

- 5-1-55 Monthly charge
- 5-1-56 Truck rental program
- 5-1-57 Use of city landfill; fees
- 5-1-58 Delinquent accounts
- 5-1-59 Special rates for nontypical service; limitation of amounts

***Statutory reference:***

*Illegal dumping, see TEX. HEALTH & SAFETY CODE § 365.012*

**GENERAL PROVISIONS****§ 5-1-1 DEFINITIONS.**

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

**ASHES.** Residue from fires used for cooking and for heating buildings.

**BACKYARD COMPOSTING.** The controlled decomposition (decay) of organic material, such as yard trimmings, kitchen scraps, wood shavings, cardboard and paper.

**GARBAGE.** Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food; wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce.

**RECEPTACLES.** City roll-out containers or metal dumpster containers.

**REFUSE.** Combustible trash, including, but not limited to, paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding; noncombustible trash, including, but not limited to, metals, tin cans, metal furniture, dirt, rocks and pieces of concrete, glass, crockery, other mineral waste; street rubbish, including, but not limited to, street sweepings, dirt, leaves, catch-basin dirt, contents of litter receptacles. Provided, refuse shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations, such as food-processing wastes, boiler-house cinders, lumber, scraps and shavings.

**SOLID WASTE.** Garbage, refuse and other discarded materials.

**TIRES.** Automobile, truck and tractor tires.

('62 Code, § 8-5-1) (Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01)

**§ 5-1-2 SOLID WASTE MANAGEMENT SUPERINTENDENT.**

It shall be the duty of the Solid Waste Management Superintendent (or other city designee) to see that provisions of this article are complied with, and to take appropriate steps to punish violations thereof.

('62 Code, § 8-5-17) (Ord. 81005, passed 2-9-81; Am. Ord. ORD-2001-06, passed 2-26-01)

**§ 5-1-3 USE OF CITY LANDFILL WITHOUT CHARGE.**

(A) Subject to the exceptions and implementation procedures set out hereinafter, current residents of the city may on the first and third Saturday of each month deposit, without charge, permitted items (excluding items such as tires and concrete) in an amount not to exceed 1,000 pounds per day at the city landfill. All amounts in excess of 1,000 pounds shall be charged to current residents in accordance with § 5-1-57(A). Subject to the exceptions and implementation procedures set out hereinafter, current residents of the city may on any working weekday (Monday through Friday) deposit, without charge, permitted items (excluding items such as tires and concrete) in an amount not to exceed 300 pounds per day at the city landfill. All amounts in excess of 300 pounds shall be charged to current residents in accordance with § 5-1-57(A). Current residents may also deposit any amount of brush on any working day, without charge, at the city landfill.

(B) Proof of residence or domicile within the city limits may be shown by a valid current Texas driver's license; a picture ID showing a current address within the city; or by any other means which reasonably substantiates current domicile or residence within the city limits.

(C) The provisions of this section shall not apply to any person who transports garbage, trash, debris or waste for compensation or consideration.

(D) Notwithstanding anything else herein, nothing contained herein shall be construed to permit the depositing or accepting of waste otherwise prohibited at the city landfill.

(E) Waiver of fee permits under this section may be obtained from the Solid Waste Management Superintendent (or other city designee), provided that such a waiver of fee permit shall only be issued with proof of residence or domicile, and never for a period of more than three months at one time.

(F) It shall be a violation of this section for a person who is not a resident of the city, or who does not have a residential utility account in good standing, or who disposes of waste which did not come from their residential property, or who disposes of waste for a fee to deposit such waste for free at the landfill as provided for in division (A).

(Ord. 94025, passed 9-26-94; Am. Ord. 97005, passed 2-24-97; Am. Ord. 98016, passed 9-10-98; Am. Ord. ORD-2001-06, passed 2-26-01; Am. Ord. ORD-2001-20, passed 9-10-01; ORD-2002-08, passed 3-25-02; ORD-2002-15, passed 6-10-02) Penalty, see § 1-1-99

**CONTAINER REQUIREMENTS****§ 5-1-15 CAPACITY AND DESIGN; FURNISHED BY CITY.**

On those routes served by the city's trucks equipped for operation and pick-up by one person, the containers shall be a capacity of 90 gallons and shall be designed to be capable of being picked up by the city's equipment. Until otherwise provided by ordinance, these containers will be furnished to customers by the city and shall remain the property of the city. It shall be a violation of this section for any person to remove from the premises or willfully damage any such container.

('62 Code, § 8-5-2) (Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01)  
Penalty, see § 1-1-99

**Cross-reference:**

*Garbage receptacles, see § 15-2-39*

**§ 5-1-16 CONDITION OF CONTAINERS.**

All solid waste containers shall be kept in a sanitary condition and must be free from holes in order to be water-tight. All covers on such garbage containers shall fit tightly. The contents of all receptacles holding trash and rubbish shall be so protected that the wind cannot blow out and scatter the same over the streets, alleys and premises of the city.

('62 Code, § 8-5-10) (Ord. 81005, passed 2-9-81; Am. Ord. ORD-2001-06, passed 2-26-01)  
Penalty, § 1-1-99

**§ 5-1-17 CITY CONTAINERS.**

(A) All single and multi-family residences, businesses and mobile home parks shall have containers furnished by the city. All containers supplied by the city to businesses or residences for the collection of solid waste and trash shall be the property of the city. The city will be responsible for the maintenance and replacement of all city containers subjected to normal use. With the exception of heavy accumulations (see § 5-1-42), all businesses or residences with city containers must place all solid waste and trash in the containers. Cardboard boxes and tubes must be broken down if placed in the containers. Tree limbs may be placed in city containers, but must be cut to such lengths that they can be easily removed from the containers.

(B) Residences furnished with individual city containers shall have them available for collection by the city when utility services are discontinued. Upon discontinuation of service, failure to provide the city its containers shall be cause for the forfeiture of the customer's city utility deposit (see § 5-3-50).

('62 Code, § 8-5-11) (Ord. 83057, passed 11-14-83; Am. Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-18 CERTAIN MATTER NOT TO BE PLACED IN RECEPTACLES.**

Dead animals, poisons, explosives, dangerous or corrosive chemicals, clothing taken from persons with infectious diseases, heavy metal or metal parts, lumber, dirt, rocks, bricks, concrete blocks, tires, motor oil, batteries, crates, bulky refuse that does not fit and can not be easily emptied, and any other items as determined by the Solid Waste Management Superintendent (or other city designee), shall not be placed in receptacles used for regular collection service or the city container collection service.

(Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-19 UNAUTHORIZED USE OF RECEPTACLES; DUTY OF OWNERS TO REMOVE.**

(A) It shall be unlawful for any person to place, or permit another to place, any garbage or trash in any receptacle, at any refuse collection point or in any refuse container used in the city container collection service, unless the refuse is from the premises served by the container or from the premises at which the receptacle or collection point is located.

(B) City service containers at several points in city areas are provided for refuse from apartment house areas, businesses and institutions within the city limits, and refuse from outside the city limits, shall not be placed in the city service containers.

(C) It shall be unlawful for any person to place or deposit, or permit another to place or deposit, prohibited refuse in city service containers or to put anything on the ground at these locations.

(D) The owner or occupant of any building, house, structure or land shall remove all refuse items that are prohibited from the regular collection service, and that are located, owned or deposited on the property or on the public right-of-way adjacent to the property. The existence of refuse or any other item on the property or the adjacent public right-of-way shall be prima facie evidence that such owner or occupant failed to remove, as provided by this article, at his own expense, the refuse or other item or items so stored or located thereon. Removal within ten days notice by the city is required.

(Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-20 SUPERVISION OF RECEPTACLES; NOTICE REQUIRED.**

Each owner, manager, occupant, tenant or lessee of a house or building used for residential, business or commercial purposes shall maintain supervision and surveillance over the solid waste or trash receptacles serving such premises. If such receptacles are not emptied and the contents removed by an employee of the city or other duly authorized person for a period of seven days, he or she shall notify the sanitation department of the fact within five days.

(Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-21 PARKING INTERFERING WITH CONTAINERS.**

It shall be unlawful for any person to park a vehicle of any nature in such a manner which would interfere with the removal of refuse from any container used in the city container collection service, or to block the approach to such container. Proof of ownership of any vehicle violating this section shall be prima facie proof that such owner parked such vehicle.

(Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-22 DAMAGING CONTAINERS OR PILFERING PROHIBITED.**

(A) The damaging of solid waste containers, trash or rubbish receptacles, or in any way pilfering, scattering contents or junking in any alley or street within the city limits is prohibited.

(B) It shall be unlawful for any person to damage, either willfully or through negligence, any property of the city used in the city container service.

('62 Code, § 8-5-8) (Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

***COLLECTION; DISPOSAL PROCEDURES*****§ 5-1-35 WHEN COLLECTIONS MADE.**

(A) In the business district, collections shall be made as required and designated by the Solid Waste Management Department. In the residential district, garbage shall be prepared for collection as often as may be necessary to comply with solid waste regulations of the Texas Water Commission.

(B) For customers served by city roll-out containers, the time for placement of city roll-out containers shall be 7:00 a.m. on the date of collection and removed from the street or curb by 8:00 p.m. on the date of collection.

('62 Code, § 8-5-13) (Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01; Am. Ord. 2006-18, passed 4-17-06)

**§ 5-1-36 PLACEMENT FOR COLLECTION.**

For customers served by city roll-out or dumpster service, the Solid Waste Management Superintendent (or other designated officer) will designate the area for placement of the containers for removal of garbage or refuse.

(Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01)

**§ 5-1-37 CONSTRUCTION OF VEHICLES; LOADS.**

All vehicles used in the removal, collection or transportation of garbage, trash, waste, paper, refuse, rubbish, building material, or concrete shall be constructed in such a manner that will prevent any portion thereof from leaking, spilling, falling or blowing out of the vehicles or onto any public highway, street, avenue, boulevard, alley, or other public or private place. All vehicles used in transportation of such material shall be so constructed as to prevent the material from blowing or falling onto any street, avenue, alley, highway, boulevard, or other public or private place in the city. Such vehicles being drawn or driven over the public ways or streets shall not be loaded above a point that will result in any portion of the contents being spilled therefrom.

(Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-38 PRIVATE HAULERS.**

No person or corporation shall be permitted to collect, haul or dispose of garbage or trash within the city limits for profit, unless such person or corporation has a contract with the city. The City Manager is hereby empowered to enter into special contracts with private haulers for the collection or hauling of garbage or trash within the city limits.

('62 Code, § 8-5-15) (Ord. 90017, passed 3-30-90; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-39 DISPOSAL AT LANDFILL ONLY.**

Except at a designated landfill, disposal of any garbage within the city limits, or within 5,000 feet outside of the city limits, is hereby prohibited.

('62 Code, § 8-5-16) (Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-40 REFUSE BECOMES CITY PROPERTY.**

All junk and other material of the landfill is the property of the city, and no person is allowed to separate and collect, carry off or dispose of same, except by written permission of the Solid Waste Management Superintendent (or other city designee).

('62 Code, § 8-5-9) (Ord. 81005, passed 2-9-81; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-41 DEAD ANIMALS; MANURE; WASTE OILS.**

(A) Heavy dead animals, such as cows, horses and mules, shall be removed from the city limits at the expense of the owner or person having same in charge, in the manner and by the method directed

by the Solid Waste Management Superintendent (or other city designee). Removal shall be made within a reasonable time before the health and welfare of the community is threatened. Dead dogs, cats or any other small animals shall not be placed in garbage or trash containers. The City-County Health Department will, upon notification, dispose of such small dead animals.

(B) Manure (from cow lots, horse stables, poultry yards and pigeon lofts) and waste oils shall be disposed of at the expense of the party responsible for the same, under the direction of the designated official.

('62 Code, §§ 8-5-3 and 8-5-5) (Ord. 81005, passed 2-9-81; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-42 HEAVY ACCUMULATIONS.**

(A) Heavy accumulations (such as brick, broken concrete, lumber, ashes, clinkers, cinders, dirt and plaster, or sand and gravel, automobile frames and parts, metal, tin and other bulky heavy material) shall be disposed of at the expense of the owner or person controlling same, under the direction of the Solid Waste Management Superintendent (or other city designee).

(B) As a service for city residents, old stoves, water heaters, refrigerators, washers and dryers, couches, sofas and mattresses, and any bulky items shall be placed for collection in front of property on the first Wednesday of every month. Items may not be placed out for collection more than one week prior to pickup. In order for the collections to take place, residents must call City Services within one week of the pickup date.

(C) Tree limbs, brush and limited construction debris may not be placed within five feet of any utility meter.

('62 Code, § 8-5-4) (Ord. 88028, passed 10-24-88; Am. Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-43 PLACEMENT IN STREET PROHIBITED.**

The placement of garbage, trash or rubbish or any article, thing or material, in any street or any alley within the city limits is prohibited.

('62 Code, § 8-5-6) (Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-44 BURNING PROHIBITED.**

The disposal by fire, burial or otherwise of garbage, trash or any kind of rubbish in any place within the city limits, except at the city sanitary landfill, is prohibited.

('62 Code, § 8-5-7) (Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

**§ 5-1-45 SANITARY REQUIREMENTS; EXPOSING GARBAGE PROHIBITED.**

(A) Every person owning, managing, operating, leasing or renting any premises or residence, or any place where "kitchen garbage" accumulates, shall maintain their entire premises and any portion of the alleys and streets of the city that are used by them to store garbage containers for trash and rubbish, as allowed under this article, in such a manner as to prevent the breeding of flies, vermin and mosquitos.

(B) No person shall permit any kitchen garbage, kitchen refuse, or discarded organic matter of any character whatsoever to be exposed to the open air.

('62 Code, §§ 8-5-12 and 8-5-14) (Ord. 81005, passed 2-9-81; Am. Ord. ORD-2001-06, passed 2-26-01) Penalty, see § 1-1-99

***RATES AND CHARGES; BILLING***

**§ 5-1-55 MONTHLY CHARGE.**

The following monthly charges shall be due when rendered and are payable unless otherwise specified, on or before the date shown on the face of the bill:

(A) For each single-family residential, duplex, and multi-family residential (includes apartments of 3-4 units) the charge shall be \$16.70 per month for collections, to be paid by the occupant or person arranging water service for such residence or living unit. Occupants desiring more than one roll-out container shall be charged an additional \$16.70 for each additional container. The fees set for other than residential shall be charged as follows:

(1) All commercial (includes hotels, motels, apartments over four units, and all others not meeting any other category) collections in the city shall pay the following charges:

(a) Customers shall be charged a fee of \$28.25 per month for each roll-out container for collections.

(b) Customers who require a city container other than a roll-out container shall be charged a fee as determined by the size of the container and the number of collections per week.

## Kingsville - Public Works

<b>Size of Container</b>	<b>Number of Weekly Collections</b>					
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
Three-yard	\$55	\$100	\$140	\$180	\$225	\$270
Four-yard	\$65	\$125	\$175	\$230	\$280	\$330

(B) Residential customers within the city limits who receive only solid waste services (customers without city water or wastewater services) shall be charged a monthly billing fee of \$20 per roll-out container.

(C) Residential customers residing within one quarter of a mile outside of the city limits, who receive solid waste services shall be charged \$38 per month for collections, to be paid by the occupant or person arranging water service for such residence or living unit. The Solid Waste Supervisor shall authorize service outside the one-quarter-mile if such service is expedient or practical in relation to truck routes and proximity to existing services.

(D) All commercial customers who are within one quarter of a mile outside of the city limits who receive solid waste service shall be charged a fee as follows:

(1) Commercial customers shall be charged a fee of \$72.50 per month for each roll-out container for collections.

(2) Commercial customers who require a city container other than a roll-out container shall be charged a fee as determined by the size of the container and number of collections per week.

<b>Size of Container</b>	<b>Number of Collections per Week</b>			
	<b>1 or 2</b>	<b>1</b>	<b>2</b>	<b>3</b>
Three-yard	—	\$110	\$200	\$280
Four-yard	—	\$130	\$250	\$350
Five-yard	—	\$150	\$300	\$420
Six-yard	—	\$170	\$350	\$490
Seven-yard	—	\$190	\$400	\$560
Eight-yard	—	\$210	\$450	\$630



(3) The Solid Waste Supervisor shall authorize service outside the one-quarter-mile, if such service is expedient or practical in relation to truck routes and proximity to existing services.

(E) For each residential or commercial account a landfill charge of \$3 per month will be charged.

('62 Code, § 8-5-18) (Ord. 87025, passed 9-28-87; Am. Ord. 90017, passed 3-30-90; Am. Ord. 92018, passed 9-28-92; Am. Ord. 97031, passed 9-22-97; Am. Ord. 99040, passed 11-15-99; Am. Ord. 20018, passed 9-25-00; Am. Ord. ORD-2001-19, passed 8-27-01; Am. Ord. ORD-2003-21, passed 9-18-03; Am. Ord. ORD-2004-14, passed 6-14-04)



**§ 5-1-56 TRUCK RENTAL PROGRAM.**

(A) Residential, commercial or nonprofit customers may obtain a brush truck from the Solid Waste Management Department to deposit garbage and debris therein. The minimum fee for truck rental shall be \$12 for residential customers. Commercial customers may obtain one brush truck at the rate of \$33.30. Only one of the following three types of solid waste will be allowed to be placed in the truck per rental: (1) brush; (2) lumber, roofing materials and construction debris; or (3) metals (appliances not included). Customers will not be allowed to mix the solid waste. It shall be unlawful for any person to place concrete, tires, batteries or dead animals in the truck. It shall be a per se violation by the person renting the truck to: (1) mix more than one type of allowed solid waste in the truck, or (2) include any non-permitted solid waste in the truck.

(B) The Solid Waste Management Superintendent (or other designated officer) will be responsible for developing rules and procedures for the truck rental program.

('62 Code, § 8-5-18) (Am. Ord. 97031, passed 9-29-97; Am. Ord. ORD-2001-06, passed 2-26-01; Am. Ord. ORD-2003-38, passed 12-17-03) Penalty, see § 1-1-99

**§ 5-1-57 USE OF CITY LANDFILL; FEES.**

(A) Except as provided by § 5-1-3(A), occupants presenting proper identification with a picture I.D. and a current utility bill for residential premises within the city limits, who dispose of garbage and debris from that premises at the city landfill, shall be charged a rate of \$6.25 for the disposal of garbage and debris up to 500 pounds per trip, and \$6.25 for each additional 500 pounds or fraction thereof.

(B) Occupants of residential premises outside the city limits, but within the county, who dispose of garbage and debris from that premises at the city landfill, shall be charged \$30 for the disposal of garbage and debris up to one ton per trip, and \$7.50 for each additional 500 pounds or fraction thereof. The County of Kleberg shall be charged any applicable state tipping fees, and the fee for disposal of garbage and debris shall be based on the monthly cumulative total of tonnage by precinct at \$25.50 per ton or fraction thereof.

(C) Persons whose primary business is the hauling of waste products, whether or not from inside the city or the county, shall be charged \$35 for the disposal of garbage and debris up to one ton, and \$17.50 for each additional 1,000 pounds or fraction thereof.

(D) All other persons (commercial, business or contractors) from inside the city limits, who dispose of garbage and debris, shall be charged at the rate of \$30 for the disposal of garbage and debris up to one ton per trip, and for each additional ton at the rate of \$15 per 1,000 pounds or fraction thereof.

(E) All other persons shall be charged \$35 for the disposal of garbage and debris up to one ton per trip, and for each additional ton at the rate of \$17.50 per 1,000 pounds or fraction thereof.

(F) The landfill attendant shall be required to verify residency, occupancy, primary business. If he or she is unable to do so, the highest fee set out above shall be charged.

('62 Code, § 8-5-18) (Ord. 92018, passed 9-28-92; Am. Ord. 93023, passed 10-25-93; Am. Ord. 95020, passed 9-11-95; Am. Ord. 95031, passed 11-27-95; Am. Ord. 99019, passed 5-10-99; Am. Ord. 200019, passed 10-9-00; Am. Ord. ORD-2001-20, passed 9-10-01; Am. Ord. ORD-2002-13, passed 5-7-02)

#### **§ 5-1-58 DELINQUENT ACCOUNTS.**

(A) If any person fails or refuses to pay the charges filed against him for the collection of garbage and refuse when due, the city shall be authorized to cut off and disconnect the water and sewer services to his or her place of abode or place of business, and to discontinue garbage pickup services until such fees have been paid in full.

(B) When it becomes necessary for the city to discontinue garbage service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a charge in the sum of \$20.

('62 Code, § 8-5-19) (Ord. 81005, passed 2-9-81; Am. Ord. ORD-2001-06, passed 2-26-01)

**Statutory reference:**

*Connection and disconnection for municipal utility service, see TEX. LOC. GOV'T CODE § 402.0025*

#### **§ 5-1-59 SPECIAL RATES FOR NON-TYPICAL SERVICE; LIMITATION OF AMOUNTS.**

(A) Refuse collection and disposal service may be provided within the capabilities of the department to installations with unusual locations, types or accumulations of refuse, at a charge established by the Solid Waste Management Superintendent (or other designated officer).

(B) Whenever the collection of garbage, debris and/or refuse from any establishment or place shall exceed the normal amount for such a place, the Solid Waste Management Superintendent (or other designated officer) shall establish a special rate for such place.

(Ord. 93005, passed 4-12-93; Am. Ord. ORD-2001-06, passed 2-26-01; Ord. 2003-39, passed 12-17-03; Am. Ord. 2005-33, passed 9-12-05)

## **ARTICLE 2: SEWERS**

### Section

#### ***General Provisions***

- 5-2-1 Monthly charge established
- 5-2-2 User classifications; schedule of charges
- 5-2-3 Required taps; connections
- 5-2-4 Delinquent bills; discontinuing service
- 5-2-5 Operation and maintenance revenue; adjustment to user charge
- 5-2-6 Requested service call

#### ***Industrial Wastes***

- 5-2-15 Definitions
- 5-2-16 Prohibited discharges
- 5-2-17 Chemical discharges
- 5-2-18 Hazardous metals and toxic materials
- 5-2-19 Garbage
- 5-2-20 Storm water and other unpolluted drainage
- 5-2-21 Temperature
- 5-2-22 Radioactive wastes
- 5-2-23 Impairment of facilities
- 5-2-24 Compliance with existing authority
- 5-2-25 Approving authority requirements; review and approval
- 5-2-26 Requirements for traps
- 5-2-27 Requirements for building sewers
- 5-2-28 Sampling and testing
- 5-2-29 User charge system
- 5-2-30 Allowable discharge
- 5-2-31 Conditions of permits
- 5-2-32 Power to enter property
- 5-2-33 Authority to disconnect service
- 5-2-34 Notice of violation; continuing prohibited discharges
- 5-2-35 Failure to pay
- 5-2-36 Additional criminal and civil remedies
- 5-2-37 Grease and grit traps required
- 5-2-38 Construction of grease and grit traps and sample port

- 5-2-39 Maintenance of grease and grit traps
- 5-2-40 Prohibited discharges
- 5-2-41 Chemical discharges
- 5-2-42 Sampling and testing
- 5-2-43 User charge system
- 5-2-44 Power to enter property

### ***Waste Disposal Procedures***

- 5-2-50 Definitions
- 5-2-51 Generators
- 5-2-52 Permit required
- 5-2-53 General requirements
- 5-2-54 Incompatible wastes
- 5-2-55 Waste control records
- 5-2-56 Accidental discharge procedures
- 5-2-57 State and federal requirements
- 5-2-58 Liability for violations; revocation of permit

### ***Ground Water Discharge Into Sanitary Sewer System***

- 5-2-70 Authorization to discharge; contaminated soil or water
- 5-2-71 Permit to discharge; requirements
- 5-2-72 Permit fees
- 5-2-73 Removal of system; city notified
- 5-2-74 Septic tank or liquid waste disposal rates

- 5-2-99 Penalty

#### **Cross-reference:**

*Food establishments; connection to sewer system, see § 11-7-37*  
*Water and sewer main extensions, see §§ 5-4-1 et seq.*

## **GENERAL PROVISIONS**

### **§ 5-2-1 MONTHLY CHARGE ESTABLISHED.**

Each person owning property within or without the city whose drain pipes, soil pipes or other sewage discharge pipes connect with and discharge into the sewers of the city shall be liable to and pay to the city rentals which shall be based on the amount of water used per month.  
 ('62 Code, § 8-6-1) (Ord. 81007, passed 3-9-81) Penalty, see § 5-2-99

**§ 5-2-2 USER CLASSIFICATIONS; SCHEDULE OF CHARGES.**

(A) *Single-family residential.* Minimum monthly charge of \$8.50 with an allowance of 2,000 gallons. For consumption in excess of 2,000 gallons a charge of \$2.43 per 1,000 gallons will be levied to a maximum of 15,000 gallons after which no further charge shall be levied.

(B) *Duplex.* Minimum monthly charge of \$10.44 with an allowance of 2,000 gallons. For consumption in excess of 2,000 gallons a charge of \$2.43 per 1,000 gallons will be levied.

(C) *Multi-family residential (includes apartments of 3-4 units).* Minimum monthly charge of \$15.96 with an allowance for 3,000 gallons. For consumption in excess of 3,000 gallons, a charge of \$2.43 per 1,000 gallons shall be levied.

(D) *Commercial (includes hotels, motels, apartments over 4 units, and all others not meeting any other categories).* Minimum monthly charge of \$19.62 with an allowance of 3,000 gallons. For consumption in excess of 3,000 gallons a charge of \$2.56 per 1,000 gallons will be levied.

(E) *Irrigation.* No customer using city water services solely for irrigation purposes shall be assessed a sewer charge.

(F) *Industrial plants.* By special contract with the city.

(G) *Billing charge.* All sewer customers who are not billed for water services shall be assessed a monthly billing charge of \$2 in addition to their sewer charges.

(H) (1) *Outside city limits.* All parts of this section shall apply to customers located outside the city limits and who receive city sewer service except the rates to such customers shall be as follows:

(2) *Single-family residential.* Minimum monthly charge of \$9.78 with an allowance of 2,000 gallons. For consumption in excess of 2,000 gallons a charge of \$2.80 per 1,000 gallons of water consumed to a maximum of 15,000 gallons after which no further charge shall be levied.

(3) *Duplex.* Minimum monthly charge of \$12.00 with an allowance of 2,000 gallons. For consumption in excess of 2,000 gallons a charge of \$2.80 per 1,000 gallons of water consumed.

(4) *Multi-family residential (includes apartments of 3-4 units).* Minimum monthly charge of \$18.35 with an allowance of 3,000 gallons. For consumption in excess of 3,000 gallons a charge of \$2.80 per 1,000 gallons of water consumed.

(5) *Commercial (includes hotels, motels, apartments over 4 units, and all others not meeting any of the above categories )*. Minimum monthly charge of \$22.56 with an allowance of 3,000 gallons. For consumption in excess of 3,000 gallons a charge of \$2.95 per 1, 000 gallons of water consumed.

('62 Code, § 8-6-1) (Ord. 81007, passed 3-9-81; Am. Ord. 84029, passed 10-29-84; Am. Ord. 89042, passed 9-11-89; Am. Ord. ORD-2002-23, passed 9-18-02; Am. Ord. ORD-2003-20, passed 9-18-03; Am. Ord. 2005-30, passed 8-10-05; Am. Ord. 2006-41, passed 9-25-06)

### **§ 5-2-3 REQUIRED TAPS; CONNECTIONS.**

(A) All occupied residential and commercial property within the city which is within 300 feet of any sanitary sewer line which is part of the city sewer system shall have a sewer tap made on the system. cleanout at the property line is required. A separate sewer tap and lateral is required for each

dwelling; provided, that in case of apartments, dormitories, rooming houses or other group quarters a single tap and lateral may be permitted upon approval of the City Engineer or other agent specified by the City Manager.

(B) The method of installation and the materials used in the installation shall be subject to inspection by the Plumbing Inspector or other authorized officers of the city.

(C) All taps shall be made only to laterals or feeder lines.

(D) All sewer taps on city lines shall be made by city employees. Laterals within existing easements or public rights-of-way shall be laid by city employees. Such laterals will include a cleanout located at the property line.

(E) For all original sewer taps, a minimum fee of \$300 for four inch taps shall be charged. The minimum fee shall be paid by the user or owner of the property being connected to the city before the taps shall be made. Taps larger than four inches or at a depth of greater than five feet shall be assessed an additional charge based upon actual costs. Taps requiring a street cut shall be assessed an additional fee of \$450 for cuts up to 15 feet and \$40 per linear foot thereafter.

(F) The city shall maintain taps and laterals within easements and the public right-of-way. Repairs or replacements of taps and laterals within the public right-of-way or easement shall be made by the city. If the lateral does not have a cleanout, a clean out shall be installed during maintenance. In no case shall the city repair, maintain or install laterals outside the public right-of-way or easement.

('62 Code, § 8-6-4) (Ord. 81007, passed 3-9-81; Am. Ord. 83027, passed 7-18-83; Am. Ord. 90003, passed 2-5-90; Am. Ord. 94005, passed 2-14-94; Am. Ord. ORD-2002-23, passed 9-18-02) Penalty, see § 5-2-99

**§ 5-2-4 DELINQUENT BILLS; DISCONTINUING SERVICE.**

(A) Sewer rentals shall be billed with the water and garbage and shall be due when rendered and are payable, unless otherwise specified, on or before the date shown on the face of the bill. If rentals

are not paid within the prescribed amount of time, the bill is in default and after notification to the customer of such default, the city may enforce payment of same by discontinuing water service to such sewer service without further notification. The water meter deposit may be used to pay accrued sewerage rentals, and the user then be required to make a new water meter deposit. ('62 Code, § 8-6-2)

(B) It is the policy of the city to discontinue sewer service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for sewer service and all bills shall contain the address and telephone number for billing inquiries, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(3) That any customer disputing the correctness of his or her bill shall have a right to present orally or in writing his or her complaint and contentions to the city official in charge of sewer billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(C) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the dispute procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(D) When it becomes necessary for the city to discontinue sewer service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge during: (1) normal work hours in the sum of \$25 or; (2) weekends or after normal work hours a turn-on charge of \$25 and a labor fee of \$30.

(Am. Ord. ORD-2002-23, passed 9-18-02)

**Statutory reference:**

*Connection and disconnection for municipal utility service, see TEX. LOC. GOV'T CODE § 402.0025*

**§ 5-2-5 OPERATION AND MAINTENANCE REVENUE; ADJUSTMENT TO USER CHARGE.**

Annually the City Commission shall review the operation and maintenance costs and make any adjustment in the user charge to provide adequate operational and maintenance revenue in accordance with the grant conditions as received from the U.S. Environmental Protection Agency. ('62 Code, § 8-6-3) (Ord. 81002, passed 1-19-81; Am. Ord. 81007, passed 3-9-81)

**§ 5-2-6 REQUESTED SERVICE CALL.**

If a customer requests an after hours service call for the city to inspect the city's sewer service and upon inspection by the city the problem in need of repair is determined to be on the customer's side, then the customer shall be charged \$25 per hour for labor. (Ord. 2006-36, passed 9-25-06)

***INDUSTRIAL WASTES*****§ 5-2-15 DEFINITIONS.**

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

***APPROVING AUTHORITY.*** The City Manager or his duly authorized representative.

***AVERAGE QUALITY.*** The arithmetic average (weighted by flow value) of all daily determinations of concentrations made during a calendar month. Daily determinations of concentrations made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during the calendar day.

***BIOCHEMICAL OXYGEN DEMAND (BOD).*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at a temperature of 20°C, usually expressed as a concentration milligrams per liter (mg/l).

***BUILDING SEWER.*** The extension from the building drain to the public sewer or other place of disposal (also called the house lateral and house connection).

***C.O.D. (CHEMICAL OXYGEN DEMAND).*** Measure of the oxygen consuming capacity of and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

**COMMERCIAL GREASE GENERATOR.** Every food preparation and food service establishment including, but not limited to bakeries, bars, butcher shops, cafes, clubhouses, delicatessens, ice cream parlors, hospitals, hotels, restaurants, schools or similar places where meat, poultry, seafood, dairy products, or fried foods are prepared or served, but shall not apply to any residence not used for the commercial preparation and sale of food items.

**COMMERCIAL/INDUSTRIAL GRIT GENERATOR.** Every commercial or industrial generator of liquid waste containing petroleum based oil and grease wastes, and inorganic solids including, but not limited to automotive or heavy machinery repair and/or washing facilities.

**CONTROL MANHOLE.** A manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

**CONTROL POINT.** Point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

**DAILY COMPOSITE QUALITY.** The concentration of a sample consisting of a minimum of three grab samples of effluent collected at regular intervals over a normal operating day and combined proportional to flow, or a sample continuously collected proportional to flow over a normal operating day.

**DIRECTOR.** The director of the department of water/wastewater of the city, or his/her authorized representative, which may include a person appointed by the director of the department of water/ wastewater from any city department.

**GARBAGE.** Animal and vegetable wastes and residue from preparation, cooking and dispensing of food; and from the handling, processing, storage and sale of food products and produce.

**GENERATOR.** A person who causes, creates, generates, stores or otherwise produces liquid waste or owns property upon which liquid waste is caused, created, generated, stored or produced, including but not limited to grease trap waste and grit trap waste as a by-product of a domestic or nondomestic activity other than merely as a result of mere residence at a nonbusiness location.

**GRAB SAMPLE QUALITY.** The concentration of an individual sample of effluent collected in less than 15 minutes.

**GREASE OR GRIT GENERATOR.** A commercial grease generator or a commercial/industrial grit generator as defined herein.

**GREASE TRAP.** A receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect and restrict the passage of organic, inorganic, greasy or fatty liquid, semi-liquid, and/or solid wastes into both public and private sanitary sewers to which the receptacle is directly or indirectly connected.

**GREASE TRAP WASTE.** Any organic, inorganic, greasy or fatty liquid, semi-liquid, and/or solid wastes collected by and ultimately removed from a grease trap for proper disposal.

**GRIT TRAP.** A receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect and restrict the passage of petroleum-based oil and grease wastes and inorganic or other solids into private or public sanitary sewers to which the receptacle is directly or indirectly connected.

**GRIT TRAP WASTE.** Oil and grease wastes and inorganic solids generated by commercial, industrial, automotive or heavy machinery repair and/or washing facilities that are collected by and ultimately removed from a grit trap for disposal.

**HAZARDOUS METAL.** Each of the metals listed in § 5-2-18(B), either in its elemental state and/or any of its compounds.

**INDUSTRIAL WASTE CHARGE.** The charge made on those persons who discharge industrial wastes into the city's sewerage system.

**LIQUID WASTE.** Water-borne solids and liquids containing dissolved or suspended waste material, including but not limited to, septage and wastes from grease traps and grit traps.

**MANIFEST.** The written, multi-part documentation required to be in the possession of the transporter enabling disposal of hauled grit trap waste, grease trap waste, and septage at a permitted or registered disposal site.

**MILLIGRAMS PER LITER (mg/l).** 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.** Any outlet into a watercourse, ditch, lake, or other body of surface water or ground water.

**NORMAL DOMESTIC WASTEWATER.** Wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 200 mg/l and BOD is not more than 200 mg/l.

**OVERLOAD.** The imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

**pH.** The logarithm (Base 10) of the reciprocal of the hydrogen ion concentration.

**REPLACEMENT.** All expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performance during the service life of the treatment works for which such works were designed and constructed. The term **OPERATION AND MAINTENANCE** includes replacement.

**SANITARY SEWER.** A system of pipes, conduit and treatment facilities owned or operated by the city which collect, transport, and treat sanitary sewage, and to which storm, surface, and ground waters are not intentionally or normally admitted.

**SEPTAGE.** Liquid wastes and sludges containing sufficient liquid content, to permit flow by gravity of minimal pumping, which is removed from a portable toilet, chemical toilet, septic tank, or cesspool. **SEPTAGE** does not include nondomestic wastes from commercial or industrial establishments.

**SERVE.**

- (1) Personally serve upon the grease or grit generator or his agent,
- (2) To send by registered or certified mail, return receipt requested, to the grease or grit generator, or his agent, allowing at least five days for said mail to be retrieved by the recipient, at the address at which the grease or grit generator receives his utility bill for the location of the alleged discharge, or
- (3) To place a written notice upon an entrance to the location where the alleged discharge is occurring or flows during normal operation.

**SLUG.** Any discharge of water, wastewater or industrial waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

**STANDARD METHODS.** The examination and analytical procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" as prepared, approved, and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

**STORM SEWER.** A public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

**STORM WATER.** Rainfall or any other forms of precipitation.

**SUPERINTENDENT.** The Water and Wastewater Superintendent of the city, or his duly authorized deputy, agent or representative.

**TO DISCHARGE.** Includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

**TOTAL SUSPENDED SOLIDS (TSS).** The total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquid, and which is removal by laboratory filtering.

**TRAP.** A device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

**UNPOLLUTED WASTEWATER.** Water containing no free or emulsified grease or oil; no acids or alkalis; no phenols or other substances producing taste or odor in receiving water; no toxic or poisonous substances in suspension, colloidal state, or solution; no noxious or otherwise obnoxious or odorous gases; not more than an insignificant amount in mg/l each of suspended solids and BOD, as determined by the Texas Water Commission; and color not exceeding 50 units as measured by the Platinum-Cobalt method of determination as specified in Standard Methods.

**USER CHARGE.** A charge levied on users of treatment works for the cost of operating and maintaining such works.

**WASTE.** Rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, or industrial activities.

**WASTEWATER.** A combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments, together with any ground, surface, and storm water that may be present.

**WASTEWATER FACILITIES.** Includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes.

**WASTEWATER SERVICE CHARGE.** The charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

**WASTEWATER TREATMENT PLANT.** Any city-owned facilities, devices, and structures used for receiving, processing and treating wastewater, industrial waste, and sludges from the sanitary sewers.

**WATERCOURSE.** A natural or man-made channel in which a flow of water occurs, either continuously or intermittently.

('62 Code, § 8-9-1) (Am. Ord. ORD-2004-32, passed 10-11-04)

## **§ 5-2-16 PROHIBITED DISCHARGES.**

(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 subarticle.  
( '62 Code, § 8-9-2) Penalty, see § 5-2-99

**§ 5-2-17 CHEMICAL DISCHARGES.**

- (A) No discharge to public sewers may contain:
- (1) Cyanide greater than one mg/l;
  - (2) Fluoride other than that contained in the public water supply;



(3) Chlorides in concentrations greater than 250 mg/1;

(4) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; or

(5) Substances causing an excessive Chemical Oxygen Demand (C.O.D.).

(B) No waste or wastewater discharged to public waters may contain:

(1) Strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(2) Fats, wax, grease, or oils, whether emulsified or not in excess of 100 mg/1 or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C).

(3) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in composite wastewater treatment works exceeds the limits established by the approving authority for such materials; or

(4) Obnoxious, toxic or poisonous solids, liquids, or gases in quantities sufficient to violate the provisions of § 5-2-16(A).

(C) No waste, wastewater, or other substance may be discharged into public sewers which has a pH lower than five and five tenths or higher than nine and five tenths or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel at the wastewater facilities.

(D) All waste, wastewater, or other substance containing phenols, hydrogen sulfide, or other taste-and-odor producing substances, shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed to requirements established by state, federal or other agencies with jurisdiction over discharges to receiving waters.

('62 Code, § 8-9-3) Penalty, see § 5-2-99

#### **§ 5-2-18 HAZARDOUS METALS AND TOXIC MATERIALS.**

(A) No discharges may contain concentrations of hazardous metals other than amounts specified in division (B) of this section.

**Kingsville - Public Works**

(B) The allowable concentrations of hazardous metals, in terms of milligrams per liter (mg/l), for discharge to inland waters, and determined on the basis of individual sampling in accordance with "Standard Methods" are:

<i><b>Metal</b></i>	<i><b>Average</b></i>	<i><b>Daily Composite (Not to Exceed)</b></i>	<i><b>Grab Sample</b></i>
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

(C) No other hazardous metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes, and other applicable provisions.

(D) Prohibited hazardous materials include but are not limited to:

- (1) Antimony.
- (2) Beryllium.
- (3) Bismuth.
- (4) Cobalt.
- (5) Molybdenum.
- (6) Uranylion.

(7) Rhenium.

(8) Strontium.

(9) Tellurium.

(10) Herbicides.

(11) Fungicides.

(12) Pesticides.

('62 Code, § 8-9-4) Penalty, see § 5-2-99

#### **§ 5-2-19 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 percent horsepower (0.76 hp metric) or greater.

('62 Code, § 8-9-5) Penalty, see § 5-2-99

#### **§ 5-2-20 STORM WATER AND OTHER UNPOLLUTED DRAINAGE.**

(A) No person may discharge to public sanitary sewers any of the following or make any new connections from inflow sources:

(1) Unpolluted storm water, surface water, groundwater, roof runoff or subsurface drainage;

(2) Unpolluted cooling water;

(3) Unpolluted industrial process waters;

(4) Other polluted drainage;

(B) In compliance with the Texas Water Quality Control Act, TEX. 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 division (A) of this section may be designated.

('62 Code, § 8-9-6) Penalty, see § 5-2-99

**§ 5-2-21 TEMPERATURE.**

No person may discharge liquid or vapor having a temperature higher than 150°F (65°C), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of 10°F or more per hour, or a combined total increase of plant influent to 110°F.

('62 Code, § 8-9-7) Penalty, see § 5-2-99

**§ 5-2-22 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.

('62 Code, § 8-9-8) Penalty, see § 5-2-99

**§ 5-2-23 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 division (A) 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 1,200 mg/l including, but not limited to:
  - (a) Sodium chloride; and
  - (b) Sodium sulfate.

(3) Excessive discoloration including, but not limited to:

(a) Dye wastes; and

(b) Vegetable tanning solutions; or

(4) BOD, COD, or chlorine demand in excess of normal plant capacity.

(C) No person may discharge into public sewers any substance that may:

(1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;

(2) Overload skimming and grease handling equipment;

(3) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or

(4) Deleteriously affect the treatment process due to excessive quantities.

(D) No person may discharge any substance into public sewers which:

(1) Is not amenable to treatment or reduction by the processes and facilities employed;

or

(2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(E) The approving authority shall regulate the flow and concentration of slugs when they may:

(1) Impair the treatment process;

(2) Cause damage to collection facilities;

(3) Incur treatment costs exceeding those for normal wastewater; or

(4) Render the waste unfit for stream disposal of industrial use.

(F) No person may discharge into public sewers solid or viscous substances which may violate division (A) of this section if present in sufficient quantity or size including, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper products, either whole or ground by garbage grinders, slops, chemical residues, paint residues, or bulk solids.

('62 Code, § 8-9-9) Penalty, see § 5-2-99

**§ 5-2-24 COMPLIANCE WITH EXISTING AUTHORITY.**

(A) Unless exception is granted by the approving authority the public sanitary sewer system shall be used by all persons discharging:

- (1) Wastewater;
- (2) Industrial waste;
- (3) Polluted liquids.

(B) Unless authorized by the Texas Water Commission, no person may deposit or discharge any waste included in division (A) of this section on public or private property into or adjacent to any:

- (1) Natural outlet;
- (2) Watercourse;
- (3) Storm sewer;
- (4) Other area within the jurisdiction of the city.

(C) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

('62 Code, § 8-9-10) Penalty, see § 5-2-99

**§ 5-2-25 APPROVING AUTHORITY REQUIREMENTS; REVIEW AND APPROVAL.**

(A) (1) If discharges or proposed discharges to public sewers deleteriously affect wastewater facilities, processes, equipment, or receiving waters; create a hazard to life or health; or create a public nuisance, then the approving authority shall require:

- (a) Pretreatment to an acceptable condition for discharge to the public sewers;
- (b) Control over the quantities and rates of discharge; and
- (c) Payment to cover the cost of handling and treating the wastes.

(2) The approving authority is entitled to determine whether a discharge or proposed discharge is included under subdivision (1) of this division.

(3) The approving authority shall reject wastes when:

(a) It determines that a discharge or proposed discharge is included under subdivision (1) of this division; and

(b) The discharges does not meet the requirements of subdivision (1) of this division. ('62 Code, § 8-9-11)

(B) (1) If pretreatment or control is required, the approving authority shall review and approve design and installation of equipment and processes.

(2) The design and installation of equipment, and processes must conform to all applicable statutes, codes, ordinances and other laws.

(3) 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. ('62 Code, § 8-9-12)

Penalty, see § 5-2-99

#### **§ 5-2-26 REQUIREMENTS FOR 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.

(C) The city's grease trap waste disposal fee shall be \$0.40 per gallon.  
( '62 Code, § 8-9-13) (Am. Ord. 97026, passed 9-22-97) Penalty, see § 5-2-99

#### **§ 5-2-27 REQUIREMENTS FOR BUILDING SEWERS.**

Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense and as required by the approving authority:

(A) Install an accessible and safely located control manhole;

(B) Install meters and other appurtenances to facilitate observation sampling and measurement of the waste; and

(C) Maintain the equipment and facilities.  
( '62 Code, § 8-9-14) Penalty, see § 5-2-99

#### **§ 5-2-28 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 (The particular analysis involved will determine whether a 24 hour composite sample from all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composites of all outfalls. Where applicable, 16 hour, eight hour or some other period may be required. Periodic grab samples are used to determine pH).

(B) Examination and analyses of the characteristics of waters and wastes required by the ordinance shall be:

(1) Conducted in accordance with the latest edition of "Standard Methods;" and

(2) Determined from suitable samples taken at the control manhole provided or other control point authorized by the approving authority.

(C) BOD and suspended solids shall be determined from composite sampling, except to detect unauthorized discharges.

(D) The city is entitled to select the time of sampling at its sole discretion so long as at least annual samples are taken to determine flow, BOD, and suspended solids of any user's discharge or class of user's discharge.

(E) City may select an independent firm or laboratory to determine flow, BOD, and suspended solids, if necessary.  
(‘62 Code, § 8-9-15)

#### **§ 5-2-29 USER CHARGE SYSTEM.**

(A) Persons making discharges of industrial waste into the city's system shall pay a charge to cover all costs of collection and treatment.

(B) When discharges of any waste into the city's system are approved by the approving authority, the city or its authorized representative shall enter into an agreement or arrangement providing:

(1) Terms of acceptance by the city;

(2) Payment by the person making the discharge, in accordance with the user charge system as established in division (E) herein;

(3) Sewer connection procedures and requirements shall be in accordance with the Uniform Plumbing Code as promulgated by the International Association of Plumbing and Mechanical Officials;

(4) A sewer application approved with connection fee paid; and

(5) Construction of sewer connections shall be approved by city inspectors prior to sewer use.

(C) Each user of the wastewater treatment system will be notified, at least annually, in conjunction with a regular sewer bill, of the rate and that portion of user charges or ad valorem taxes which are attributable to the operation and maintenance of the wastewater treatment system.

(D) The city will apply excess revenues collected from a class of users to the cost of operation and maintenance attributable to the class for the next year and adjust the rates accordingly.

(E) User charge system.

(1) The following symbols shall be defined as follows:

$C_t$  = Total operation and maintenance (O & M) costs per unit of time

$C_u$  = A user's charge for O & M per unit of time

$V_t$  = Total volume contribution from all users per unit of time

$V_u$  = Volume contribution from a user per unit of time

(2) Annual cost for Wastewater Department.

(a) Labor, utilities, supplies, equipment.

1998 S-2

**Kingsville - Public Works**

Collection System	\$ 118,564
3 M.G.D. Plant	245,508
1 M.G.D. Plant	91,591
Administration and Billing Department	<u>66,329</u>
	\$ 521,992

In the city the BOD, suspended solids, and other pollutant concentrations discharged by all users are approximately equal because all wastewater generated is of domestic nature. Our user charges can be developed on a volume basis in accordance with the model:

$$C_u = \frac{C_t(V_u)}{V_t}$$

$$\text{Cost per 1,000 gallons} = \frac{\text{Annual Cost}}{\text{Annual Volume Treated}} (1,000 \text{ gallons})$$

$$\text{The average annual volume to be treated} = (2.75 \text{ MG})(365) \\ \underline{1,003,750,000 \text{ gallons}}$$

$$C_u = \frac{\$521,992}{1,003,750} (1,000)$$

$$C_u = \$0.52/1,000 \text{ gallons}$$

(b) Sewer system fund bond retirement and interest.

$$\text{Annual payment} = \$80,635(1.50) = \$120,952$$

$$C_{u2} = \frac{\$120,952}{1,003,750,000 \text{ gal.}} (1,000)$$

$$C_{u2} = \$0.12/1,000 \text{ gal.}$$

(c) Equipment replacement fund.

Equipment replacement fund \$40,000  
(Required by Federal Reg. Vol. 38 #161)

$$C_{u3} = \frac{\$40,000}{1,003,750,000 \text{ gal.}} (1,000)$$

$$C_{u3} = \$0.04/1,000 \text{ gal.}$$

$$\begin{aligned}\text{Total User Charge} &= Cu_1 + Cu_2 + Cu_3 \\ &= 0.52 + 0.12 + 0.04 \\ &= \$0.68/1,000 \text{ gal.}\end{aligned}$$

('62 Code, § 8-9-16)

### **§ 5-2-30 ALLOWABLE DISCHARGE.**

A person discharging wastes into public sewers prior to the effective date of this subarticle may continue without penalty so long as he:

(A) Does not increase the quantity or quality of discharge without permission of the approving authority;

(B) Has discharged the waste at least six months prior to the effective date of this subarticle; and

(C) Applies for and is granted a permit no later than 30 days after the effective date of this subarticle.

('62 Code, § 8-9-17)

### **§ 5-2-31 CONDITIONS OF PERMITS.**

(A) The city may grant a permit to discharge to persons meeting all requirements of the savings clause provided that the person:

(1) Submit an application within 30 days after the effective date of this subarticle on forms supplied by the approving authority;

(2) Secure approval by the approving authority of plans and specifications for the facilities when required; and

(3) Has complied with all requirements for agreements or arrangements including, but not limited to, provisions for:

(a) Payment of charges;

(b) Installation and operation of the facilities and of pretreatment facilities, if required; and

(c) Sampling and analysis to determine quantity and strength when directed by the city; and

(4) Provides a sampling point, when requested by the city, subject to the provisions of this subarticle and approval of the approving authority.

(B) A person applying for a new discharge shall meet all conditions of division (A) of this section and secure a permit prior to discharging any waste.

('62 Code, § 8-9-18) Penalty, see § 5-2-99

#### **§ 5-2-32 POWER TO ENTER PROPERTY.**

(A) The Superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this subarticle.

(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 person(s) to maintain safe conditions, the city shall indemnify the person(s) against loss or damage of their property by city employees and against liability claims and demands for personal injury or property damage asserted against the person(s) and growing out of the sampling operation.

(D) The Superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter all private properties through which the city hold 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 provision 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.

('62 Code, § 8-9-19)

#### **§ 5-2-33 AUTHORITY TO DISCONNECT SERVICE.**

(A) The city may terminate water and wastewater disposal service and disconnect a customer from the system when:

(1) Acids or chemicals damaging to sewer lines or treatment process are released to the sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater;

(2) A governmental agency informs the city that the effluent from the waste water treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or

(3) The customer:

(a) Discharges waste or wastewater that is in violation of the permit issued by the approving authority;

(b) Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;

(c) Fails to pay monthly bills for water and sanitary sewer services when due; or

(d) Repeats a discharge of prohibited wastes to public sewers.

(B) If service is discontinued pursuant to subdivision (A)(2) of this section, the city shall:

(1) Disconnect the customer;

(2) Supply the customer with the governmental agency's report and provide the customer with all pertinent information; and

(3) Continue disconnection until such time as the customer provides pretreatment/additional pretreatment or other facilities designed to remove the objectionable characteristics from his wastes.

('62 Code, § 8-9-20)

#### **§ 5-2-34 NOTICE OF VIOLATION; CONTINUING PROHIBITED DISCHARGES.**

(A) The city shall serve persons discharging in violation of this subarticle with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory compliance. ('62 Code, § 8-9-21)

(B) No person may continue discharging in violation of this subarticle beyond the time limit provided in the notice. ('62 Code, § 8-9-22)

Penalty, see § 5-2-99

**§ 5-2-35 FAILURE TO PAY.**

In addition to sanctions provided for by this subarticle, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay the bill for water and sanitary sewer service when due.

('62 Code, § 8-9-24) Penalty, see § 5-2-99

**§ 5-2-36 ADDITIONAL CRIMINAL AND CIVIL REMEDIES.**

The city may pursue all criminal and civil remedies to which it is entitled under authority of the statutes and ordinances against a person negligently, wilfully or maliciously causing loss by tampering with or destroying public sewers or treatment facilities or continuing prohibited discharges.

('62 Code, §§ 8-9-23 and 8-9-25) (Ord. 07934, passed 12-17-79)

**§ 5-2-37 GREASE AND GRIT TRAPS REQUIRED.**

(A) *Commercial grease generators.* All commercial grease generators shall discharge all wastes from sinks, dishwashers and drains into an approved and properly maintained and functioning grease trap before entering the sanitary sewer drain. Such grease traps shall be inspected, cleaned, and repaired regularly, as needed, by the commercial grease generator at his/her expense.

(B) *Commercial/industrial grit generators.* All commercial/industrial grit generators shall discharge all grit trap wastes into an approved and properly maintained and functioning grit trap before entering the sanitary sewer drain. Such grit traps shall be inspected, cleaned and repaired regularly, as needed, by the commercial/industrial grit generator at his/her expense.  
(Ord. ORD-2004-32, passed 10-11-04)

**§ 5-2-38 CONSTRUCTION OF GREASE AND GRIT TRAPS AND SAMPLE PORT.**

(A) The construction requirements of this section shall apply to all new construction, expansions, and improvements involving plumbing changes, change in ownership, or change in occupancy, or otherwise in compliance with a determination of the director. In addition to new construction, expansions and improvements, all grease or grit generators shall construct sample ports in accordance with the plumbing code.

(B) Grease traps shall be constructed to prevent fats, oils or greases of animal or vegetable origin from entering the sanitary sewer in concentrations greater than 100 milligrams per liter. Grit traps shall be constructed to prevent petroleum-based oil and grease wastes and inorganic or other solids from entering the sanitary sewer. The size, type and location of each grease or grit trap must be approved by the director prior to any discharge therein.

(C) A commercial grease or grit generator shall install grease or grit traps so that they are easily accessible for cleaning and as close as possible to the source of production.

(D) A grease or grit generator shall install a sample port for ease in sampling the waste stream as close as possible to the connection with the city sanitary sewer main within the bounds of the facility property. The port shall be installed according to industrial standard and specifications of the director. The port shall be installed and maintained at the user's expense. The port shall be installed perpendicular to the effluent flow to allow visual observation and sampling. The port shall be accessible for monitoring authorities.

(E) If the director finds that there is a need for installation or upgrading of sample ports, grease traps, or grit traps on an existing establishment, the director may order the installation or upgrading of grease and/or grit traps on that existing establishments. Within 30 days of the order the generator shall present a construction plan to be approved by the director. Within 60 days of the approved construction plan all upgrading or installation shall be complete. If the director orders such installation, then the director shall serve notice of such order upon the grease or grit generator. Within ten days of receipt of such order, the grease or grit generator may demand a hearing to review such order, in which case the director shall schedule a hearing to review such order within 30 days of receiving the demand for review from the grease or grit generator. If a hearing to review the order is scheduled, the director shall serve notice of the hearing to review such order upon the grease or grit generator at least ten days before the date of such hearing. At the hearing to review the order, the grease or grit generator may present evidence, and the director may make new findings and issue new orders concerning the subject of the original hearing. After receiving notice of the order to install or upgrade ports or traps on an existing establishment, it shall be unlawful for a grease or grit generator to allow or cause any discharge into the sanitary sewer not in compliance with such order.

(F) A grease or grit generator with a water connection for cooling or operating a grease or grit trap shall protect it with a cross connection control device approved by the director prior to installation.

(G) Construction of items listed herein in accordance herewith or in accordance the director's specifications shall not constitute a defense to unlawful discharge and shall not limit the grease or grit generator's liability for any surcharge stated in this division.

(H) A grease or grit generator shall be liable for an administrative fee as established herein or by separate ordinance if a report is submitted more than ten days after the date set for submittal by this section or the director.

(Ord. ORD-2004-32, passed 10-11-04)

**§ 5-2-39 MAINTENANCE OF GREASE AND GRIT TRAPS.**

(A) A grease or grit generator shall have traps serviced as frequently as necessary to prevent bypass or overflow, and to insure proper operation of the trap. Such generators shall, at a minimum, have grease and/or grit traps serviced quarterly or as otherwise approved in advance in writing by the director.

(B) A grease or grit generator shall cause the liquid waste hauler to completely evacuate all grease and/or grit traps and other interceptors during servicing. It shall be unlawful for a grease or grit generator to allow in the servicing of his trap, the discharge of liquid, semi-solids, or solids to be discharged back into a grease or grit trap after servicing.

(C) A grease or grit generator shall sign the manifest presented by the liquid waste transporter and shall keep the receipt for a period of three years. Receipts shall be maintained at the facility for inspection by the authorized city representative upon request. The manifest will be inspected quarterly.

(D) It shall be unlawful for a commercial grease generator to allow frying vats to discharge into a grease trap at any time.

(E) A grease or grit generator shall properly monitor and maintain the collection point, so that wastewater samples taken from the collection point are representative of wastewater leaving the grease or grit trap. Authorized representatives will conduct quarterly inspections.

(F) It shall be unlawful for a grease or grit generator to divert sewage around a collection point into the sanitary sewer.

(G) If the director finds that a change in pumpage or servicing of a grease or grit trap is necessary for an establishment to meet the discharge limits stated in this division, the director may order a change in pumpage or servicing of a grease or grit trap. If the director orders a change in the pumpage or servicing, then the director shall serve notice of such order upon the grease or grit generator. Within ten days of receipt of such order, the grease or grit generator may demand a hearing to review such order, in which case the director shall schedule a hearing to review such order within 30 days of receiving the demand for review from the grease or grit generator. If a hearing to review the order is scheduled, the director shall serve notice of the hearing to review such order upon the grease or grit generator at least ten days before the date of such hearing. At the hearing to review the order, the grease or grit generator may present evidence, and the director may make new findings and issue new orders concerning the subject of the original hearing. After receiving notice of an order by the director to change the frequency an/or methods of pumpage or servicing, it shall be unlawful for a grease or grit generator to allow or cause any discharge into the sanitary sewer not in compliance with such order.

(H) The following fees shall be charged as services related to grease or grit trap testing and inspections:

(1) Pretreatment program:

Quarterly inspection fee .....\$25

(2) Miscellaneous fees:

Sampling and testing.....\$30

Outside lab analysis ..... \$25 plus actual cost of analysis

(Ord. ORD-2004-32, passed 10-11-04)

**§ 5-2-40 PROHIBITED DISCHARGES.**

No person may discharge to public sewers any waste which by itself or by interaction with other wastes may:

(A) Contain hazardous chemicals or by products;

(B) Interfere with wastewater treatment processes or operation of its facilities;

(C) Interfere with proper conveyance of sanitary flows in the course.

(Ord. ORD-2004-32, passed 10-11-04)

**§ 5-2-41 CHEMICAL DISCHARGES.**

(A) Fats, wax, grease, or oils, whether emulsified or not in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° F and 150° F (0° C and 65°C).

(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/or personnel at the wastewater facilities.

(Ord. ORD-2004-32, passed 10-11-04)

**§ 5-2-42 SAMPLING AND TESTING.**

(A) The city is entitled to select the time of sampling at its sole discretion so long as at least annual samples are taken to determine flow, BOD, and suspended solids of any user's discharge or class of user's discharge.

(B) The city may select an independent firm or laboratory to determine flow, BOD, and suspended solids, if necessary.

(Ord. ORD-2004-32, passed 10-11-04)

**§ 5-2-43 USER CHARGE SYSTEM.**

Persons making discharges of industrial waste into the city's system shall pay a charge to cover all costs of collection and treatment.

(Ord. ORD-2004-32, passed 10-11-04)

**§ 5-2-44 POWER TO ENTER PROPERTY.**

The Superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter all private properties through which the city holds a negotiated easement for the purposes of inspection, observation, measurement, sampling or repair.

(Ord. ORD-2004-32, passed 10-11-04)

***WASTE DISPOSAL PROCEDURES*****§ 5-2-50 DEFINITIONS.**

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

**GENERATOR.** Any person, by site or location, whose act or process produces a solid waste.

**SITE OPERATOR.** The holder of, or the applicant for a permit (or license) for a municipal solid waste site.

**SLUDGE.** Any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial facility.

**SOLID WASTE.** Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial and agricultural operations, and from community and institutional activities.

**TRANSPORTER (HAULER).** Those persons who transport sludges and similar waste.  
(’62 Code, § 8-11-1)



**§ 5-2-51 GENERATORS.**

Persons who generate sludge and similar waste shall determine if the waste is a hazardous waste. Generators shall not offer or allow transport or management of hazardous waste. Generators are also responsible for assuring that the waste they produce is managed properly and in accordance with applicable department rules.

('62 Code, § 8-11-2)

**§ 5-2-52 PERMIT REQUIRED.**

(A) All persons required to be permitted, licensed, or registered under state or federal law for the purpose of hauling liquid or semisolid waste shall have such valid permit, license, or registration.

(B) No person shall engage in the business of hauling liquid or semisolid wastes from grease traps or other similar activity within the city or dispose of such wastes to the city wastewater system, or landfill without a permit from the Public Works Department of the city. Application for a permit shall include the following:

(1) Name and address of the applicant;

(2) State or federal permit, license, or registration number(s);

(3) Description and vehicle registration number of each truck used by the applicant;

(4) Size of tank on each truck;

(5) Type of equipment used in removing contents from grease traps, or other containers, including a complete description of pumps and other appurtenances;

(6) Type of wastes to be hauled;

(7) Location where tank trucks will be dumped.

(C) A permit issued by the city excludes the hauling of hazardous wastes as defined by the Texas Department of Health, Texas Water Commission, and the United States Environmental Protection Agency.

(D) The information required in each application will be kept current at all times by the permit holder. Failure to keep such information current will be cause for revocation of the permit.

(E) The fee for such permit shall be \$5 annually. Such permits shall be valid for one year from May 1 through April 31 of the following year.

('62 Code, § 8-11-3) Penalty, see § 5-2-99

**§ 5-2-53 GENERAL REQUIREMENTS.**

A permit holder under this subarticle shall take all reasonable measures to prevent hazards to health which can arise from operations within the scope of this subarticle and shall be subject to the following requirements:

(A) No material taken from grease traps or other liquid or semisolid wastes, shall be disposed of other than in a manner and place approved by the Public Works Department. Approval shall be obtained at the time of issuance of the permit and no change in the approved procedure shall be made by the permittee without prior approval of the Public Works Department.

(B) Every vehicle and all auxiliary equipment used for the transportation or handling of the contents of any grease traps or other liquid or semisolid wastes, shall be liquid-tight, gas-tight and sound so that no foul material may spill or escape therefrom. The capacity of tanks on such vehicles shall be indicated with two inch numerals on the side of the truck.

(C) No vehicle or auxiliary equipment used for carrying, transporting, or handling the contents of grease traps, or other similar containers, shall be allowed to stand or remain overnight within 100 feet of occupied premises; nor shall the loading and unloading of such vehicles and transportation thereof through any street, place of premises consume an unreasonable period of time.

(D) Vehicles and equipment shall be kept in a clean condition and shall not be opened longer than is necessary when in use.

(E) Each vehicle used under this section shall have the permittee's permit number clearly inscribed on the side door panels and the rear face in numerals not less than three inches high. ('62 Code, § 8-11-4) Penalty, see § 5-2-99

**§ 5-2-54 INCOMPATIBLE WASTES.**

Mixing of incompatible wastes within the same container is prohibited. Haulers shall not use the same container or pumping equipment to collect or transport incompatible waste without first emptying and cleaning the container and equipment of all previously handled wastes. For purposes of this subarticle, **INCOMPATIBLE WASTE** means wastes which have different processing, storage, or disposal requirements.

('62 Code, § 8-11-5) Penalty, see § 5-2-99

**§ 5-2-55 WASTE CONTROL RECORDS.**

(A) All persons who haul wastes subject to control under this subarticle shall maintain a record of each individual collection and deposit. Such a record shall be a manifest trip ticket on a form provided by the city.

(B) The person who generates the waste shall complete and sign the applicable portion of the waste control record.

(C) The hauler shall complete and sign the applicable portion of the waste control record.

(D) The disposal site operator shall complete and sign the applicable portion of the waste control record.

(E) The hauler shall provide the Public Works Department with a copy of the waste control record at the time and place of disposal.

(F) The hauler shall retain a copy of the waste control record for a period of 12 months.  
(‘62 Code, § 8-11-6) Penalty, see § 5-2-99

#### **§ 5-2-56 ACCIDENTAL DISCHARGE PROCEDURES.**

In the event of a discharge of waste during collection or transportation, the collector or transporter must take appropriate action to protect human health and the environment, e.g., notify local law enforcement and health authorities; clean up any waste discharge that occurs during transportation; or take such action as may be required or approved by federal, state, or local officials having jurisdiction so that the waste discharge no longer presents a public health or environmental problem.

(‘62 Code, § 8-11-7)

#### **§ 5-2-57 STATE AND FEDERAL REQUIREMENTS.**

State and federal requirements shall apply in any case where they are more stringent than those in this subarticle.

(‘62 Code, § 8-11-9)

#### **§ 5-2-58 LIABILITY FOR VIOLATIONS; REVOCATION OF PERMIT.**

(A) A director, officer, employee, or other person authorized to act in behalf of a corporation or association having primary responsibility for the discharge of a duty to act imposed by a corporation or association is criminally responsible for a violation or violations under this subarticle to the same extent as if such person were criminally responsible under this subarticle.

(B) Repeated violations of this subarticle shall be cause for revocation of the permit.  
(‘62 Code, § 8-11-8)

***GROUND WATER DISCHARGE INTO SANITARY SEWER SYSTEM*****§ 5-2-70 AUTHORIZATION TO DISCHARGE; CONTAMINATED SOIL OR WATER.**

(A) The following requirements must be met for authorization to discharge or dispose of contaminated ground water in the city. ('62 Code, § 8-13-1)

(B) The city will not accept any contaminated soil for storage or disposal. Contaminated water will not be accepted for storage, but may be disposed of if prior arrangements are made and permit is obtained. ('62 Code, § 8-13-2)

(Ord. 91044, passed 12-16-91) Penalty, see § 5-2-99

**§ 5-2-71 PERMIT TO DISCHARGE; REQUIREMENTS.**

Permit to discharge contaminated ground water:

(A) All discharges of contaminated ground water will be made into the city's sanitary sewer system.

(B) The point of discharge shall be approved by the city.

(C) An initial analysis of the ground water must be done by a certified laboratory for total petroleum hydrocarbons, benzene, BTEX, lead and pH.

(D) Concentrations of above parameters shall not exceed TWC standards for discharge to surface waters.

(E) An analysis report must be submitted to the city. Copies of all subsequent analyses reports must be submitted to the city.

(F) Minimum testing frequency for the above parameters shall be once/month.

(G) Copies of all other reports required by TWC, TDH or EPA must also be submitted to the city.

(H) City representative shall have the right to enter property for purpose of inspection and/or testing.

(I) City may require installation of meter to document flow.

(J) Design information required by city includes: estimated volume to be treated/pumped, pumping rate (not to exceed five gpm), estimated time/duration of discharge, type of treatment, and schematics and/or drawings of proposed system.

('62 Code, § 8-13-3) (Ord. 91044, passed 12-16-91)

**§ 5-2-72 PERMIT FEES.**

(A) The fee for a ground water discharge permit shall be \$250. The permit will be valid for a period of five years.

(B) If a temporary permit is desired, either for a one time discharge or intermittent discharges, the fee shall be \$50 per year or any part thereof. A temporary permit shall be valid for one year.

(C) Bulk ground water may be delivered to the city's wastewater treatment plant and disposed of there for a cost of \$10 for each 500 gallons or part thereof.

(D) Once a system has been permitted and installed, the owner will be billed as a commercial customer depending on the flow to the city's sewer system. The flow may be metered or the design pumping rate may be used to calculate flow.

('62 Code, § 8-13-4) (Ord. 91044, passed 12-16-91)

**§ 5-2-73 REMOVAL OF SYSTEM; CITY NOTIFIED.**

When a treatment system is permanently removed from service, the city must be notified by the owner or his representative.

('62 Code, § 8-13-5) (Ord. 91044, passed 12-16-91)

**§ 5-2-74 SEPTIC TANK OR LIQUID WASTE DISPOSAL RATES.**

(A) Persons disposing of liquid waste originating from septic tanks or other domestic liquid waste shall comply with the Waste Disposal Procedures set out in §§ 5-2-50 through 5-2-58. Septic tank or other domestic liquid waste which originates in Kleberg County, but excluding grease liquid waste, sludge, or other industrial liquid waste, shall be charge as follows:

(1) All liquid waste produced by a generator of liquid waste at a specific location shall constitute a single load.

(2) Liquid waste generated within the city limits ..... \$.03 per gallon

(3) Liquid waste generated outside the city limits  
and within Kleberg County ..... \$.03 per gallon

(4) Liquid waste generated outside Kleberg County ..... \$.05 per gallon

(B) Liquid waste generated from grease traps shall be charged as per § 5-2-26(c).  
(Ord. 99039, passed 11-15-99; Am. Ord. ORD-2002-22, passed 9-9-02)

**§ 5-2-99 PENALTY.**

(A) Any person who violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty in § 1-1-99.

(B) Liquid or semisolid waste hauling without a permit shall be deemed a violation of §§ 5-2-50 through 5-2-58 and shall be punishable by a fine of not less than \$100 nor more than \$2,000. Each instance of violation shall constitute a separate offense. ('62 Code, § 8-11-8)

## **ARTICLE 3: WATER**

### **Section**

#### ***General Provisions***

- 5-3-1 Superintendent of Waterworks
- 5-3-2 Duty to report leaks and violations
- 5-3-3 Limitation of liability
- 5-3-4 Modifying agreements prohibited

#### ***Connections and Installations***

- 5-3-15 Application for connection
- 5-3-16 Meters
- 5-3-17 Separate meters required; exception for shared users
- 5-3-18 Private lines
- 5-3-19 Duty of owners to maintain lines
- 5-3-20 Fire hydrant meters

#### ***Regulations; Prohibitions***

- 5-3-30 Interfering with or injuring waterworks property
- 5-3-31 Storage tanks; fire hydrants
- 5-3-32 Unauthorized connections or use of water
- 5-3-33 Tampering or interfering with meters and the like
- 5-3-34 User must give notice to disconnect service
- 5-3-35 Water wells
- 5-3-36 Water conservation program adopted
- 5-3-37 Damage to cut-off valve
- 5-3-38 Cut-off valve cut-off fee
- 5-3-39 Requested service call

#### ***Rates and Charges; Billings***

- 5-3-50 Meter deposit
- 5-3-51 Minimum monthly charge; rate schedule
- 5-3-52 Tapping charges
- 5-3-53 Failure to pay; discontinue service

- 5-3-54 Interest charge on late payments
- 5-3-55 Waiver of late charges; exemption

### ***Delivery and Consumption of Water***

- 5-3-70 Declaration of policy, purpose and intent
- 5-3-71 Public involvement
- 5-3-72 Public education
- 5-3-73 Coordination with regional water planning groups
- 5-3-74 Authorization
- 5-3-75 Application
- 5-3-76 Definitions
- 5-3-77 Criteria for initiation and termination of drought response stages
- 5-3-78 Drought response stages
- 5-3-79 Enforcement
- 5-3-80 Variances
- 5-3-81 Severability

- 5-3-99 Penalty

**Cross-reference:**

*Water and sewer main extensions, see §§ 5-4-1 et seq.*

## **GENERAL PROVISIONS**

### **§ 5-3-1 SUPERINTENDENT OF WATERWORKS.**

There shall be appointed by the Manager a Superintendent of Waterworks and such Superintendent shall perform all duties placed upon him by the Manager and such other duties prescribed by the provisions of this code and the State of Texas.

('62 Code, § 3-1-1) (Ord. —, passed 9-22-58)

**Statutory reference:**

*For authority to own, construct, and operate water system, see TEX. LOC. GOV'T CODE, § 402.017*

### **§ 5-3-2 DUTY TO REPORT LEAKS AND VIOLATIONS.**

It shall be the duty of all employees of the city to report to the Superintendent of Waterworks any leaks or unnecessary waste of water.

('62 Code, § 3-1-5) (Ord. —, passed 9-22-48) Penalty, see § 5-3-99

**§ 5-3-3 LIMITATION OF LIABILITY.**

The city will not be responsible or liable for injuries or damages caused by or resulting from failure to furnish service of the kind and amount contracted for or injuries and damages resulting from the performance or nonperformance of any acts or things by the city required of it or in anyway connected with the furnishing of service by a city unless it be shown that the negligence of the city was the sole proximate cause of the injury or damage complained of.  
(‘62 Code, § 3-1-15)

**§ 5-3-4 MODIFYING AGREEMENTS PROHIBITED.**

No agent or employee of the city has the authority to amend, modify, alter or waive any of the terms and conditions of this article or to commit the city by making any promises or representations not contained herein.  
(‘62 Code, § 3-1-16) (Ord. 81003, passed 1-26-81)

***CONNECTIONS AND INSTALLATIONS*****§ 5-3-15 APPLICATION FOR CONNECTION.**

It shall be unlawful for any person to make any connection to the mains or pipes of the Waterworks System without first making application to the city, stating fully the several and various uses for which water is wanted, giving the name of the property, the number of the lot and block, name of the street and house number. Upon the payment of all fees, the Superintendent shall make, or have made, the necessary connections and furnish a cast iron curb stop box and curb cock and every premises not now equipped with the curb stop box and curb cock and connected with any water main, or being supplied with any water from the waterworks, shall have a separate service connection, curb stop box and curb cock installed by and at the expense of the owner of the premises. If the application is approved by the Superintendent of Waterworks, a permit will be issued.  
(‘62 Code, § 3-1-3) Penalty, see § 5-3-99

**§ 5-3-16 METERS.**

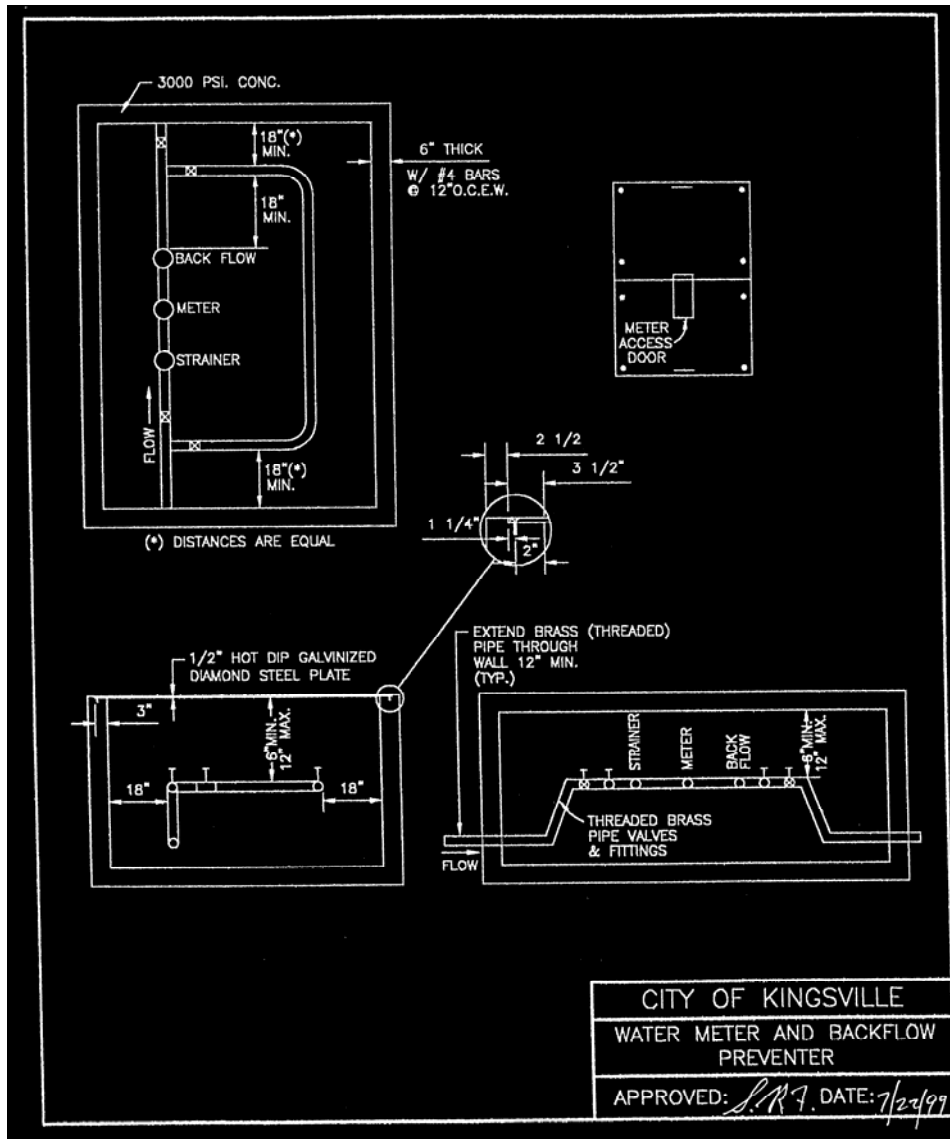
(A) *Location of meters.* The customer shall provide at a point on his premises, to be mutually agreed upon, a suitable location for the installation of meters and such other equipment as the city may deem necessary to enable it to deliver water under this article, and shall properly protect the city's property on the customer's premises and permit no one to inspect or tamper with the city's installation, apparatus or equipment.

(B) *Meter failure.* All meters whether private or belonging to the Waterworks System shall be set by the employees of the city. Should any meter fail to register the water delivered, then during the period of failure the bill shall be estimated at the average consumption of the last three billing periods as shown by the meter when in order.

(C) *Maintenance of metering equipment on customer's premises.* The customer shall maintain the premises in full compliance with all laws and local ordinances and the rules and regulations of the city. The duly authorized agents of the city shall have free access at all reasonable hours to the premises of the customer for the purpose of inspecting installation and equipment, reading meters, and for other purposes incident to the performance of the service agreement and this article. The city does not, however, assume any duty of inspecting the customer's plumbing, apparatus, machinery or equipment and will not be responsible therefor, and it is particularly understood that the customer assumes full responsibility for water furnished to him at any location beyond the point of delivery described at being the point where the water first leaves the meter and enters the line provided or owned by the customer who agrees to protect and hold harmless the city from all claims for injuries and damages to person and property occurring upon the premises of the customer.

('62 Code, § 3-1-6)

(D) All Commercial and Multi-family Development shall be required to provide a water meter vault as shown in Exhibit A below. This vault shall be used for providing uninterrupted water service while performing maintenance on the meter. It shall also be used for performing yearly testing and calibration of the water meter in use.



passed 10-25-99)

(Ord. 99033,

**§ 5-3-17 SEPARATE METERS REQUIRED; EXCEPTION FOR SHARED USERS.**

(A) Each consumer of water, living in a separate house, must have a separate connection and meter for each house; provided, that in cases of hardship or where a residence is not in reach of a city water main, arrangements may be made, at the option of the city, to secure water from another user of city water, in which case the minimum monthly charge shall be paid by the user through whose meter water is taken and an additional "minimum" charge of \$6.09 per month shall be made for each additional residence taking water through such meter. Each additional "minimum" will entitle user to 3,000 gallons per month. The regular minimum, the additional minimum and all water used over the minimums by such consumers, shall be charged to the customer having the meter. Garage apartments are to be considered as separate houses within the meaning of this section.

(B) For each consumer of water living in a separate apartment or duplex apartment within the same house, hotel, rooming or apartment house, a minimum charge of \$6.09 per month will be levied, the minimum charge will entitle the payer to 3,000 gallons per month without additional charge. The regular minimum, all additional minimums and all water used over and above the minimums will be charged to the consumer having the meter. This section does not apply to apartments located within the same apartment house which have a meter separate and apart from other apartments within the house. Apartments shall be construed to include one room efficiency apartments.

('62 Code, § 3-1-7) (Ord. 81003, passed 1-26-81) Penalty, see § 5-3-99

**§ 5-3-18 PRIVATE LINES.**

(A) All private lines outside the city limits will be maintained by their respective owners. The present lines must have installed, at the city limits, a shut-off valve within a reasonable time after the effective date of this article. Installations and cost of the valve to be provided for and made by the respective owners of the lines. Any future private lines will be required to have such a valve prior to connecting same with the city main or lines. ('62 Code, § 3-1-8)

(B) All future installation of private water lines must be inspected by the Superintendent of Waterworks or his authorized agent and meet the specifications laid down by the city. The owners of the future lines in consideration of permission to tie in to the city lines must agree in writing to give the city the right to determine the number of connections that may be made to the private line by others without city connections who live or will live in reasonable proximity to the private line. Purpose of this section is to cut down frequency and difficulty of maintenance work on the lines and to prevent numerous tie-ins of private lines to city lines with the consequent waste of time, labor and money.

('62 Code, § 3-1-9) Penalty, see § 5-3-99

**§ 5-3-19 DUTY OF OWNER TO MAINTAIN LINES.**

In the interest of water conservation, if at any time water lines and connections from the meter loop connection into the residence, house, barn, business, yard or similar places become rusted out, broken or in general deteriorated, it shall be the duty of the owner of the premises to place his lines in a good



and serviceable condition. The replaced and repaired lines must meet specifications laid down by the city for original installations.

('62 Code, § 3-1-10) (Ord. —, passed 9-22-48) Penalty, see § 5-3-99

### **§ 5-3-20 FIRE HYDRANT METERS.**

(A) *General.* Water furnished from a fire hydrant for temporary (less than six months) or permanent (more than six months) use shall be metered and billed the monthly rate in the manner as a commercial account using a three-inch meter. The meters shall be installed and removed by the city. The applicant is responsible for notifying the city when the meter is no longer needed. Applicants may not remove/relocate the meter. If an account is set up as a temporary service and is needed more than six months, the meter cost will be assessed at that time.

(B) *Fees.* The installation fee for a temporary or permanent fire hydrant meter is \$50.

(C) *Cost.* The cost for a permanent (more than six months) meter is \$1,000.  
(Ord. ORD-2003-22, passed 9-22-03)

## ***REGULATIONS; PROHIBITIONS***

### **§ 5-3-30 INTERFERING WITH OR INJURING WATERWORKS PROPERTY.**

It shall be unlawful for any person:

(A) To open or close any fire hydrant, meter box cover, or stop cock connected with the waterworks system of the city, or lift or remove the covers of any gate valves or shut-offs thereof, without the permission of the Superintendent of Waterworks;

(B) To interfere with, destroy, deface, 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, stand pipe, elevated tank, building or buildings, or appurtenances, fences, trees, shrubs, or fixtures or property appertaining to the Waterworks System;

(C) To interfere with or injure any reservoir, tank, fountain, hydrant, pipe, cock, valve or other apparatus pertaining to the Waterworks System, or to turn on or off without authority the water in any street hydrant or other water fixture, or to hitch or tie any animal thereto.

('62 Code, § 3-1-2) Penalty, see § 5-3-99

**§ 5-3-31 STORAGE TANKS; FIRE HYDRANTS.**

It shall be unlawful for any person:

(A) To go upon or ascend the stairway or steps, on any elevated water storage tank or stand pipe of the Waterworks System except by permission of the Waterworks Superintendent;

(B) To place any telegraph, telephone, electric light pole, or any obstruction whatsoever within three feet of any fire hydrant.

('62 Code, § 3-1-2) Penalty, see § 5-3-99

**§ 5-3-32 UNAUTHORIZED CONNECTIONS OR USE OF WATER.**

It shall be unlawful for any person:

(A) To resort to any fraudulent device or arrangement for the purpose of procuring water for himself/herself or others contrary to the city regulations or laws;

(B) To make or permit to be made any connections with the main or service pipes or the Waterworks System or to turn on or use the water of the system without first obtaining a permit therefor;

(C) To turn on the water supply to any building or to any supply pipe where the supply has been turned off for the nonpayment of the monthly water charge or for the violation of any rule or law.

('62 Code, § 3-1-2) (Am. Ord. ORD-2002-20, passed 9-9-02) Penalty, see § 5-3-99

**§ 5-3-33 TAMPERING OR INTERFERING WITH METERS AND THE LIKE.**

It shall be unlawful for any person:

(A) To cover over or conceal from view any water valve box, service or meter box;

(B) To remove any water meter or water meter lid that has been placed by the city, or to in any manner change, interfere with or tamper with any water meter or water meter lid;

(C) To directly or indirectly inhibit authorized representatives of the city from reading, checking or repairing water meter and/or meter box at all reasonable hours of the day.

('62 Code, § 3-1-2) (Ord. —, passed 9-22-58; Am. Ord. 81003, passed 1-26-81; Am. Ord. ORD-2002-20, passed 9-9-02) Penalty, see § 5-3-99

**§ 5-3-34 USER MUST GIVE NOTICE TO DISCONNECT SERVICE.**

Any person wishing to discontinue the use of water supplied from the Waterworks System must give notice thereof to the city, otherwise the charge will be entered until such notice has been given. The charge for shutting off and turning on of such service shall be \$1 and no allowance will be made in any case for less than 30 days.

('62 Code, § 3-1-4) (Am. Ord. ORD-2002-20, passed 9-9-02)

**§ 5-3-35 WATER WELLS.**

(A) It shall be unlawful for any person, natural or otherwise, to drill, own, possess, use, or benefit from any well for water within the city limits, provided that, such proscription shall not apply to any governmental entity which first receives permission to drill or maintain such well for water. Permission required herein may only be granted by the City Commission in open session.

(B) Any person who has previously been granted a permit by the City Commission for a well for water shall not be prohibited from use of such well under this section, subject to the following limitations all of which are applicable:

(1) A well for water may be used only upon attaining a water well license from the Building Official who, prior to issuing a water well license hereunder, shall require the applicant to prove a valid permit for a water well has previously been granted by the City Commission;

(2) A one time fee of \$25 per well for water shall be charged for each license, which said sum of \$25 shall be used for enforcement of the provisions of this section and not for revenue purposes; and

(3) Prior to issuing any water well license the Building Official shall insure that any well for water shall not be attached by any device of any nature to the city water supply without appropriate devices, as determined by the Building Official, to guarantee no pollution or contamination of the city water supply shall occur.

(C) Ninety days after the passage of this section, no application for or grant of a water well license shall be allowed or permitted. No previous permit granted for a well for water shall be valid 90 days after the passage of this section.

(D) No well for water, whether or not a license or permit exists, shall ever be connected to the city water supply without appropriate safeguards, as determined by the sole discretion of the Building Official, to ensure no pollution or contamination of the city water supply could ever occur. ('62 Code, § 3-1-17) (Ord. 83028, passed 7-18-83; Am. Ord. 95029, passed 11-13-95) Penalty, see § 5-3-99

**§ 5-3-36 WATER CONSERVATION PROGRAM ADOPTED.**

The Water Conservation and Drought Contingency Program is adopted by reference as if set out in full herein.

(Ord. 94020, passed 9-12-94)

**§ 5-3-37 DAMAGE TO CUT-OFF VALVE.**

The unintentional damage of a cut-off valve shall result in a fee of \$50 to the customer.

(Ord. ORD-2002-20, passed 9-9-02)

**§ 5-3-38 CUT-OFF VALVE CUT-OFF FEE.**

If a customer requests the city disconnect their cut-off valve for any reason, a fee of \$20 shall be charged to the customer. This section shall not apply to customers requesting permanent disconnection from service.

(Ord. ORD-2002-20, passed 9-9-02)

**§ 5-3-39 REQUESTED SERVICE CALL.**

If a customer requests a service call for the city to repair water service and upon inspection by the city the repair is determined to be on the customer's side, then the customer shall be charged as follows:

(A) \$25 per hour for labor; and

(B) If a backhoe is required, and additional \$45 per hour for equipment.

(Ord. ORD-2002-20, passed 9-9-02)

***RATES AND CHARGES; BILLINGS*****§ 5-3-50 METER DEPOSIT.**

(A) The city shall require of each utility customer a deposit with the city as security for the payment of bills owing and to become owing. Such deposits shall, at a minimum, be equal to two average monthly bills for service furnished as estimated by the city. The city may accept in lieu of a cash deposit, a bond or certificate of deposit as security for payment.

(B) Such deposit may be applied to the payment of any water, sewer or garbage charge overdue to the city. The deposit may also be applied to cover the expenses associated with replacing a damaged

(caused by other than normal use) or missing city garbage container. Any unused portion of the deposit shall be refunded to the customer at any time service is discontinued. Upon evidence that a customer has proved to be responsible in his payment of city bills, the city may refund the customer's deposit prior to discontinuance of service.

('62 Code, § 3-1-11) (Ord. 84030, passed 10-29-84) Penalty, see § 5-3-99

### § 5-3-51 MINIMUM MONTHLY CHARGE; RATE SCHEDULE.

(A) The following monthly rates shall be charged inside-city customers for the use of city water, provided that minimum monthly charges shall be made and bills rendered accordingly, under the standard water rates schedule as follows:

<i>Minimum Monthly Bill Water Service</i>					
<i>Meter Allowance Size</i>	<i>Single-Family Residential</i>	<i>Multi-Family Residential*</i>	<i>Commercial**</i>	<i>Irrigation</i>	<i>Gallons</i>
$\frac{5}{8}$ - $\frac{3}{4}$ inch	\$11.03	\$0.00	\$0.00	\$0.00	0
$\frac{5}{8}$ - $\frac{3}{4}$ inch	—	20.89	21.72	24.89	3,000
1 inch	22.60	25.41	27.46	31.20	5,000
1¼ inch	27.47	30.37	33.19	39.71	7,000
1½ inch	33.68	37.49	41.79	50.83	10,000
2 inch	49.13	51.71	58.99	73.05	16,000
3 inch	—	96.74	104.32	143.44	35,000
4 inch	—	156.00	160.86	236.05	60,000
6 inch	—	310.08	307.28	476.83	125,000
8 inch	—	—	585.90	—	200,000
* Includes apartments of 3 - 4 units.					
** Includes hotels, motels and apartments over 4 units.					

(B) The following monthly rates shall be charged outside-city customers for the use of city water, provided that minimum monthly charges shall be made and bills rendered accordingly, under the standard water rates schedule as follows:

## Kingsville - Public Works

<b>Minimum Monthly Bill Water Service</b>					
<b>Meter Allowance Size</b>	<b>Single-Family Residential</b>	<b>Multi-Family Residential*</b>	<b>Commercial**</b>	<b>Irrigation</b>	<b>Gallons</b>
$\frac{5}{8}$ - $\frac{3}{4}$ inch	\$12.68	\$0.00	\$0.00	\$0.00	0
$\frac{5}{8}$ - $\frac{3}{4}$ inch	—	24.03	24.98	28.63	3,000
1 inch	25.99	29.22	31.58	35.88	5,000
1¼ inch	31.60	34.93	38.17	45.67	7,000
1½ inch	38.73	43.11	48.06	58.45	10,000
2 inch	56.50	59.46	67.84	84.01	16,000
3 inch	—	111.26	119.97	164.95	35,000
4 inch	—	179.40	184.99	271.45	60,000
6 inch	—	356.59	353.37	548.36	125,000
8 inch	—	—	673.79	—	200,000
* Includes apartments of 3 - 4 units. ** Includes hotels, motels and apartments over 4 units.					

(C) For all water furnished in excess of the minimum allowance, the charge per 1,000 gallons of water delivered per month shall be shown as follows:

Single-family residential:	Inside City	Outside City
0 - 5,000 gallons	\$2.32	\$2.66
5,001 - 10,000 gallons	2.44	2.80
10,001 - 15,000 gallons	2.55	2.93
15,001 - 20,000 gallons	2.67	3.07
20,001 - 30,000 gallons	2.78	3.20
30,000 + gallons	3.59	4.13
Multi-family:	2.46	2.83
Commercial:	2.93	3.37
Irrigation	3.70	4.26



(D) These rates shall be applied to all water that passes through the meter regardless of whether the water is used or not.

(E) Industrial rates by special contract with the city.

('62 Code, § 3-1-12) (Ord. 89041, passed 9-11-89; Am. Ord. 94027, passed 9-28-94; Am. Ord. 97030, passed 9-29-97; Am. Ord. 2005-29, passed 8-10-05; Am. Ord. 2006-40, passed 9-25-06)

### **§ 5-3-52 TAPPING CHARGES.**

(A) All taps on active city water lines shall be made only by City Water Department personnel unless previously approved by the City Utility Director and/or City Engineer. Private contractors shall perform taps only under the direct supervision of city inspectors. Every person, firm or contractor

performing any tap on city water lines shall first secure a permit prior to excavating any city water line or commencing work. Tapping and meter fees shall be paid to the utility billing office prior to any tap being made.



(B) The fee schedule for water taps made by city personnel within the city limits shall be:

<i>Size of Tap</i>	<i>Fee</i>	<i>Meter Cost</i>
$\frac{5}{8}$ and $\frac{3}{4}$ inch	\$230	\$35
1 inch	250	100
1½ and 2 inch	325	250
6 inch	500	2,500
8 inch	630	3,650
12 inch	1,100	5,250

(C) Charges for tap sizes not listed shall be charged the next larger size tap fee. Taps which require a street or alley cut shall be assessed an additional fee based upon the estimated cost of repairing the street or alley. The charge for meters not listed shall be determined by actual cost to the city plus 10%. Applicants for service outside the city shall pay the in-city tap fee and meter cost as a minimum fee prior to the tap being made by the city. Outside city limit customers shall be billed for all actual costs in excess of the tap fee.

(D) Taps requiring a street cut using a trencher shall be assessed a fee of \$20 per linear foot of trench in addition to the tapping fee.

('62 Code, § 3-1-14) (Ord. 85062, passed 12-16-85; Am. Ord. ORD-2002-20, passed 9-9-02)  
Penalty, see § 5-3-99

### **§ 5-3-53 FAILURE TO PAY; DISCONTINUE SERVICE.**

(A) All charges for water service furnished or rendered by the City Water Department shall be due when rendered and are payable, unless otherwise specified, on or before the date shown on the face of the bill. Bills not paid by this date are in default and service shall be discontinued for such default.

(B) Notice of default shall be sent to the customer by U.S. Mail to the address shown on the customer's application.

(C) When service has been discontinued for failure to pay for services rendered, a charge of \$20 shall be levied for each and every meter discontinued. Where a meter has been removed or locked for failure to pay for services rendered, an additional charge of \$25 shall be levied for each and every meter removed or locked. These charges must be paid before such service shall be restored or water turned on. An additional fee of \$50 shall be charged for restoration of service after regular working hours; the payment shall be due at the time of service, such payment being accepted only in the form of check or money order.

(D) Failure to receive a bill in no way exempts a customer from payment of bills or the provisions of these terms and conditions.

(E) Any customer owing water, garbage or sewer bills, and removing to other premises where there are water connections or where connections are thereafter made, shall, before being permitted to use the water, pay all former delinquencies. Further, a customer's current unpaid water, sewer and garbage charges may be transferred to another premises where water service is currently in use when services are being rendered to the same person at the same time, and one is disconnected. ('62 Code, § 3-1-13) (Ord. 84030, passed 10-29-84) Penalty, see § 5-3-99

(F) It is the policy of the city to discontinue water service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for water service and all bills shall contain the address and telephone number for billing inquiries, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within eight days of the mailing of the second bill, service will be discontinued for nonpayment; and

(3) That any customer disputing the correctness of his or her bill shall have a right to present orally or in writing his or her complaint and contentions to the city official in charge of water billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(G) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the dispute procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(H) When it becomes necessary for the city to discontinue water service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with the charges listed in division (C) above.

(Am. Ord. ORD-2002-20, passed 9-9-02)

**Statutory reference:**

*Connection and disconnection for municipal utility service, see TEX. LOC. GOV'T CODE § 402.0025*

### **§ 5-3-54 INTEREST CHARGE ON LATE PAYMENTS.**

In addition to the terms and conditions stated in § 5-3-53, all customer classes shall pay a penalty if not paid by the due date printed on the customer's bill. The penalty shall be the greater of \$3 or 3% of the current billing due as stated on the bill. An interest charge shall be assessed on all accumulated arrears, penalties, and interest which are not paid by the subsequent month's billing. The interest charge



shall be the greater of \$3 or 4% per month and shall be assessed on all amounts shown as arrears, penalties or interest due.

('62 Code, § 3-1-13) (Ord. 89043, passed 9-11-89; Am. Ord. ORD-2002-20, passed 9-9-02)

#### **§ 5-3-55 WAIVER OF LATE CHARGES; EXEMPTION.**

Utility bills are due and payable by the 14th day after the date on the bill. The greater of \$3 or 3% of the bill due will be assessed as a late charge on bills not paid by the due date. However, the late service charge may be exempted for a period of 25 days upon request of an individual customer who is receiving social security benefits (retirement or disability) and is low income. Persons receiving social security benefits are considered low income if their sole source of support are social security payments and their outside income, if any, does not exceed \$3,850 annually.

('62 Code, § 3-1-13) (Ord. 90026, passed 6-25-90; Am. Ord. ORD-2002-20, passed 9-9-02)

#### **§ 5-3-56 BULK WATER PURCHASES.**

Prior to attaining water at the city public works facility, applicants are responsible for setting up a commercial account for bulk purchases with the city water department. Bulk water purchases shall be billed at the rate of \$4 per 1,000 gallons.

(Ord. ORD-2003-23, passed 9-22-03)

### ***DELIVERY AND CONSUMPTION OF WATER***

#### **§ 5-3-70 DECLARATION OF POLICY, PURPOSE AND INTENT.**

(A) In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the city hereby adopts the following regulations and restrictions on the delivery and consumption of water.

(B) Water uses regulated or prohibited under this drought contingency plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in § 5-3-79 of this subarticle.

(Ord. ORD-2002-14, passed 5-7-02)

**§ 5-3-71 PUBLIC INVOLVEMENT.**

Opportunity for the public to provide input into the preparation of the plan was provided by the city by means of public notice of public meeting to accept input on the plan.  
(Ord. ORD-2002-14, passed 5-7-02)

**§ 5-3-72 PUBLIC EDUCATION.**

The city will periodically provide the public with information about the plan, including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of a public meetings, utility bill inserts and/or publication in a newspaper of general circulation.  
(Ord. ORD-2002-14, passed 5-7-02)

**§ 5-3-73 COORDINATION WITH REGIONAL WATER PLANNING GROUPS.**

The service area of the city is located within Region N and the city has provided a copy of this plan to the Coastal Bend Regional Water Planning Group.  
(Ord. ORD-2002-14, passed 5-7-02)

**§ 5-3-74 AUTHORIZATION.**

The City Manager or his/her designee is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety and welfare. The City Manager or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this plan.  
(Ord. ORD-2002-14, passed 5-7-02)

**§ 5-3-75 APPLICATION.**

The provisions of this plan shall apply to all persons, customers, and property utilizing water provided by the city. The terms **PERSON** and **CUSTOMER** as used in the plan include individuals, corporations, partnerships, associations and all other legal entities.  
(Ord. ORD-2002-14, passed 5-7-02)

**§ 5-3-76 DEFINITIONS.**

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

**AESTHETIC WATER USE.** Water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

**COMMERCIAL AND INSTITUTIONAL WATER USE.** Water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants and office buildings.

**CONSERVATION.** Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

**CUSTOMER.** Any person, company, or organization using water supplied by the city.

**DOMESTIC WATER USE.** Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

**EVEN NUMBER ADDRESS.** Street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

**INDUSTRIAL WATER USE.** The use of water in processes designed to convert materials of lower value into forms having greater usability and value.

**LANDSCAPE IRRIGATION USE.** Water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

**NON-ESSENTIAL WATER USE.** Water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this plan;
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (5) Flushing gutters or permitting water to run or accumulate in any gutter or street;

(6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;

(7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;

(8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and

(9) Use of water from hydrants for construction purposes or any other purposes other than fire fighting.

**ODD NUMBERED ADDRESS.** Street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.  
(Ord. ORD-2002-14, passed 5-7-02)

#### **§ 5-3-77 CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES.**

(A) The City Manager or his/her designee shall monitor water supply and/or demand conditions on a weekly basis and shall determine when conditions warrant initiation or termination of each stage of the plan, that is, when the specified "triggers" are reached. Customer notification of the initiation or termination of drought response stages will be made by mail and/or publication in a newspaper of general circulation.

(B) The triggering criteria described below are based on groundwater capacity limits.

##### **(1) *Stage 1 Triggers - MILD Water Shortage Conditions.***

(a) Requirements for initiation. Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on water uses, defined in § 5-3-76 when the criteria described as follows occurs. The city will recognize that a mild water shortage exists when the capacity of the city's groundwater wells is equal to or less than 90% of the original capacity (approximately 5.0 million gallons per day), and the total daily water demand equals or exceeds 6.0 million gallons for three consecutive days.

(b) Requirements for termination. Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days.

##### **(2) *Stage 2 Triggers - MODERATE Water Shortage Conditions.***

(a) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in § 5-3-78 of this plan when the criteria described as follows occurs. The city will recognize that a moderate water shortage exists

when the capacity of the city's groundwater wells is equal to or less than 85% of the original capacity (approximately 4.6 million gallons per day), and the total daily water demand equals or exceeds 7.0 million gallons for three consecutive days.

(b) Requirements for termination. Stage 2 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 15 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

(3) ***Stage 3 Triggers - SEVERE Water Shortage Conditions.***

(a) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this plan when the criteria described as follows occurs. The city will recognize that a severe water shortage exists when the capacity of the city's groundwater wells is equal to or less than 80% of the original capacity (approximately 4.4 million gallons per day), and the total daily water demand equals or exceeds 7.5 million gallons for three consecutive days.

(b) Requirements for termination. Stage 3 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 30 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

(4) ***Stage 4 Triggers - EMERGENCY Water Shortage Conditions.***

(a) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of this plan when the criteria described as follows occurs. The city will recognize that an emergency water shortage exists when:

1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or

2. Natural or man-made contamination of the water supply source(s).

(b) Requirements for termination. Stage 4 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

(5) ***Stage 5 Triggers - WATER ALLOCATION.***

(a) Requirements for initiation. Customers shall be required to comply with the water allocation plan prescribed in § 5-3-78 of this plan and comply with the requirements and restrictions for ***Stage 4 - EMERGENCY Water Shortage Conditions*** of this plan when the City Manager determines that water shortage conditions threaten public health, safety and welfare.

(b) Requirements for termination. Water allocation may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 15 consecutive days. (Ord. ORD-2002-14, passed 5-7-02)

#### **§ 5-3-78 DROUGHT RESPONSE STAGES.**

The City Manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in § 5-3-77 of this plan, shall determine that a mild, moderate, severe, emergency or water shortage condition exists and shall implement the following notification procedures:

(A) *Notification.*

(1) Notification of the public. The City Manager or his/her designee shall notify the public by means of publication in a newspaper of general circulation, direct mail, and/or public service announcements.

(2) Additional notification. The City Manager or his/her designee shall notify directly or cause to be notified directly, the following individuals and entities:

- (a) Mayor and members of the City Commission;
- (b) Fire Chief;
- (c) City and/or County Emergency Management Coordinator
- (d) County Judge and Commissioners;
- (e) State Disaster District/Department of Public Safety;
- (f) TNRCC (required when mandatory restrictions are imposed);
- (g) Major water users;
- (h) Critical water users, i.e. hospitals; and
- (i) Parks/street superintendents and public facilities managers.

(B) ***Stage 1 Response - MILD Water Shortage Conditions.***

- (1) Goal. Achieve a voluntary 10% percent reduction in total water use.

(2) Supply management measures. The city will prohibit the use of ornamental fountains, reduce or discontinue flushing of water mains and schedule meetings with large water users, industrial and commercial to exchange information regarding methods of saving water.

(3) Voluntary water use restrictions.

(a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.

(b) All operations of the city shall adhere to water use restrictions prescribed for Stage 2 of the plan.

(c) Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

**(C) Stage 2 Response - MODERATE Water Shortage Conditions.**

(1) Goal. Achieve a 15% percent reduction in total water use.

(2) Supply management measures. Continue Stage 1 measures and implement any additional regulations and prohibitions.

(3) Water use restrictions. Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

(a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of midnight until 10:00 a.m. and between 8:00 p.m. and midnight on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five gallons or less, or drip irrigation system.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of midnight and 10:00 a.m. and between 8:00 p.m. and midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rises. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

(c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited except on designated watering days between the hours of midnight and 10:00 a.m. and between 8:00 p.m. and midnight.

(d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(e) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the city.

(f) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours midnight and 10:00 a.m. and between 8:00 p.m. and midnight. However, if the golf course utilizes a water source other than that provided by the city, the facility shall not be subject to these regulations.

(g) All restaurants are prohibited from serving water to patrons except upon request of the patron.

(h) The following uses of water are defined as non-essential and are prohibited:

1. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

2. Use of water to wash down buildings or structures for purposes other than immediate fire protection;

3. Use of water for dust control;

4. Flushing gutters or permitting water to run or accumulate in any gutter or street; and

5. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

**(D) Stage 3 Response - SEVERE Water Shortage Conditions**

(1) Goal. Achieve a 25% reduction in total water use.

(2) Supply management measures. Continuation of restrictions set forth in previous conditions and implementation of additional regulations or prohibitions.

(3) Water use restrictions. All requirements of Stage 2 shall remain in effect during Stage 3 except:

(a) Irrigation of landscaped areas shall be limited to designated watering days between the hours of midnight and 10:00 a.m. and between 8:00 p.m. and midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.

(b) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by the city.

(c) The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

**(E) *Stage 4 Response - Emergency Water Shortage Conditions***

(1) Goal. Achieve a 35% reduction in total water use.

(2) Supply management measures. Continuation of restrictions set forth in previous conditions and implementation of additional regulations or prohibitions by the South Texas Water Authority.

(3) Water use restrictions. All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

(a) Irrigation of landscaped areas is absolutely prohibited.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

(c) The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools is prohibited.

(d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(e) No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

(f) Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and midnight and shall be by means of handheld hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler system are prohibited at all times.

(F) **Stage 5 Response - WATER ALLOCATION.** In the event that water shortage conditions threaten public health, safety, and welfare, the City Manager is hereby authorized to allocate water according to the following water allocation plan:

(1) Single-family residential customers. The allocation to residential water customers residing in a single-family dwelling shall be as follows:

<b><i>Persons per household</i></b>	<b><i>Gallons per month</i></b>
1 or 2	6,000
3 or 4	7,000
5 or 6	8,000
7 or 8	9,000
9 or 10	10,000
11 or more	12,000

(a) **HOUSEHOLD** means the residential premises served by the customer's meter. **PERSONS PER HOUSEHOLD** includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer's household is comprised of two persons unless the customer notifies the city of a greater number of persons per household on a form prescribed by the City Manager. The City Manager shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the city offices to complete and sign the form claiming more than two persons per household. New customers may claim more persons per household at the time of applying for water service on the form prescribed by the City Manager. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the city on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the city in writing within two days. In prescribing the method for claiming more than two persons per household, the City Manager shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the city of a reduction in the number of person in a household shall be fined not less than \$ 100.

(b) Residential water customers shall pay the following surcharges:

\$5 for the first 1,000 gallons over allocation.  
 \$8 for the second 1,000 gallons over allocation.  
 \$16 for the third 1,000 gallons over allocation.  
 \$40 for each additional 1,000 gallons over allocation  
 Surcharges shall be cumulative.

(2) Master-metered multi-family residential customers. The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units (e.g., apartments, mobile homes) shall be allocated 6,000 gallons per month for each dwelling unit. It shall

be assumed that such a customer's meter serves two dwelling units unless the customer notifies the city of a greater number on a form prescribed by the City Manager. The City Manager shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every such customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the city offices to complete and sign the form claiming more than two dwellings. A dwelling unit may be claimed under this provision whether it is occupied or not. New customers may claim more dwelling units at the time of applying for water service on the form prescribed by the City Manager. If the number of dwelling units served by a master meter is reduced, the customer shall notify the city in writing within two days. In prescribing the method for claiming more than two dwelling units, the City Manager shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to timely notify the city of a reduction in the number of person in a household shall be fined not less than \$ 200. Customers billed from a master meter under this provision shall pay the following monthly surcharges:

- \$5 for 1,000 gallons over allocation up through 1,000 gallons for each dwelling unit.
- \$8, thereafter, for each additional 1,000 gallons over allocation up through a second 1,000 gallons for each dwelling unit.
- \$16, thereafter, for each additional 1,000 gallons over allocation up through a third 1,000 gallons for each dwelling unit.
- \$40, thereafter for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

(3) Commercial customers. A monthly water allocation shall be established by the City Manager, or his/her designee, for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes. The nonresidential customer's allocation shall be approximately 75% of the customer's usage for corresponding month's billing period for the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. Provided, however, a customer, 75% of whose monthly usage is less than 6,000 gallons, shall be allocated 6,000 gallons. The City Manager shall give his/her best effort to see that notice of each non-residential customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the city to determine the allocation. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if: (1) the designated period does not accurately reflect the customer's normal water usage; (2) one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Manager. Nonresidential commercial customers shall pay the following surcharges:

- (a) Customers whose allocation is 6,000 gallons through 20,000 gallons per month:

- \$5 per thousand gallons for the first 1,000 gallons over allocation.
- \$8 per thousand gallons for the second 1,000 gallons over allocation.

\$16 per thousand gallons for the third 1,000 gallons over allocation.  
\$40 per thousand gallons for each additional 1,000 gallons over allocation.

(b) Customers whose allocation is 21,000 gallons per month or more:

One times the block rate for each 1,000 gallons in excess of the allocation up through

5% above allocation.

Three times the block rate for each 1,000 gallons from 5% through 10% above allocation.

Five times the block rate for each 1,000 gallons from 10% through 15% above allocation.

Ten times the block rate for each 1,000 gallons more than 15% above allocation.  
The surcharges shall be cumulative.

As used herein, **BLOCK RATE** means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

(4) Industrial customers. A monthly water allocation shall be established by the City Manager, or his/her designee, for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be approximately 90% of the customer's water usage baseline. Ninety days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation shall be further reduced to 85% of the customer's water usage baseline. The industrial customer's water use baseline will be computed on the average water use for the 36-month period ending prior to the date of implementation of Stage 2 of the plan. If the industrial water customer's billing history is shorter than 36 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists. The City Manager shall give his/her best effort to see that notice of each industrial customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the city to determine the allocation, and the allocation shall be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased: (1) if the designated period does not accurately reflect the customer's normal water use because the customer had shutdown a major processing unit for repair or overhaul during the period; (2) the customer has added or is in the process of adding significant additional processing capacity; (3) the customer has shutdown or significantly reduced the production of a major processing unit; (4) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce water use is limited; (5) the customer agrees to transfer part of its allocation to another industrial customer; or (6) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Manager. Industrial customers shall pay the following surcharges:

(a) Customers whose allocation is 6,000 gallons through 20,000 gallons per month:

\$5 per thousand gallons for the first 1,000 gallons over allocation.

\$8 per thousand gallons for the second 1,000 gallons over allocation.

\$16 per thousand gallons for the third 1,000 gallons over allocation.

\$40 per thousand gallons for each additional 1,000 gallons over allocation.

(b) Customers whose allocation is 21,000 gallons per month or more:

One times the block rate for each 1,000 gallons in excess of the allocation up through

5% above allocation.

Three times the block rate for each 1,000 gallons from 5% through 10% above allocation.

Five times the block rate for each 1,000 gallons from 10% through 15% above allocation.

Ten times the block rate for each 1,000 gallons more than 15% above allocation. The surcharges shall be cumulative.

As used herein, **BLOCK RATE** means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

(Ord. ORD-2002-14, passed 5-7-02)

#### **§ 5-3-79 ENFORCEMENT.**

(A) No person shall knowingly or intentionally allow the use of water from the city for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by City Manager, or his/her designee, in accordance with provisions of this plan.

(B) Any person who violates this plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than \$100 and not more than \$1,000. Each day that one or more of the provisions in this plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this plan, the City Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby established at \$25, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(C) Any person, including a person classified as a water customer of the city, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any

such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this plan and that the parent could not have reasonably known of the violation.

(D) Any employee of the city, police officer, or other city employee designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this subarticle. The citation shall be prepared in duplicate and shall contain the name and address's of the alleged violator, if known, the offense charged, and shall direct him/her to appear in municipal court on the date shown on the citation for which the date shall not be less than three days nor more than five days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases. (Ord. ORD-2002-14, passed 5-7-02)

#### **§ 5-3-80 VARIANCES.**

(A) The City Manager, or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

(1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect.

(2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

(B) Persons requesting an exemption from the provisions of this subarticle shall file a petition for variance with the city within five days after the plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager, or his/her designee, and shall include the following:

(1) Name and address of the petitioner(s);

(2) Purpose of water use;

(3) Specific provision(s) of the plan from which the petitioner is requesting relief;

(4) Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this subarticle;

(5) Description of the relief requested;

(6) Period of time for which the variance is sought;

(7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date; and

(8) Other pertinent information.

(C) (1) Variances granted by the city shall be subject to the following conditions, unless waived or modified by the City Manager or his/her designee:

(a) Variances granted shall include a timetable for compliance; and

(b) Variances granted shall expire when the plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

(2) No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.

(Ord. ORD-2002-14, passed 5-7-02)

#### **§ 5-3-81 SEVERABILITY.**

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

(Ord. ORD-2002-14, passed 5-7-02)

#### **§ 5-3-99 PENALTY.**

(A) Any person who violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty provided in § 1-1-99.

(B) Violation of any of the provisions of § 5-3-35 shall constitute a misdemeanor and be punishable by a fine of not less than \$250 nor more than \$2,000 and each day shall constitute a separate offense, provided that, any violation of this section which results or could result in the pollution, endangering, or contaminating of the public water supply shall constitute a misdemeanor and be punishable by a fine not less than \$1,500 nor more than \$2,000 and each day shall constitute a separate offense. (Ord. 95029, passed 11-13-95)

(C) Any person, firm or corporation violating any of the provisions of the mandatory water use restrictions which have been formally initiated by the city and contained in the Water Conservation and Drought Contingency Program as adopted in § 5-3-36 shall be deemed guilty of a misdemeanor and upon conviction in the Municipal Court of the city shall be punished by a fine not to exceed the sum of \$500 for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense. (Ord. 94020, passed 9-12-94)

(D) A violation of §§ 5-3-32 through 5-3-34, §§ 5-3-37 through 5-3-39 and §§ 5-3-52 through 5-3-54 shall result in a fee of \$75 for the initial violation, \$150 for a second violation, and an additional \$150 fee for each additional violation not to exceed \$2,000.  
(Ord. ORD-2002-20, passed 9-9-02)

## ARTICLE 4: WATER AND SEWER MAIN EXTENSIONS

### Section

- 5-4-1 Purpose
- 5-4-2 Compliance with platting requirements; exception
- 5-4-3 Definitions
- 5-4-4 Connections to water and sewer mains; pro rata charges
- 5-4-5 Extension of water and sewer lines; application
- 5-4-6 Alternative method
- 5-4-7 Refund of cost of extension
- 5-4-8 Cost of on-site mains; temporary lines
- 5-4-9 Owner installation of water and sewer extensions; conditions
- 5-4-10 Lift stations and special installations
- 5-4-11 Inspection fee for privately installed mains
- 5-4-12 Availability of funds; credits to Water and Sewer System Fund
- 5-4-13 Enforcing payment

### **Cross-reference:**

*Sewers, see §§ 5-2-1 et seq.*  
*Water, see §§ 5-3-1 et seq.*

### **§ 5-4-1 PURPOSE.**

The intent and purpose of this article is to provide an equitable charge for water and sanitary sewer connections as a proportionate distribution of the cost of water and sanitary sewer main extensions to serve property in the city on a front foot basis. In case property or a tract of land is so situated or shaped that the front foot rule creates an inequitable basis as between it and other tracts of land in the city, then, in that event, the City Engineer shall determine the proper change in accord with the intent and purpose of this article. No person shall acquire any vested right under the terms and provisions of this article. The terms and provisions of this article shall be deemed to be severable, in that if any section, phrase, word or part thereof shall be deemed to be invalid, the same shall not affect the validity of the remaining portions of this article. ('62 Code, § 8-8-14) (Ord. —, passed 5-24-65)

**§ 5-4-2 COMPLIANCE WITH PLATTING REQUIREMENTS; EXCEPTION.**

It shall be unlawful to serve or connect any lot, tract or plot of land or any part thereof or for the use of the owner or purchaser of the land or any part thereof with water and sewer connections, unless and until such plan, plot or replot of such lot or tract of land shall conform to the platting requirements of the city and has been approved by the City Planning and Zoning Commission of the city.

('62 Code, § 8-8-13) Penalty, see § 1-1-99

**§ 5-4-3 DEFINITIONS.**

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

**CONSUMER.** The actual user of water from a city water connection.

**OFF-SITE APPROACH MAINS.** Water and/or sewer main totally outside a tract of land to be subdivided and developed for resale.

**ON-SITE MAINS.** Water and/or sewer main totally within or adjacent to a tract of land to be subdivided and developed for resale.

**PRO RATA.** A charge made against the consumer or property owner to pay for replacement or extension of water and sanitary sewer mains as provided for in this article.

**PROPERTY OWNERS.** A record title holder of premises served with water from a connection by the city.

**STANDARD SIZE SEWER MAIN.** A sewer main eight inches or more in diameter.

**STANDARD SIZE WATER MAIN.** A water main six inches or more in diameter.

**SUBSTANDARD SIZE SEWER MAIN.** A sewer main less than eight inches in diameter.

**SUBSTANDARD SIZE WATER MAIN.** A water main less than six inches in diameter.

**WATER DEPARTMENT.** The Water Department of the city.  
( '62 Code, § 8-8-1)

**§ 5-4-4 CONNECTIONS TO WATER AND SEWER MAINS; PRO RATA CHARGES.**

(A) The Water Works Department may extend water and sanitary sewer mains in the streets and alleys, or easements, within or outside the city limits of the city in order to permit connections by persons desiring and seeking water service and sanitary sewer service. A charge, which shall be

known as the "Pro Rata" shall be made against each lot or tract of land, and the owner thereof, whose water or sewer line shall be hereafter connected with any water mains or sewer mains in the city, and the charge shall be at the following rates, which rates are a portion of the total cost of such water and sewer mains:

(1) The actual cost per front foot of the entire frontage of the lot or tract of land to which water connections may be made.

(2) The actual cost per front foot of the entire frontage of the lot or tract of land to which sanitary sewer connections may be made.

(3) No lot or tract of land shall be allowed to be connected to the city water and sanitary sewer mains unless it has previously been platted according to §§ 15-3-86 and 15-3-89.

(B) The above front foot rates shall apply to property fronting on a street in areas platted into the usual rectangular lots or tracts of land, with a depth not to exceed 150 feet. Where lots or tracts have greater depth than 150 feet from the front street line, and are occupied, or are to be occupied exclusively as dwelling places, then the additional depth shall not be assessed. If the property is later subdivided, requiring an extension of mains to serve the same, then the terms of this article shall govern. On lots or tracts of land which extend through from one street to another, with frontage on both streets, and where the distance between the street lines is 260 feet or more, then the pro rata charges herein provided for shall be paid on both frontages when a connection is secured to the lot or tract. Where lots or tracts of land are irregular in size or shape, then pro rata charges shall be based upon equivalent rectangular lots or tracts using one front foot for each 150 square feet of area.

(C) Where lots or tracts are intended to be used for business, commercial or industrial purposes, and have a depth greater than 150 feet from the front street line, then the pro rata herein provided shall be paid on the frontage on all streets which the property may abut, minus 150 feet frontage for each corner of the property abutting a street intersection. Should the property be resubdivided whereby water or sewer main extensions are required to serve the same, the terms of this article shall apply and additional pro rata charges shall be made based on such additional street frontage.

(D) An exception to the normal pro rata charge for water and/or sewer may be made on any water and/or sewer line which runs along one or more sides of a one acre tract, or larger, which has not been subdivided and upon which a residence is existing. The City Engineer shall inspect the improvements on the property and use any existing structures such as driveways, garages, fences, area of yard maintenance, and the like, to help establish the amount of property which shall be assessed pro rata charge at the time of application from the owner. In cases where no structures other than the house are existing to denote property, the setbacks required on the side yard in the zoning article shall be used. This in no way will exempt the remainder of the property from being charged pro rata charges under this article at such time as it is platted or developed.

(E) In addition to the pro rata charge on water and sewer mains, the property owner must pay the tap charges as established by the city.

('62 Code, § 8-8-2) (Am. Ord. ORD-2002-21, passed 9-9-02)

**§ 5-4-5 EXTENSION OF WATER AND SEWER LINES; APPLICATION.**

(A) Upon request of the owner, or his agent, of a given lot or tract of and, for the purpose of this article known as "applicant," accompanied by the payment of the charges due under this article, the city may extend, lay or construct all necessary sanitary sewer and water mains, including valves and hydrants, a distance of 100 feet, plus the distance across the frontage necessary to provide the service for which application has been made. The applicant to be served shall be required to pay the charges herein provided for. The owner of all intervening property served by the given main extensions shall be required to pay the charges provided for herein at such time as their property is connected to the mains thus laid. Where an applicant for service secured an extension and service under this particular option for main extension, he shall pay the pro rata charges on all property owned by him and which is served by the requested extension. In applying the 100 feet rule, the required extension of the main shall be figured in such a manner as to leave out of the calculation that portion of any main adjacent to property already having other than a temporary water service and for which the pro rata charge thereon has been paid or credited under the terms of this article.

(B) This shall not apply to any subdivision already approved by the City Commission.

(C) An exception to the above 100 feet rule shall be made where two or more individual applicants desire water and/or sewer service and the nearest applicant is more than 100 feet from existing lines, the city may extend their mains upon payment of the charge due under this article provided there is one customer for every 100 feet of such extension, excluding street intersections and that portion of the extension adjacent to property already having other than temporary water and/or sewer service.

(D) All applicants for water and sewer lines shall be approved by the City Engineer prior to construction beginning.

('62 Code, § 8-8-3) (Am. Ord. ORD-2002-21, passed 9-9-02)

**§ 5-4-6 ALTERNATIVE METHOD.**

(A) At the option of the city, the following method for extending water and sewer mains may be used where the applicant's property is more than 100 feet from an existing water or sewer main. This method shall not be available for new subdivisions but shall be available only for use by an individual owner, person or corporation to secure water and sewer service for the individual's residence or place of business. Where eligible for this option, the owner may advance and pay into the city the entire pro rata cost as set forth in this article, to-wit:

(1) The actual cost per front foot for water extensions; and

(2) The actual cost per front foot for sewer extensions on all property served by the desired main extension, and the city, when the money has been actually deposited with the city, may construct the desired water or sewer main along the street, alley or easement.

(B) When an extension is requested by an industry or commercial concern using large quantities of water and cannot meet the requirements of one customer per 100 feet of extension, such extension may be made at the discretion of the governing body of the city provided 40% of the estimated annual revenue from such customer will support interest and principal payments on a 10 year loan covering the cost of such extension, the loan bearing interest at the rate of 6% per annum.

('62 Code, § 8-8-4) (Am. Ord. ORD-2002-21, passed 9-9-02)

#### **§ 5-4-7 REFUND OF COST OF EXTENSION.**

(A) Where extensions of water and sewer mains are required to serve property which has been subdivided or platted for development and resale, the city may construct such main upon deposit of the total cost of such extensions, including the cost of approach mains fronting property not owned by the developer, but necessary to connect the area for which application is made with the city water and sewer system.

(B) The developer will bear the total cost for construction of off site or approaching mains required to interconnect property to be developed with existing mains, the sizes to be determined by the city and with the only refunds to be the pro rata as collected by the Water Department.

(C) Any refund to the developer shall not exceed the cost of the pro rata charges if this means has been used to calculate the cost of water and sewer mains.

(D) There shall be a maximum of 10 years as the period of eligibility wherein the original depositor may obtain a refund of pro rata payments under this section. The period of eligibility shall begin as of the date of final inspection and acceptance of the extensions by the city.

('62 Code, § 8-8-5)

#### **§ 5-4-8 COST OF ON-SITE MAINS; TEMPORARY LINES.**

(A) The city will determine the size of on-site water and sewer mains necessary to serve the subdivided area, and the developer will defray the entire cost of such mains. When mains larger than those necessary to serve the subdivided area are required, the city will refund the incremental oversize cost upon acceptance of the system by the city. ('62 Code, § 8-8-6)

(B) Where temporary lines are constructed as an expedient to develop a particular area, such as, across easements within the subdivision for which no frontage can be connected, or where sewers are constructed which otherwise are not required in the ultimate plan of development for the sanitary sewer system, the developer will bear the total cost without refund.

('62 Code, § 8-8-7)

**§ 5-4-9 OWNER INSTALLATION OF WATER AND SEWER EXTENSIONS; CONDITIONS.**

(A) All water and sanitary sewer extensions provided for in this article shall be laid, constructed and installed by the city directly or by contract, except that the owner of a tract of land, or his duly authorized agent, may exercise the option of installing a complete water and sewer system at his own expense, in which event, that particular property would not be charged nor subjected to any additional pro rata charges for water or sewer mains. Plans and specifications for this work shall be prepared by a registered professional engineer and such plans shall bear his seal. It is further provided, that the water and sewer lines constructed through a private contractor shall be subject to inspection and to all requirements, specifications and regulations of this city code covering water and sewer mains to be connected to the systems of the city, and no private contract shall be let except upon the written approval of the City Engineer of the plans and specifications with the provision that all such water and sewer mains and all appurtenances thereto shall be and become the property of the city immediately upon their installation and construction, free and clear of all liens, claims and encumbrances. Where water and sewer mains are installed under this section by a private contractor, in no case shall a water main be constructed which is less than six inches in size, and in no case shall a sewer main be constructed which is less than eight inches in size at 0.4% grade. Any lesser grade shall be subject to approval by the City Engineer. The applicant shall pay the total cost up to and including six inch water lines and up to and including eight inch sewers; provided, that the grade conditions or the quantity of sewage does not require larger size mains. In the event larger water or sewer lines than are necessary to serve the area included in the tract owned by the developer are deemed necessary by the city, the city will bear the incremental cost for enlarging such mains over the above sizes, provided funds are available. The increment of cost borne by the city shall be determined on the basis of the average cost for comparable installations performed in the last 12 months for the city or on the basis of the bid price of qualified contractors under the terms of city requirements; provided, that in the event the bid price for larger mains than six inches as to water, and eight inches as to sewer, is not considered reasonable by the city, the city will not be obligated to proceed under the terms of this code.

(B) All construction and installation of water and sewer mains shall be supervised by inspectors of the city and all construction contracts shall be let upon the city standard specifications for materials and performance.

('62 Code, § 8-8-11) Penalty, see § 1-1-99

**§ 5-4-10 LIFT STATIONS AND SPECIAL INSTALLATIONS.**

In the event a lift station or other special installations are required the same shall be installed under separate agreements between the city and the developer.

('62 Code, § 8-8-12)

**§ 5-4-11 INSPECTION FEE FOR PRIVATELY INSTALLED MAINS.**

(A) Water and sewer lines installed by developers or private contractors for dedications to the city shall be assessed an engineering service fee to defray the cost of plan review, site inspections and acceptance. The charge shall be paid by the developer. The charge shall be based upon the number of linear feet of mains installed. The minimum charge shall be \$10 with charges assessed as herein set forth:

First 100 feet	\$0.25 per linear foot
Next 100 feet	\$0.20 per linear foot
Each foot over 200 feet	\$0.10 per linear foot

(B) The above fee shall be collected upon submission of the preliminary plat, or prior to connection to the city water or sewer system if a plat is not required.  
(‘62 Code, § 8-8-15) (Ord. 83029, passed 7-18-83)

**§ 5-4-12 AVAILABILITY OF FUNDS; CREDITS TO WATER AND SEWER SYSTEM FUND.**

(A) In no event shall the city be required to make extensions under the provisions of this article if there are no funds available on hand for the purpose. (‘62 Code, § 8-8-8)

(B) Any and all sums of money hereinafter collected as a fee or connection charge, at the rates set out in this article, shall be credited to the Water and Sewer System Fund of the city. (‘62 Code, § 8-8-10)

**§ 5-4-13 ENFORCING PAYMENT.**

Nothing herein shall be deemed in any way to be an exclusive method of enforcing the payment of the pro rata cost against the consumer and the property owners, and shall not be deemed in any manner to be a waiver of the city's right to assess the property owners and/or consumers concerned for cost of the installation of standard size water and sewer mains and to fix and enforce liens against the property, all which may be done as provided by ordinance in the manner prescribed by law.

(‘62 Code, § 8-8-9)





## **CHAPTER VII: TRAFFIC CODE**

### **Article**

- 1. TRAFFIC REGULATIONS**
- 2. STOPPING, STANDING AND PARKING**
- 3. RAILROADS**
- 4. BICYCLES**
- 5. TRAFFIC SCHEDULES**
- 6. PARKING SCHEDULES**
- 7. TRAFFIC CALMING DEVICES**
- 8. TRAFFIC CONTROL DEVICES**



## ARTICLE 1: TRAFFIC REGULATIONS

### Section

#### ***General Provisions***

7-1-1 Speed limits

#### ***School Zones***

7-1-15 Speed limits in school zones; special hours

7-1-16 No passing zones

#### ***Commercial Vehicles; Truck Routes***

7-1-25 Definitions

7-1-26 Trucks restricted; exceptions

7-1-27 Truck traffic in the city

7-1-28 Maintain maps and signs

#### ***Parades***

7-1-35 Short title

7-1-36 Definitions

7-1-37 Permit required; exceptions

7-1-38 Application requirements

7-1-39 Standards for issuance

7-1-40 Notice of rejection

7-1-41 Alternative permit

7-1-42 Contents of permit

7-1-43 Duties of permittee

7-1-44 Public conduct during parades

7-1-45 Revocation of permit

#### ***Temporary Street Closures***

7-1-50 Short title

7-1-51 Permit required; application

7-1-52 Issuance of permits; classification of events

7-1-53 Conditions and requirements for permit

7-1-54 Reimbursement for costs of the city

7-1-55 Revocation of permit and appeal of denial of permit

**Cross-reference:**

*Police Department, see §§ 3-4-1 et seq.*

*Traffic Schedules, see Ch. VII, Art. 5*

## **GENERAL PROVISIONS**

### **§ 7-1-1 SPEED LIMITS.**

(A) It shall henceforth be unlawful to operate a motor vehicle upon the streets, alleys, and ways in the city in excess of the following speeds:

(1) Fifteen miles per hour in all alleys.

(2) Thirty miles per hour within the city limits, except when a lower rate of speed is required or when a greater speed is permitted as set out and prescribed by Schedule I of Article 5, Traffic Schedules.

(B) For the purpose of this article, **ALLEY** shall be defined as the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, having no legal or official name and of 20 feet or less in width.

('62 Code, § 10-4-1)

## **SCHOOL ZONES**

### **§ 7-1-15 SPEED LIMITS IN SCHOOL ZONES; SPECIAL HOURS.**

(A) It shall be unlawful for any person to operate a motor vehicle of any kind or description at a speed in excess of the established speed limits as set forth herein in any school zone within the corporate limits of the city between the hours of 7:00 a.m. to 9:00 a.m. and 2:30 p.m. to 4:00 p.m., on Monday, Tuesday, Wednesday, Thursday, Friday or other designated school days; except that the speed limit on Monday, Tuesday, Wednesday, Thursday and Friday for Alice G.K. Kleberg School and Charles H. Flato School shall be as follows:

(1) 7:00 a.m. to 9:00 a.m. - 15 mph.

(2) 10:45 a.m. to 12:30 p.m. - 15 mph.

(3) 2:00 p.m. to 4:00 p.m. - 15 mph.

(B) On official school holidays falling on the above days, the speed limit will not apply unless controlled by a flashing light, then in such event the speed limit shall apply only when such light is flashing.

('62 Code, § 10-16-1) (Ord. 88023, passed 9-12-88)

**Statutory reference:**

*Powers and limitations of local authorities, see TEX. TRANS. CODE, §§ 542.202 and 542.203*

*Public hearing to consider school speed limits, see TEX. TRANS. CODE, § 545.357*

**§ 7-1-16 NO PASSING ZONES.**

When a yellow lens is illuminated with rapid intermittent flashes with a marked figure below indicating the speed as fixed by the City Commission at pedestrian, or school crossings, or at the entrance to or within any school zones, vehicles shall not proceed through the intersection, crosswalk, or school zone at a speed limit exceeding that fixed by the City Commission and marked on the signal device. When the signal device is emitting intermittent flashes, where the street is divided into traffic lanes by markings on the street, vehicles shall not change lanes while proceeding through any school zone, intersection, or school crossing. Where the street is not divided into traffic lanes by markings, the pedestrian crossing, school crossing or school zone shall be considered a no passing zone.

('62 Code, § 10-16-2)

**Statutory reference:**

*No passing zones, see TEX. TRANS. CODE, § 545.055*

**COMMERCIAL VEHICLES; TRUCK ROUTES**

**§ 7-1-25 DEFINITIONS.**

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

**COMMERCIAL BUS.** A self-propelled or towed vehicle other than a farm vehicle with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds, that is used on a public highway to transport passengers or cargo.

**DEVIATING TRUCK.** A truck that leaves and departs from a truck route while traveling inside the city.

**HEAVY AND/OR LARGE VEHICLES.** Any vehicles not designed or used primarily for transportation of property, and only incidently operated or moved over a street.

**TRAILER.** Any vehicle which is designed for the transportation of property and is drawn by a truck, and is intended to include semi-trailers.

**TRUCK.** Any motor vehicle, with a manufacturer's rated carrying capacity exceeding 2,000 pounds, that is designed, used or maintained primarily for the transportation of property. For purposes of this subarticle, gross vehicle weight may be determined by any police officer of the city from a visual inspection of the vehicle registration receipt that is required by TEX. TRANS. CODE, § 621.002 to be carried at all times on any such vehicle, or according to the manufacturer's rating.

**TRUCK ROUTE.** A way over certain streets, as designated herein, over and along which trucks coming into and going out of the city must operate. Unless otherwise designated, all truck routes are on state highways only.

('62 Code, § 10-17-1) (Am. Ord. ORD-2001-26, passed 11-13-01; Am. Ord. ORD-2002-06, passed 1-28-02)

#### **§ 7-1-26 TRUCKS RESTRICTED; EXCEPTIONS.**

(A) *Trucks restricted.* The operator of any truck or trailer, or the operator of any vehicle which has a capacity in excess of one ton according to the manufacturer's rating, including but not limited to commercial buses, shall drive or operate such truck, or such truck and trailer, or such vehicle, only over and along the truck routes established in Schedule III of Article 5, Traffic Schedules, and on the other designated streets over which truck travel is permitted. Trucks shall not park in a residential area.

(1) The only exception to not parking anywhere (on or off the road) in a residential area is for loading or unloading for a period not to exceed one hour, unless the loading or unloading cannot be completed in one hour in which case it should be completed as soon as possible but no longer than eight hours.

(2) For the purposes of reference in this article, the term trucks shall refer to any truck or trailer, or the operator of any vehicle which has a capacity in excess of one ton according to the manufacturer's rating including but not limited to commercial buses.

(3) Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by this Code or by other ordinance of the city or by state law, the officer finding such vehicle shall take its registration number, and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a police summons, in writing, on a form provided by the Clerk of the Municipal Court, for the driver to answer to the charge against him or her within the time and at the place specified in the notice.

(4) In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

(B) *Exceptions.* This subarticle shall not prohibit:



(1) *Operation on street of destination.* The operation of trucks upon any street where necessary to conduct business at a destination point, provided streets upon which such traffic is permitted are used until reaching the intersection nearest the destination point. It shall be a defense to a charge under this section that the person so charged show by competent evidence that the truck, truck-trailer, or other vehicle was making a delivery or pickup on the residential street.

(2) *Emergency vehicles.* The operation of emergency vehicles upon any street in the city.

(3) *Public utilities.* The operation of trucks owned or operated by the city, public utilities, any contractor or material man, while engaged in the repair, maintenance or construction of streets, street improvements, or street utilities within the city.

(4) *Detoured trucks.* The operation of trucks upon any officially established detour in any case where such truck could lawfully be operated upon the street for which such detour is established.

(5) *Light trucks.* Any truck with a manufacturer's rated carrying capacity not to exceed 2,000 pounds and is intended to include those trucks commonly known as pickup trucks and delivery trucks.

('62 Code, § 10-17-2) (Am. Ord. ORD-2001-26, passed 11-13-01; Am. Ord. ORD-2002-06, passed 1-28-02; Am. Ord. 2006-37, passed 9-25-06)

**Statutory reference:**

*Authority to regulate vehicle loads over municipal streets, see TEX. TRANS. CODE, § 621.303*  
*Designated routes in municipalities, see TEX. TRANS. CODE, § 623.072*

**§ 7-1-27 TRUCK TRAFFIC IN THE CITY.**

(A) *Outside origin.*

(1) *One inside destination point.* All trucks entering the city for a destination point in the city shall proceed only over an established truck route, and shall deviate only at the intersection with the street, upon which such traffic is permitted, nearest to the destination point. Upon leaving the destination point, a deviating truck shall return to the truck route by the shortest permissible route.

(2) *Multiple inside destination points.*

(a) All trucks entering the city for multiple destination points shall proceed only over established truck routes, and shall deviate only at the intersection with the street, upon which such traffic is permitted, nearest to the first destination point.

(b) Upon leaving the first destination point, a deviating truck shall proceed to other destination points by the shortest direction and only over streets upon which such traffic is permitted.

(c) Upon leaving the last destination point, a deviating truck shall return to the truck route by the shortest permissible route.

(d) Whenever possible, the truck shall return to the designated truck route, before

proceeding to the next destination point by the shortest direction from the truck route.

2007 S-9

(3) *Industrial or business zoned property.* Where the origin or destination of a delivery or pickup is industrial or business zoned property, which has access from both residential and through streets, trucks shall be requested to use only the through street, even though it may not be the shortest and most direct route.

(4) *Parking violations.* If unable to locate the person responsible for parking a vehicle in violation of this section, the officer shall affix a parking summons to the vehicle, and the presumption that the registered owner was the violator shall apply.

(B) *Inside origin.*

(1) *Outside destination point.* All trucks, on a trip originating in the city and traveling in the city for a destination point outside the city, shall proceed, by the shortest direction over streets on which such traffic is permitted, to a truck route as herein established.

(2) *Inside destination points.* All trucks, on a trip originating in the city and traveling in the city for destination points in the city, shall proceed only over streets upon which such traffic is permitted.

('62 Code, § 10-17-5) (Am. Ord. ORD-2001-26, passed 11-13-01)

## § 7-1-28 MAINTAIN MAPS AND SIGNS.

(A) *Clerk maintains maps.* The Chief of Police shall keep and maintain accurate maps setting out truck routes and streets upon which truck traffic is permitted; the maps shall be kept on file in the Police Department and shall be available to the public.

(B) *Chief of Police maintains signs.* The Chief of Police of the city shall cause all truck routes to be clearly sign-posted to give notice that this subarticle is in effect.

('62 Code, § 10-17-6) (Ord. 82019, passed 4-12-82; Am. Ord. ORD-2001-26, passed 11-13-01)

## PARADES

### § 7-1-35 SHORT TITLE.

This subarticle shall be known and may be cited as the "Parade Ordinance of the City."  
( '62 Code, § 6-13-1)

**Statutory reference:**

*Authority to regulate parades, see TEX. TRANS. CODE, § 545.065(c)*

**Cross-reference:**

*Police Department, see §§ 3-4-1 et seq.*

**§ 7-1-36 DEFINITIONS.**

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

**CHIEF OF POLICE.** The Chief of Police of the city.

**PARADE.** Any parade, march, demonstration, public assemblage, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street, park, alley or plaza or other public thoroughfare in the city.

**PARADE PERMIT.** A permit as required in this subarticle.  
(‘62 Code, § 6-13-2)

**§ 7-1-37 PERMIT REQUIRED; EXCEPTIONS.**

(A) No person shall engage in, participate in, aid, form or start any parade unless a parade permit shall have been obtained from the Chief of Police.

(B) This section shall not apply to:

(1) Funeral processions;

(2) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities, and will not interfere with the normal movement of traffic;

(3) A governmental agency acting within the scope of its functions.  
(‘62 Code, § 6-13-3)

**§ 7-1-38 APPLICATION REQUIREMENTS.**

(A) A person seeking issuance of a parade permit shall file an application with the Chief of Police on forms provided by such officer.

(B) The filing procedure shall be as follows:

(1) *Filing period.* An application for a parade permit shall be filed with the Chief of Police not less than 10 days nor more than 30 days before the proposed parade date.



(2) *Contents.* The application for a parade permit shall set forth the following information:

(a) The name, address and telephone number of the person seeking to conduct such parade;

(b) If the parade is to be held for or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;

(c) If the parade is to be held by or for any person other than the applicant, the applicant shall file a writing from that other person showing authority to make the application;

(d) The name, address and telephone number of the person who will be parade chairman and who will be responsible for its conduct;

(e) The date when the parade is to be conducted;

(f) The proposed route, the initial starting point and the disbanding area;

(g) The approximate number of persons who, and animals and vehicles which will constitute such parade, the type of animals, and description of the vehicles;

(h) The time when such parade will start and terminate;

(i) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be used;

(j) The location by streets of any assembly areas for such parade;

(k) The time at which units of the parade will arrive at the assembly area;

(l) The interval of space to be maintained between units of such parade, and the estimated time past a given point;

(m) Any other information which the Chief of Police shall find necessary under § 7-1-39;

(n) The purpose of the parade.

(3) *Late applications.* The Chief of Police, where good cause is shown may consider any application filed after the deadline prescribed in subdivision (B)(1) of this section. ('62 Code, § 6-13-4)

**§ 7-1-39 STANDARDS FOR ISSUANCE.**

(A) The Chief of Police is instructed to uniformly treat each application in a just, fair and nondiscriminatory manner bearing in mind that the time, place, duration and manner of use of the public streets, parks and other public ways and places for parades shall be subordinated to the public safety, comfort and convenience, the maintenance of order and avoidance of congestion.

(B) The Chief of Police shall issue a permit when, from a consideration of the application, he finds that:

(1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic near its route;

(2) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas near there as to prevent normal police protection to the city;

(3) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas near there;

(4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas near such assembly areas;

(5) The conduct of such parade will not interfere with the movement of fire fighting equipment en route to a fire;

(6) The conduct of the parade is not likely to cause injury to persons or property, to result in or to provoke disorderly conduct or create a disturbance;

(7) The parade is scheduled to move from its point of origin to its point of termination without unreasonable delays en route.  
(‘62 Code, § 6-13-5)

**§ 7-1-40 NOTICE OF REJECTION.**

The Chief of Police shall act upon the application for a parade permit within five days after filing thereof. If the Chief does not approve the application, he shall mail to applicant, within five days after the date upon which the application was filed, a notice of his action stating the reasons for his denial of permit. Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Commission. The Commission shall hear same as soon as practicable.  
(‘62 Code, § 6-13-6)

**§ 7-1-41 ALTERNATIVE PERMIT.**

The Chief of Police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police. An alternate parade permit shall conform to the requirements of, and shall have the effect of a parade permit under this subarticle.

('62 Code, § 6-13-7)

**§ 7-1-42 CONTENTS OF PERMIT.**

Each parade permit shall state the following information:

- (A) Starting time;
- (B) Minimum speed;
- (C) Maximum speed;
- (D) Maximum interval of space to be maintained between the units of the parade;
- (E) The portions of the streets to be traversed that may be occupied by the parade;
- (F) The maximum length of the parade in miles or fractions thereof;

(G) Such other information as the Chief of Police shall find necessary to the enforcement of this subarticle.

('62 Code, § 6-13-8)

**§ 7-1-43 DUTIES OF PERMITTEE.**

A permittee shall comply with all permit directions and conditions and with all applicable laws and ordinances.

('62 Code, § 6-13-9)

**§ 7-1-44 PUBLIC CONDUCT DURING PARADES.**

(A) *Interference.* No person shall hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(B) *Driving through parades.* No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(C) *Parking on parade route.* The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway or part thereof constituting a part of the route of a parade. The Chief of Police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

('62 Code, § 6-13-10)

#### **§ 7-1-45 REVOCATION OF PERMIT.**

The Chief of Police shall have the authority to revoke a parade permit issued under § 7-1-39. ('62 Code, § 6-13-11) (Ord. —, passed 11-2-70)

### ***TEMPORARY STREET CLOSURES***

#### **§ 7-1-50 SHORT TITLE.**

This subarticle shall be known and may be cited as the “Temporary Closure of Streets Ordinance of the city.”

(Ord. ORD-2002-19, passed 8-26-02)

#### **§ 7-1-51 PERMIT REQUIRED; APPLICATION.**

No streets shall be closed temporarily nor shall any street right-of-way be used in such a manner as to impede the free flow of traffic without the issuance of a permit by the city as provided herein or in §§ 7-1-35 through 7-1-45 of this code. Any sponsor of an event desiring to close one or more streets for said event shall make application therefore on forms furnished by the city containing such information as the city may require including, but not limited to, the date, time and location of the event; the name of the sponsoring person(s) or organization; the purpose of the event; and a diagram illustrating the street or streets to be closed and the layout of activities. The application must be submitted at least seven working days prior to a neighborhood event and at least 30 working days prior to small and large events and must be accompanied by an application fee as hereinafter provided to cover administrative costs.

(Ord. ORD-2002-19, passed 8-26-02)

## § 7-1-52 ISSUANCE OF PERMITS; CLASSIFICATION OF EVENTS.

(A) Upon the review and recommendation of the application by the city, permits may be issued for the temporary closure of a street or streets in the following manner:

(1) Neighborhood events. For neighborhood events at which no admission is charged and no items are sold and which require the closure of residential neighborhood streets for less than 12 continuous hours, permits may be granted by the city manager or his designated representative. Notice of the granting of such permits shall be provided to the city commission. No permit application fee is required for such events.

(2) Small events. For small events which require the closure of one or more minor streets adjacent to churches, schools, or other public institutions, not involving extensive detouring of traffic and not requiring closure of more than 12 continuous hours, permits may be granted by the City Manager or his or her designated representative. Notice of the granting of such permits shall be provided to the City Commission. For the purposes of this section, the term **MINOR STREETS** shall mean any streets other than arterial and collector streets as classified on the urban transportation plan. A permit application fee of \$100 is required for such events.

(3) Large events. For all other events, which shall be treated as large events, including but not limited to, events which require the closure of one or more major streets or involve more extensive detouring of traffic, permits may only be issued by the City Manager. Notice of the granting of such permits shall be provided to the City Commission. A permit application fee of \$150 is required for such events.

(B) Prior to the issuance of a permit requesting the temporary closure of a residential street, the city shall notify residents of the affected block(s) that a permit for temporary street closure has been requested. Only two temporary street closure permits may be issued in a calendar year for any one residential block.

(C) This section shall not apply to:

(1) Students going to and from school classes or participating in school sponsored events, providing such conduct is under the immediate direction and supervision of the proper school authorities, and will not interfere with the normal movement of traffic;

(2) A governmental agency, such as the KCVB, acting within the scope of its functions;  
or

(3) A City Commission supported event, such as National Night Out.  
(Ord. ORD-2002-19, passed 8-26-02)

## **§ 7-1-53 CONDITIONS AND REQUIREMENTS FOR PERMIT.**

(A) Prior to the temporary closure of any street, the sponsor must agree to comply with the conditions and requirements for such temporary closure imposed by the city including, but not limited to, the following:

- (1) All events shall be open to the public and admission shall be free; however, vendors may be charged at the sponsor's discretion;
- (2) All profits derived from the event shall be used for charitable purposes;
- (3) The sponsor shall agree to indemnify and forever save harmless the city from any claims arising from the event;
- (4) Sufficient barricades shall be obtained by the sponsor and placed in accordance with a plan approved by the City Engineer;
- (5) Written approval for the temporary street closure must be obtained from:
  - (a) Eighty percent of the managing tenants or, if the property is vacant, managing property owners of the property abutting that portion of the street to be closed to vehicular traffic; and
  - (b) For the Downtown Merchant District area only (bounded by Third Street, Eleventh Street, Kleberg Avenue & Yoakum Street), 80% of the managing tenants, or, if the property is vacant, managing property owners of the property abutting that portion of the street to be closed to vehicular traffic.
- (6) Adequate restroom facilities must be provided to accommodate the needs of the public;
- (7) All other permits required by the state or any other public authority must be obtained by the sponsor at least two weeks prior to the event;
- (8) All security shall be provided by the sponsor;
- (9) Any construction of booths, stages, displays, electrical services and plumbing shall comply with the relevant city codes and shall be in accordance with the layout approved in the permit;
- (10) A sufficient supply of potable water shall be supplied within the event site;
- (11) Adequate first aid stations shall be provided by the sponsor;
- (12) The sponsor shall provide continuous cleaning of the site during the event and at the conclusion of the event restore the site to the same condition it was in prior to the event. Any damaged public property shall be restored by the sponsor upon conclusion of the event;

(13) Vehicles shall be prohibited from parking on grass areas within the street right-of-way. Vehicles found parked on areas within the street right-of way shall be towed at the owner's expense;

(14) No paint or other markings shall be permitted which in any way obliterate or deface any pavement markings;

(15) Provision shall be made for the free passage of emergency vehicles into the event area in case of emergency;

(16) The City Commission may authorize a regularly scheduled event to charge an admission fee;

(17) The City Commission by motion may authorize temporary closure of a street for producing a historical, cultural, documentary, promotional, or other similar motion picture, or for conducting a comparable event, which will promote the city. In addition, to the application fee required by § 7-1-52, before the permit is issued the sponsor shall pay the same occupancy charges that would be required by § 15-1-11 for a contractor occupying public right-of-way during erection, construction or repair of a building;

(18) The sponsor applying for a temporary street closure permit affecting a residential street shall live on the block(s) to be closed; and

(19) The sponsor shall agree to abide by all other city ordinances, including but not limited to health, safety, and nuisance ordinances, in the preparation, holding, and clean-up of the event.

(B) In addition to the foregoing conditions and requirements, the city may require such other conditions or requirements as are reasonably necessary to fit the particular needs of the event in order to ensure the public safety and protect public property.  
(Ord. ORD-2002-19, passed 8-26-02)

#### **§ 7-1-54 REIMBURSEMENT FOR COSTS OF THE CITY.**

For any event requiring the temporary closure of one or more streets the sponsor must agree to either:

(A) Pay to the city 4% of the gross receipts derived from the event to defray the public expenses involved in producing the event; or

(B) Pay to the city an amount equal to the actual costs and expenses incurred by the city cleaning the site after the event and any other actual expenses of the city associated with the event. The city shall require a cleaning deposit not to exceed \$15.  
(Ord. ORD-2002-19, passed 8-26-02)

#### **§ 7-1-55 REVOCATION OF PERMIT AND APPEAL OF DENIAL OF PERMIT.**

By motion, the City Commission shall have the authority to revoke a temporary street closure permit issued under § 7-1-52 or to hear the appeal of a denial for a temporary street closure permit. The City Commission may reverse a denial for a temporary street closure permit by three affirmative votes. The City Commission may also waive any or all requirements of this subarticle with three affirmative votes.

(Ord. ORD-2002-19, passed 8-26-02)

## ARTICLE 2: STOPPING, STANDING AND PARKING

### Section

#### ***General Provisions***

- 7-2-1 Parking spaces marked
- 7-2-2 Parking in alleys
- 7-2-3 Stopping, standing or parking
- 7-2-4 Parking not to obstruct traffic
- 7-2-5 Parking on narrow streets
- 7-2-6 Stopping, standing or parking near hazardous or congested places

#### ***Handicapped Parking***

- 7-2-15 Definitions
- 7-2-16 Sign requirements
- 7-2-17 Unauthorized parking
- 7-2-18 Blocking access for disabled prohibited
- 7-2-19 Improper use of identification card
- 7-2-20 Absence of tag or card on vehicle presumption of illegality

#### ***Statutory reference:***

*Privileged parking, see TEX. TRANS. CODE, §§ 502.253 and 681.001 et seq.*

#### ***Cross-reference:***

*Parking Schedules, see Ch. VII, Art. 6*

*Parking interfering with containers, see § 5-1-21*

### **GENERAL PROVISIONS**

#### **§ 7-2-1 PARKING SPACES MARKED.**

The Mayor or employees of the city as he shall select, shall place lines or marks on the curb or on the street in the area to designate the parking space to be used in the area, and each vehicle shall park within the lines or markings so established. It shall be unlawful and an offense to park any vehicle across any such line or mark or to park any vehicle in such a way that the same shall not be within the area so designated by such line or markings.

('62 Code, § 10-18-2) (Ord. —, passed 10-7-68) Penalty, see § 1-1-99

**§ 7-2-2 PARKING IN ALLEYS.**

(A) Except for loading and unloading, it shall be unlawful for any person to stop, stand or park a vehicle within the alleys noted below. The time limit for such loading or unloading shall be no more than 15 minutes. This section applies to the alleys located within the area described by the following bounds:

- (1) Kleberg Avenue to Yoakum Avenue from 6th Street to 10th Street;
- (2) Kleberg Avenue to King Avenue from 6th to 10th Street; and
- (3) King Avenue to Kenedy Avenue from 6th Street to 14th Street.

(B) It shall be unlawful for any person to park a vehicle within any alley of the city in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic. It shall be unlawful for a person to stop, stand or park a vehicle within any alley of the city in such a position as to block the driveway entrance to any abutting property.

(Ord. ORD-2001-13, passed 6-11-01) Penalty, see § 1-1-99

**§ 7-2-3 STOPPING, STANDING OR PARKING.**

(A) It shall be unlawful for any person to stop, stand or park a vehicle:

- (1) On the roadway side of a vehicle stopped or parked at the edge or curb of a street;
- (2) On a sidewalk;
- (3) In an intersection;
- (4) On a crosswalk;
- (5) On the roadway;
- (6) Alongside or opposite a street excavation or obstruction, if stopping, standing or parking the vehicle would obstruct traffic;
- (7) On a bridge or other elevated structure on a highway or in a highway tunnel;
- (8) On a railroad track;
- (9) On the roadway at the edge or curb of the street from the 2000 block to the 2200 block of Brahma Boulevard; or

(10) Where an official sign prohibits stopping.

(B) Except momentarily stop to pick up or discharge a passenger, a person shall not stop, stand or park an occupied or unoccupied vehicle:

(1) In front of a public or private driveway;

(2) Within 15 feet of a fire hydrant;

(3) Within 20 feet of a crosswalk at an intersection;

(4) Within 30 feet of the approach to a flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;

(5) Within 20 feet of the driveway entrance to a fire station, and on the side of the street opposite to the entrance to the fire station within 75 feet of the entrance, if the entrance is properly marked with a sign; or

(6) Where an official sign prohibits standing.

(Ord. ORD-2001-17, passed 9-10-01) Penalty, see § 1-1-99

#### **§ 7-2-4 PARKING NOT TO OBSTRUCT TRAFFIC.**

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic.

(Ord. ORD-2004-34, passed 10-11-04) Penalty, see § 1-1-99

#### **§ 7-2-5 PARKING ON NARROW STREETS.**

(A) The City Manager, or such officers or employees of the city designated by the City Manager, is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

(B) When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

(Ord. ORD-2004-34, passed 10-11-04) Penalty, see § 1-1-99

**§ 7-2-6 STOPPING, STANDING OR PARKING NEAR HAZARDOUS OR CONGESTED PLACES.**

(A) The City Manager, or such officers or employees of the city designated by the City Manager, is hereby authorized to designate by proper signs, placed in or along any public street right-of-way of the city where the stopping, standing or parking of vehicles would create hazardous conditions or cause excessive delays to traffic, as follows:

(1) The City Manager, or such officers or employees of the city designated by the City Manager, is authorized to place signs prohibiting or restricting the stopping, standing or parking of vehicles along any portion of any street under the city's jurisdiction where, in the opinion of the City Manager, or such officers or employees of the city designated by the City Manager, such stopping, standing or parking is dangerous to those using the street or attempting to enter upon or cross the street.

(2) The City Manager, or such officers or employees of the city designated by the City Manager, is authorized to place signs prohibiting or restricting the stopping, standing or parking of vehicles for a distance not exceeding 1,500 feet in continuous length per each side of the street, along the shoulder, parking lane or travel lane portion of any street under the city's jurisdiction where, in the opinion of the City Manager, or such officers or employees of the city designated by the City Manager, such stopping, standing or parking would unduly cause delay to traffic near congested intersections.

(B) When such area is a designated area of a public street, such area so signed shall be deemed a properly established no stopping, standing or parking zone, and when such official signs are erected, no person shall stop, stand or park a vehicle in any such designated place. (Ord. ORD-2004-34, passed 10-11-04) Penalty, see § 1-1-99

***HANDICAPPED PARKING*****§ 7-2-15 DEFINITIONS.**

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

***DESIGNATIONS.*** The locations designated by the city as parking spaces available only to vehicles used by or for the transportation of disabled individuals as defined in TEX. TRANS. CODE, § 681.001, when such vehicles display a valid "disabled" tag issued to the permanently disabled or an identification card issued to temporarily disabled persons.

***DISABLED PERSONS.*** A person is disabled who has mobility problems that substantially impair the person's ability to ambulate or who is legally blind.  
(('62 Code, § 10-19-1)

**§ 7-2-16 SIGN REQUIREMENTS.**

As a minimum, any sign designating "Reserved Parking" or "Handicapped Parking" shall contain a depiction of a person on a wheelchair, sign being visible to a person sitting in the front seat of a passenger vehicle or light commercial truck with a manufacturer's rated carrying capacity of one ton or less. The display of a sign with the symbol of a person on a wheelchair thereon on any parking space shall mean that the space is designated for the exclusive use of vehicles transporting temporarily or permanently disabled persons.

('62 Code, § 10-19-2)

**§ 7-2-17 UNAUTHORIZED PARKING.**

It shall be unlawful and a violation of the provisions of this section for any person:

(A) To cause, allow, permit or suffer any vehicle registered in the name of, or operated by such person to be parked in any space hereby reserved for the disabled, unless there is affixed to such a vehicle a valid "disabled" tag or a temporarily disabled person identification card placed in the lower left-hand side of the front windshield.

(B) To cause, allow, permit or suffer any vehicle registered in the name of, or operated by such person to be parked in any space hereby reserved for the disabled, even if such vehicle has affixed thereto a valid "disabled" tag or a temporarily disabled person identification card placed in the lower left-hand side of the front windshield, if the vehicle is not being used by or for the transportation of a disabled person.

('62 Code, § 10-19-3) (Ord. 85063, passed 12-16-85) Penalty, see § 1-1-99

**§ 7-2-18 BLOCKING ACCESS FOR DISABLED PROHIBITED.**

It shall be unlawful and a violation of the provisions of this section for any person to cause, allow, permit or suffer any vehicle registered in the name of, or operated by such person, to park a vehicle so that the vehicle blocks an access or curb ramp or any other architectural improvement designed to aid the disabled.

('62 Code, § 10-19-3) (Ord. 85063, passed 12-16-85) Penalty, see § 1-1-99

**§ 7-2-19 IMPROPER USE OF IDENTIFICATION CARD.**

A person commits an offense if he lends an identification card issued to him under this subarticle to a person who uses the identification card in violation of this section.

('62 Code, § 10-19-3) (Ord. 85063, passed 12-16-85) Penalty, see § 1-1-99

**§ 7-2-20 ABSENCE OF TAG OR CARD ON VEHICLE PRESUMPTION OF ILLEGALITY.**

Whenever any vehicle stands in a parking space reserved for the disabled and such vehicle does not have a valid "disabled" tag affixed thereon or displaying a temporary disabled person identification card, such fact shall be prima facie evidence that the vehicle has been parked illegally and that the registered owner of such vehicle did knowingly cause, allow, permit, or suffer such vehicle to be parked in such locations.

('62 Code, § 10-19-3) (Ord. 85063, passed 12-16-85) Penalty, see § 1-1-99

## ARTICLE 3: RAILROADS

### Section

- 7-3-1 Definitions
- 7-3-2 Locomotive bells
- 7-3-3 Blowing whistles
- 7-3-4 Length of time at crossing
- 7-3-5 Crossings to be opened in case of fire

### § 7-3-1 DEFINITIONS.

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

**PERSON IN CHARGE.** The physical person accompanying the train empowered to direct its operations.

**PRINCIPAL OFFICER OR MANAGER.** The principal person in charge of all operations of a railroad company in the city.

**RAILROAD COMPANY.** Any individual, partnership, association, corporation, trustee, receiver or other person that lays out, constructs, maintains or operates any railroad or operates any trains, engines or cars on a line of railway in the city.  
(’62 Code, § 9-6-1)

### § 7-3-2 LOCOMOTIVE BELLS.

It shall be the duty of every engineer or the person in charge of an engine to cause the engine bell to be rung continuously while the engine or cars are approaching or traversing street crossings in this city, and every person who shall fail so to do shall be deemed guilty of a violation hereof.

(’62 Code, § 9-6-3)

**Statutory reference:**

*Use of train whistles and bells, see TEX. TRANS. CODE, § 471.006*

**§ 7-3-3 BLOWING WHISTLES.**

All persons are prohibited from blowing any whistles on any locomotive, or single blast therefrom, within the limits of the city, for a longer period of time than five seconds, except when there is eminent danger of an accident.

('62 Code, § 9-6-4) (Ord. —, passed 10-23-61)

**Statutory reference:**

*Use of train whistles and bells, see TEX. TRANS. CODE, § 471.006*

**§ 7-3-4 LENGTH OF TIME AT CROSSING.**

It shall be unlawful for any yardmaster, engineer, conductor or other person in charge of any railway locomotive, engine, car or train of cars, to permit any such locomotive, engine, car or train of cars to block any public street crossing within the corporate limits of the city for a longer period than five minutes, and all of the time such locomotive, engine, car or train of cars is permitted to block such public crossing shall be considered one period, unless, between the periods, five minutes elapses, during which time no such locomotive, engine, car or train of cars is permitted to block such crossing.

('62 Code, § 9-6-5) (Ord. —, passed 4-9-73)

**§ 7-3-5 CROSSINGS TO BE OPENED IN CASE OF FIRE.**

If any of the railroad crossings are blocked when a fire alarm is sounded indicating there is a fire, it shall be the duty of the person in charge of the train of cars blocking the crossing and the engineer in charge of the engine pulling the cars, after being notified of such fire, to cause such crossing to be cleared of cars at once, and to be kept clear of cars for a space of 15 minutes and the failure on the part of the person in charge of such trains blocking the crossing, the engineer in charge of the engine pulling the cars, to clear such crossing of cars at once for a space of 15 minutes, shall be unlawful. In the event the train is moving, and the engineer in charge of the train believes that the crossing may be cleared faster by speeding up the train to clear the crossing, then such action on his part shall be held to comply with this article.

('62 Code, § 9-6-6) (Ord. —, passed 10-23-61)

## ARTICLE 4: BICYCLES

### Section

#### ***General Provisions***

- 7-4-1 Compliance required
- 7-4-2 Rental agencies
- 7-4-3 Report of bicycle dealers

#### ***Licensing***

- 7-4-15 License required
- 7-4-16 Application for license; fee
- 7-4-17 Issuance of license; duration
- 7-4-18 Records to be kept by Chief of Police
- 7-4-19 Issuance and attachment of license plate
- 7-4-20 Inspection of bicycles prior to licensing
- 7-4-21 Renewal of license
- 7-4-22 Transfer of ownership

#### ***Statutory reference:***

*Authority, see TEX. TRANS. CODE, §§ 542.202 and 542.203*

*State bicycle regulations, see TEX. TRANS. CODE, §§ 551.101 et seq.*

## **GENERAL PROVISIONS**

### **§ 7-4-1 COMPLIANCE REQUIRED.**

(A) It is a misdemeanor for any person to do any act forbidden or to fail to perform any act required in this article.

(B) The parent of any child or the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

('62 Code, § 10-14-1) Penalty, see § 1-1-99

**§ 7-4-2 RENTAL AGENCIES.**

A rental agency shall not rent or offer any bicycle for rent unless the bicycle is licensed, a license plate attached thereto as herein provided, and such bicycle is also equipped with the lamps and other equipment required in this article.

('62 Code, § 10-14-10) Penalty, see § 1-1-99

**§ 7-4-3 REPORT OF BICYCLE DEALERS.**

Every person engaged in the business of buying or selling new or used bicycles shall make a report to the Chief of Police of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, a description of such bicycle by name or make, the frame number thereof, and the number of the license plate, if any, found thereon.

('62 Code, § 10-14-11) Penalty, see § 1-1-99

***LICENSING*****§ 7-4-15 LICENSE REQUIRED.**

No person shall ride or propel a bicycle on any street or upon any public roadway unless such bicycle has been licensed and a license plate is attached thereto as provided in this article.

('62 Code, § 10-14-2) Penalty, see § 1-1-99

**§ 7-4-16 APPLICATION FOR LICENSE; FEE.**

Application for a bicycle license and license plates shall be made upon a form provided by the city and shall be made to the Chief of Police. An annual license fee of \$5 shall be paid to the city before any license is granted.

('62 Code, § 10-14-3) (Ord. 96001, passed 1-8-96)

**§ 7-4-17 ISSUANCE OF LICENSE; DURATION.**

The Chief of Police, upon receiving proper application therefor, is authorized to issue a bicycle license which shall be valid from March 1 of each calendar year through March 1 of the following calendar year.

('62 Code, § 10-14-4) (Ord. —, passed 7-26-71)

**§ 7-4-18 RECORDS TO BE KEPT BY CHIEF OF POLICE.**

The Chief of Police shall keep a record of the number of each license, the date issued, the name and address to whom issued, and the number on the frame of the bicycle, and a record of all bicycle license fees collected by him.

('62 Code, § 10-14-5)

**§ 7-4-19 ISSUANCE AND ATTACHMENT OF LICENSE PLATE.**

The Chief of Police, upon issuing a bicycle license, shall also issue a license plate bearing the license number assigned to the bicycle. The license plate shall be firmly attached to the rear mud guard or frame of the bicycle so as to be plainly visible from the rear. No person shall remove a license plate from a bicycle during the period for which issued unless the bicycle is dismantled and no longer operated upon any street in the city.

('62 Code, § 10-14-6) Penalty, see § 1-1-99

**§ 7-4-20 INSPECTION OF BICYCLES PRIOR TO LICENSING.**

The Chief of Police or any person assigned to such responsibility by the Chief of Police shall inspect each bicycle before licensing the same and shall refuse a license for any bicycle which he determines to be in an unsafe mechanical condition.

('62 Code, § 10-14-7)

**§ 7-4-21 RENEWAL OF LICENSE.**

Upon the expiration of a license for any bicycle, the same may be renewed upon application and payment of the same fee as upon an original application.

('62 Code, § 10-14-8)

**§ 7-4-22 TRANSFER OF OWNERSHIP.**

Upon the sale or other transfer of a licensed bicycle, the owner shall remove the license plate and shall surrender same to the Chief of Police within a reasonable time thereafter.

('62 Code, § 10-14-9) (Ord. —, passed 7-26-71) Penalty, see § 1-1-99



## ARTICLE 5: TRAFFIC SCHEDULES

### Schedule

- I. Speed limits
- II. Speed limits in school zones
- III. Truck routes

### SCHEDULE I: SPEED LIMITS.

Under the authority of TEX. TRANS. CODE, § 545.356, as amended, the prima facie speed limits shall be altered within the city limits, and on the basis of an engineering and traffic investigation made by the State Highway Commission, the speed prescribed for all motor vehicles in and along the following roadways shall henceforth be as follows:

(A) F.M. Highway No. 425 (Angle Road).

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Speed Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
F.M. Highway No. 425 (Angle Rd.)	Beginning at the intersection of Loop 428 and F.M. Highway No. 425 to a point 0.513 mile east of Loop 428	35 mph, except when signed for school zone at 20 mph	81045	11-16-81
F.M. Highway No. 425 (Angle Rd.)	From a point 0.513 mile east of Loop 428 to a point 1.252 miles east of Loop 428	45 mph	81045	11-16-81
F.M. Highway No. 425 (Angle Rd.)	From a point 1.252 miles east of Loop 428 to the intersection of Military Rd. in Kingsville	50 mph	81045	11-16-81

('62 Code, § 10-4-4)

## (B) U.S. and State Highways.

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Speed</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
U.S. Highway No. 77 (Business) Loop Highway No. 428	Beginning at the north city limit to a point 0.550 mile south of the north city limit	50 mph	81045; 2005-44	11-16-81 ; 11-28-05
U.S. Highway No. 77 (Business) Loop Highway No. 428	From a point 0.550 mile south of the north city limit to a point 0.948 mile south of the north city limit	40 mph	81045; 2005-44	11-16-81 ; 11-28-05
U.S. Highway No. 77 (Business) Loop Highway No. 428	From a point 0.948 mile south of the north city limit to a point 2.99 miles south of the north city limit	35 mph	81045; 2005-44	11-16-81 ; 11-28-05
U.S. Highway No. 77 (Business) Loop Highway No. 428	From a point 2.99 miles south of the north city limit to the intersection of FM 1356 (General Cavoza Boulevard)	45 mph	81045; 2005-44	11-16-81 ; 11-28-05
U.S. Highway No. 77 (Business) Loop Highway No. 428	From the intersection of FM 1356 (General Cavazos Boulevard) to the south city limit	55 mph	81045; 2005-44	11-16-81 ; 11-28-05
U.S. Highway No. 77 By-Pass (Southbound)	Beginning at the north city limit to a point 2.372 miles south of the north city limit	55 mph	89016; 2005-44	5-19-89; 11-28-05
U.S. Highway No. 77 By-Pass (Southbound)	From a point 2.372 miles south of the north city limit to a point 2.805 miles south of the north city limit	45 mph	89016; 2005-44	5-19-89; 11-28-05

<b>Street</b>	<b>Location</b>	<b>Speed</b>	<b>Ord. No.</b>	<b>Date Passed</b>
U.S. Highway No. 77 By-Pass (Southbound)	From a point 2.805 miles south of the north city limit to the south city limit	55 mph	89016; 2005-44	5-19-89; 11-28-05
U.S. Highway No. 77 By-Pass (Southbound)	From 0.7 miles north of FM 1898 to 0.5 miles south of FM 2045	55 mph	2003- 27; 2005-44	10-6-03; 11-28-05
U.S. Highway No. 77 By-Pass (Northbound)	Beginning at the south city limit to the north city limit	45 mph	89016; 2005-44	5-19-89; 11-28-05
U.S. Highway No. 77 By-Pass (Northbound)	From 0.7 miles north of FM 1898 to 0.5 miles south of FM 2045	55	2003-27 ; 2005-44	10-6-03; 11-28-05
State Highway No. 141 (King Ave.)	Beginning at the west city limit to a point 0.690 mile east of the west city limit	55 mph	81045; 2005-44	11-16-81 ; 11-28- 05
State Highway No. 141 (King Ave.)	From a point 0.690 mile east of the west city limit to a point 0.888 mile east of the west city limit	45 mph	81045; 2005-44	11-16-81 ; 11-28- 05
State Highway No. 141 (King Ave.)	From a point 0.888 mile east of the west city limit to a point 1.091 miles east of the east city limit	35 mph	81045; 2005-44	11-16-81 ; 11-28- 05
State Highway No. 141 (King Ave.)	From a point 1.091 miles east of the west city limit to Loop 428 (14th St.)	30 mph, except portion signed for school zone, 25 mph when flashing	81045; 2005-44	11-16-81 ; 11-28- 05
State Highway No. 141 (King Ave.)	Beginning at the intersection of Loop 428 in Kingsville to a point 0.492 mile east of Loop 428	35 mph, except portion signed for school zone at 20 mph when flashing	81045; 2005-44	11-16-81 ; 11-28- 05



## Kingsville - Traffic Code

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Speed</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
State Highway No. 141 (King Ave.)	From a point 0.492 mile east of Loop 428 to the intersection of U.S. Highway No. 77 (By-Pass) in Kingsville	45 mph	81045	11-16-81
F.M. Highway N. 1717 (Brahma Blvd.)	Beginning at the south city limits to a point 1.122 miles north of the south city limit	55 mph	81016	8-6-84
F.M. Highway N. 1717 (Brahma Blvd.)	From a point 1.122 miles north of the south city limit to a point 2.102 miles north of the south city limit	50 mph	81016	8-6-84
F.M. Highway N. 1717 (Brahma Blvd.)	From a point 2.102 miles north of the south city limit to the intersection of Loop 428 in Kingsville	35 mph, except portion signed for school zone at 25 mph when flashing	81016	8-6-84
F.M. Highway No. 1898 (Armstrong to Corral; Corral to U.S. Highway No. 77 [By-Pass])	Beginning at the north city limit to a point 1.605 miles south of the north city limit	30 mph, except portion signed for school zone at 15 mph when flashing	81045	11-16-81
F.M. Highway No. 1898 (Armstrong to Corral; Corral to U.S. Highway No. 77 [By-Pass])	From a point 1.605 miles south of the north city limit to a point 1.946 miles south of the north city limit	40 mph	81045	11-16-81
F.M. Highway No. 1898 (Armstrong to Corral; Corral to U.S. Highway No. 77 [By-Pass])	From a point 1.946 miles south of the north city limit to the intersection of U.S. Highway No. 77 (By-Pass) in Kingsville	45 mph, except portion signed for school zone at 30 mph when	81045	11-16-81

2006 S-8

<i>Street</i>	<i>Location</i>	<i>Speed</i>	<i>Ord. No.</i>	<i>Date Passed</i>
F.M. Highway No. 2045 (Santa Gertrudis Ave.)	Beginning at the intersection of Loop 428 and F.M. Highway No. 2045 and proceeding in an easterly direction along F.M. Highway No. 2045 to a point 0.663 miles east of Loop 428	30 mph, except when signed for school zone at 15 mph	83021	5-23-83
F.M. Highway No. 2045 (Santa Gertrudis Ave.)	From a point 0.663 miles east of Loop 428 to a point 0.968 miles east of Loop 428 to the east city limits	40 mph	83021	5-23-83

('62 Code, § 10-4-5)

(C) General Cavazos Boulevard.

<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
General Cavazos Blvd.	Beginning at the intersection of U.S. Highway 77 (By-Pass) and General Cavazos Blvd. and proceeding in an easterly direction along General Cavazos Blvd. to the intersection with F.M. 425 (Angle Rd.)	50 mph	86024	9-29-86

('62 Code, § 10-4-6)

(D) F.M. Highway No. 1356.

<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
F.M. Highway No. 1356	Beginning at the intersection of U.S. Highway 77 (Business) and General Cavazos Blvd. (U.S. Highway No. 1356) to a point 2.628 miles west of U.S. Highway	45 mph	83015 ORD-2003-08	4-18-83 5-12-03

**Kingsville - Traffic Code**

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Speed Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
F.M. Highway No. 1356	Beginning at the intersection of U.S. Highway 77 (By-Pass) to the intersection with U.S. Highway 77 (Business) in Kingsville	35	ORD-2003-08	5-12-03
F.M. Highway No. 1356	From a point 2.628 miles west of U.S. Highway 77 (By-Pass) to the intersection with Armstrong St. in Kingsville	30 mph	83015	4-18-83

('62 Code, § 10-4-7) Penalty, see § 1-1-99

(E) F.M. Highway No. 1898.

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Speed Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
F.M. Highway No. 1898	Beginning at the north city limit to a point 0.256 miles south of the north city limit	45 mph	83016	5-2-83
F.M. Highway No. 1898	From a point 0.246 miles south of the north city limit to a point 1.861 miles south of the north city limit	30 mph, except portion assigned school zone at 15 mph when flashing	83016	5-2-83
F.M. Highway No. 1898	From a point 1.861 miles south of the north city limit to a point 2.202 miles south of the north city limit	40 mph	83016	5-2-83
F.M. Highway No. 1898	From a point 2.202 miles south of the north city limit to U.S. Highway 77 in Kingsville	45 mph, except portion assigned for school zone at 30 mph when flashing	83016	5-2-83

('62 Code, § 10-4-8) Penalty, see § 1-1-99

2004 S-6

(F) F.M. Highway No. 2045.

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Speed Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
F.M. Highway No. 2045	Beginning at the east city limit to a point 0.200 mile west of the east city limit	55 mph	96037	10-28-96
F.M. Highway No. 2045	From a point 0.200 mile west of the east city limit to a point 0.683 mile of the city limits	45 mph	96037	10-28-96
F.M. Highway No. 2045	From a point 0.683 mile west of the east city limit to a point 0.988 mile of the city limits	40 mph	96037	10-28-96
F.M. Highway No. 2045	From a point 0.988 mile west of the east city limit to US 77	30 mph, except portion assigned for school zone at 15 mph when flashing	96037	10-28-96

Penalty, § 1-1-99

(G) Santa Gertrudis Avenue.

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Speed Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
Santa Gertrudis Avenue	Beginning at the intersection of Seale Street and Santa Gertrudis Avenue, and proceeding in an easterly direction to the intersection of Armstrong and Santa Gertrudis Avenue	20 mph	ORD-2001-18	9-10-01

Penalty, see § 1-1-99

2004 S-6

**Kingsville - Traffic Code**

(H) Caesar Avenue.

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Speed Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
Caesar Avenue	Beginning at the intersection of U.S. Highway 77 (By-Pass) to the east city limit in Kingsville	45 mph	2005-36	9-26-05

Penalty, see § 1-1-99

**SCHEDULE II: SPEED LIMITS IN SCHOOL ZONES.**

The school zones defined herein, when properly marked, shall have speed limits as follows:

<b><i>School</i></b>	<b><i>Location</i></b>	<b><i>Speed Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
Charles H. Flato Elementary School	Beginning at the intersection of Santa Gertrudis Ave. and North Second St. and proceeding in a westerly direction along Santa Gertrudis St. to a point 240 feet from the point of origin, then, beginning, at the intersection of Santa Gertrudis Ave. and North Second St. and proceeding in an easterly direction to the intersection of Santa Gertrudis Ave. and North Third St. and, beginning at the intersection of Santa Gertrudis Ave. and North Third St. and proceeding in an easterly direction to a point 290 feet from the intersection of North Third St. and Santa Gertrudis Ave.	15 mph	88023	9-12-88
Charles H. Flato Elementary School	Beginning at the intersection of North Second St. and West Nettie Ave. and proceeding in a westerly direction to a point 180 feet from point of origin and, beginning at the intersection of North Third St. and West Nettie Ave. and proceeding in an easterly direction 200 feet from point of origin	15 mph	88023	9-12-88
Charles H. Flato Elementary School	Beginning at the intersection of North Second St. and West Ella Ave. and proceeding in a westerly direction along West Ella Ave. to a point 220 feet from the point of origin and beginning at the intersection of North Third St. and West Ella Ave. and proceeding in an easterly direction on West Ella Ave. for 200 feet from the point of origin	15 mph	88023	9-12-88



<i><b>School</b></i>	<i><b>Location</b></i>	<i><b>Speed Limit</b></i>	<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>
Epiphany Episcopal School; First United Methodist Day-Care Center	Beginning at a point 150 feet west of Third St. on West Henrietta Ave. and proceeding in an easterly direction along West Henrietta Ave. to a point 520 feet from the point of origin	15 mph	88023	9-12-88
Epiphany Episcopal School; First United Methodist Day-Care Center	Beginning at a point 150 feet south of West Yoakum Ave. on Third St. and proceeding in a northerly direction along Third St. to a point 150 feet north of its intersection with West Henrietta Ave.	15 mph	88023	9-12-88
Epiphany Episcopal School; First United Methodist Day-Care Center	Beginning at a point 150 feet south of West Yoakum Ave. on Fourth St. and proceeding in a northerly direction along Fourth St. to a point 150 feet north of the intersection of West Yoakum Ave. and Fourth St.	15 mph	88023	9-12-88
Epiphany Episcopal School; First United Methodist Day-Care Center	Beginning at the intersection of Third St. and West Yoakum Ave. and proceeding in an easterly direction along West Yoakum Ave. a distance of 840 feet from the point of origin	15 mph	88023	9-12-88
Gillette Middle School; Colston Elementary School	Beginning at a point 150 feet west of 17th St. on East Ella Ave. and proceeding in an easterly direction to 17th St.	15 mph	88023	9-12-88
Gillette Middle School; Colston Elementary School	Beginning at a point 150 feet south of East Santa Gertrudis Ave. on 17th St. and proceeding in a northerly direction to a point 1,740 feet from the point of origin	15 mph	88023	9-12-88
Gillette Middle School; Colston Elementary School	Beginning at a point 150 feet west of 17th St. on East Nettie Ave. and proceeding in an easterly direction to 17th St.	15 mph	88023	9-12-88

## Kingsville - Traffic Code

<i><b>School</b></i>	<i><b>Location</b></i>	<i><b>Speed Limit</b></i>	<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>
Gillette Middle School; Colston Elementary School	Beginning at a point 150 feet west of 17th St. on East Santa Gertrudis Ave. and proceeding in an easterly direction to a point 750 feet from the point of origin	15 mph	88023	9-12-88
Gillette Middle School; Colston Elementary School	Beginning at a point 150 feet west of 17th St. on East Ave. B and proceeding in an easterly direction to 17th St.	15 mph	88023	9-12-88
Gillette Middle School; Colston Elementary School	Beginning at a point 150 feet west of 17th St. on East Ave. A and proceeding in an easterly direction to 17th St.	15 mph	88023	9-12-88
H.M. King High School	Beginning at a point 300 feet north of the northern most school exit onto Brahma Blvd. and extending to a point 200 feet south of the southern most school entrance from Brahma Blvd.	25 mph	88023	9-12-88
Harvey Elementary School	Beginning at a point 400 feet west of 17th St. on East Kenedy Ave. and proceeding in an easterly direction along East Kenedy Ave. a distance of 680 feet from the point of origin	15 mph	88023	9-12-88
Harvey Elementary School	Beginning at a point 150 feet west of 17th St. on East Lott Ave. and proceeding in an easterly direction along East Lott Ave. to a point 965 feet from the point of origin	15 mph	88023	9-12-88
Harvey Elementary School	Beginning at the intersection of East Kenedy Ave. and 17th St. and proceeding in a northerly direction along 17th St. a distance of 550 feet from the point of origin	15 mph	88023	9-12-88
Harvey Elementary School	Beginning at a point 150 feet south of East Lott Ave. on 17th St. and proceeding in a northerly direction to East Lott Ave.	15 mph	88023	9-12-88

<b><i>School</i></b>	<b><i>Location</i></b>	<b><i>Speed Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
Harvey Elementary School	Beginning at a point 250 feet east of 17th St. on East King Ave. and proceeding in a westerly direction to a point 250 feet west of 17th St.	20 mph	88023	9-12-88
Kleberg Elementary School; St. Martin's School	Beginning at a point 150 feet south of East Nettie Ave. on North Sixth St. and proceeding in a northerly direction along North Sixth St. to a point 450 feet from the point of origin	15 mph	88023	9-12-88
Kleberg Elementary School; St. Martin's School	Beginning at the intersection of North Sixth St. and East Nettie Ave. and proceeding in an easterly direction along East Nettie Ave. to a point 150 feet east of the intersection of East Nettie Ave. and North Ninth St.	15 mph	88023	9-12-88
Kleberg Elementary School; St. Martin's School	Beginning at a point 150 feet south of East Nettie Ave. on North Eighth St. and proceeding in a northerly direction along North Eighth St. to East Nettie Ave.	15 mph	88023	9-12-88
Kleberg Elementary School; St. Martin's School	Beginning at a point 150 feet south of East Nettie Ave. on North Seventh St. and proceeding in a northerly direction along North Seventh St. to East Netti Ave.	15 mph	88023	9-12-88
Kleberg Elementary School; St. Martin's School	Beginning at a point 150 feet south of East Nettie Ave. on North Ninth St. and proceeding in a northerly direction along North Ninth St. a distance of 340 feet from the point of origin	15 mph	88023	9-12-88
Lamar Elementary School	Beginning at the intersection of East Fordyce Ave. and 11th St. and proceeding in a northerly direction along 11th St. to a point 150 feet from the intersection of East Fordyce Ave. and 11th St.	15 mph	88023	9-12-88

## Kingsville - Traffic Code

<i><b>School</b></i>	<i><b>Location</b></i>	<i><b>Speed Limit</b></i>	<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>
Lamar Elementary School	Beginning at a point 150 feet west of 10th St. on East Fordyce Ave. and proceeding in an easterly direction along East Fordyce Ave. to a point 1,280 feet from the point of origin	15 mph	88023	9-12-88
Lamar Elementary School	Beginning at a point 150 feet south of the intersection of East Fordyce Ave. and 10th St. and proceeding in a northerly direction to a point 150 feet north of the intersection of East Fordyce Ave. and 10th St.	15 mph	88023	9-12-88
Lamar Elementary School	Beginning at the intersection of East Johnston and 11th St. and proceeding in a southerly direction along 11th St. to a point 150 feet south of the intersection of East Johnston Ave. and 11th St.	15 mph	88023	9-12-88
Lamar Elementary School	Beginning at the intersection of East Johnston Ave. and 11th St. and proceeding in an easterly direction along East Johnston Ave. a distance of 660 feet from the point of origin	15 mph	88023	9-12-88
Lamar Elementary School	Beginning at a point 150 feet south of the intersection of East Johnston Ave. and 12th St. and proceeding in a northerly direction along 12th St. to a point 150 feet north of the intersection of East Fordyce Ave. and 12th St.	15 mph	88023	9-12-88
McRoberts Elementary School	Beginning at a point 150 feet south of West Corral Ave. on Fourth St. and proceeding in a northerly direction to West Corral Ave.	15 mph	88023	9-12-88

<i><b>School</b></i>	<i><b>Location</b></i>	<i><b>Speed Limit</b></i>	<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>
McRoberts Elementary School	Beginning at a point 100 feet west of the intersection of West Corral Ave. and Third St. and continuing in an easterly direction along West Corral Ave. to a point 810 feet from the point of origin	15 mph	88023	9-12-88
Memorial Middle School; Harrel Elementary School	Beginning at the south side of the intersection of West Warren Ave. and South Armstrong St. and proceeding north along South Armstrong St. to a point 300 feet north of intersection of West Johnston Ave. and South Armstrong St.	15 mph	88023	9-12-88
Memorial Middle School; Harrel Elementary School	Beginning at a point 150 feet north of West Johnston Ave. on Williams St. and proceeding in a southerly direction to West Johnston Ave.	15 mph	88023	9-12-88
Memorial Middle School; Harrel Elementary School	Beginning at a point 150 feet north of West Johnston Ave. on Frances St. and proceeding in a southerly direction to West Johnston Ave.	15 mph	88023	9-12-88
Memorial Middle School; Harrel Elementary School	Beginning at a point 150 feet north of West Johnston Ave. on Wanda St. and proceeding in a southerly direction to West Johnston Ave.	15 mph	88023	9-12-88
Memorial Middle School; Harrel Elementary School	Beginning at a point 150 feet east of South Armstrong St. and proceeding in a westerly direction along West Warren Ave. to South Armstrong St.	15 mph	88023	9-12-88
Memorial Middle School; Harrel Elementary School	Beginning at a point 150 feet north of West Johnston Ave. on South Lantana St. and proceeding in a southerly direction to West Johnston Ave.	15 mph	88023	9-12-88

## Kingsville - Traffic Code

<i><b>School</b></i>	<i><b>Location</b></i>	<i><b>Speed Limit</b></i>	<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>
Memorial Middle School; Harrel Elementary School	Beginning at a point 150 feet east of South Armstrong St. and proceeding in an easterly direction along West Doddridge Ave. to South Armstrong St.	15 mph	88023	9-12-88
Memorial Middle School; Harrel Elementary School	Beginning at a point 150 feet east of South Armstrong on West Johnston Ave. and proceeding in a westerly direction along West Johnston Ave. a distance of 1,550 feet from the point of origin	15 mph	88023	9-12-88
Perez Elementary School	Beginning at a point 200 feet west of Annette St. on Ailsie Ave. and proceeding in an easterly direction along Ailsie Ave. a distance of 700 feet from the point of origin	15 mph	88023	9-12-88
St. Gertrude's School	Beginning at a point 150 feet north of East Caesar Ave. on Ninth St. and proceeding in a southerly direction along Ninth St. to East Caesar Ave.	15 mph	82044	10-18-8 2
St. Gertrude's School	Beginning at a point 200 feet west of Ninth St. on East Caesar Ave. and proceeding in an easterly direction along East Caesar Ave. a distance of 500 feet from the point of origin	15 mph	82044	10-18-8 2

('62 Code, § 10-16-3) Penalty, see § 1-1-99

**SCHEDULE III: TRUCK ROUTES.**

(A) There is hereby established within the city the following truck routes:

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
State Highway 77 (Bypass)	From the northern city limit to the southern city limit	—	--
State Highway 141 (King St.)	From the western city limit to its intersection with U.S. Highway 77 (Bypass)	—	--

('62 Code, § 10-17-3)

(B) In addition to those streets and highways within the city that constitute a part of a truck route established herein, the following streets, and no other, shall be used for truck traffic:

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
U.S. Highway 77 (Business) Loop Highway 428	From the northern city limit to the southern city limit	ORD-2003-17	8-25-03
F.M. Highway 1898	From the northern city limit to its intersection with U.S. Highway 77 (Bypass)	— ORD-2003-17	-- 8-25-03
F.M. Highway 2045	From U.S. Highway 77 (Business) to the eastern city limit	ORD-2003-17	8-25-03
F.M. Highway 425	From U.S. Highway 77 (Business) to the eastern city limit	ORD-2003-17	8-25-03
F.M. Highway 1717	From U.S. Highway 77 (Business) to the eastern city limit	ORD-2003-17	8-25-03
F.M. Highway 3320	From U.S. Highway 77 (Bypass) to the southern city limit	ORD-2003-17	8-25-03
SPUR 169 (University Boulevard)	From S.H. Highway 141 to Santa Gertrudis Avenue	ORD-2003-17	8-25-03
F.M. Highway 1356	From U.S. Highway 77 (Business) to the eastern city limit	ORD-2003-17	8-25-03
Shelley Street	From 900 feet north of General Cavazos Blvd. to General Cavazos	—	--

	Blvd.		
--	-------	--	--

('62 Code, § 10-17-4) Penalty, see § 1-1-99

2004 S-6



## ARTICLE 6: PARKING SCHEDULES

### Schedule

- I. Limited parking zones
- II. Parking restricted on certain streets

### SCHEDULE I. LIMITED PARKING ZONES.

It shall be unlawful and an offense for any person having registered in his name or owning or operating or having in charge any vehicle, to allow the same to remain or be placed in any parking space in such limited parking zone for a period as specified during the hours 8:30 a.m. through 5:30 p.m., Monday through Saturday, excluding holidays designated by the City Commission. When any vehicle shall be parked in the limited parking zone, the owner or operator of the vehicle shall park within the area designated by the curb or street marking lines for parallel or diagonal parking. It shall be unlawful for any person to fail to park within the designated area. The parking space may then be used by such vehicle during the legal parking limit and the vehicle shall be considered as unlawfully parked if it remains in the space beyond such legal parking limit.

(A) Two-hour parking.

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Side</i></b>	<b><i>Time Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
Eighth St.	From Yoakum Ave. to King Ave.	Both	2 hrs.	—	--
Fifth St.	From Yoakum Ave. to King Ave.	Both	2 hrs.	—	--
King Ave.	From Fifth St. to Eighth St.	Both	2 hrs.	—	--
Kleberg Ave.	From Fifth St. to East 10th St., except Park Ave. to Kleberg Ave.	Both	2 hrs.	—	--

## Kingsville - Traffic Code

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Side</i></b>	<b><i>Time Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
Park Ave.	From Yoakum Ave. to Kleberg Ave.	Both	2 hrs.	—	--
Seventh St.	From Yoakum Ave. to King Ave.	Both	2 hrs.	—	--
Sixth St.	East side of street from East Henrietta Ave. to Kenedy Ave.	Both	2 hrs.	—	--
Yoakum Ave.	From Park Ave. to Seventh St.	Both	2 hrs.	—	--

('62 Code, §§ 10-18-1 and 10-18-3) (Ord. —, passed 10-7-68; Am. Ord. —, passed 11-27-72)

(B) Fifteen-minute parking.

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Side</i></b>	<b><i>Time Limit</i></b>	<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>
Fifth St.	From Kleberg Ave. south for 211 ft. and seven inches, excluding an existing 33 foot "no parking zone" at the north end of the block	West	15 min.	77-16	7-11-77

('62 Code, § 10-7-24) Penalty, see § 7-2-99

**SCHEDULE II. PARKING RESTRICTED ON CERTAIN STREETS.**

It shall hereafter be unlawful for any person to park or leave standing any vehicle on the following streets:

<i>Street</i>	<i>Location</i>	<i>Side</i>	<i>Time</i>	<i>Ord No.</i>	<i>Date Passed</i>
Ailsie Ave.	300 feet west of its intersection with Brahma Blvd.	Both	All times	77-3	1-24-77
Ailsie Ave.	From its intersection with 14th St. for 300 feet west	Northernmost and Southernmost	All times	—	--
Armstrong St.	Lying anywhere between its intersection with Richard Ave. and Avenue F	Easternmost	7:00 a.m. to 7:00 p.m.; M-S	—	--
Armstrong St.	Lying anywhere between its intersection with Engineering Ave. and its intersection with King Ave.	Westernmost	7:00 a.m. to 7:00 p.m.	—	4-1-74
Corral Ave. (Farm to Market Rd. 1898)	Lying anywhere between Sixth St. and Armstrong St.	Both	All times	80018	7-7-80
East Kenedy Ave.	Lying anywhere between its intersection with Sixth St. and its intersection with 14th St.	Northernmost	7:00 a.m. to 7:00 p.m.	—	--
East Lott Ave.	Between 17th and 18th Sts.	Both	7:00 a.m. to 4:00 p.m.; M-F	—	9-30-68
East Yoakum Avenue	Lying anywhere between Sixth St. and 54' west of Seventh St.	Southernmost	All times	98004	3-9-98
Johnston St.	From its intersection with Brahma Blvd. (14th St.) and 15th St.	Northernmost and Southernmost	All times	80033	12-15-80

## Kingsville - Traffic Code

<b>Street</b>	<b>Location</b>	<b>Side</b>	<b>Time</b>	<b>Ord No.</b>	<b>Date Passed</b>
King Ave.	Lying anywhere from its intersection with Fifth St. for 200 feet east	Northernmost	All times	—	--
King Ave.	Lying anywhere between its intersection with Sixth St. and 14th St.	Northernmost	All times	—	--
King Ave.	Lying anywhere between its intersection with Sixth St. and the west city limits	Both	All times M-S	80016	6-23-80
King Ave.	Lying anywhere between its intersections with Sixth and Fifth Sts. of the city	Both	All times	81001	3-23-81
King Ave.	Lying anywhere from its intersection with U.S. Highway 77 By-Pass west to a point 1,600 feet west of its intersection with University Blvd.	Northernmost and Southernmost	All times	94008	5-23-94
King St.	Lying between 14th and 15th Sts.	Northernmost and Southernmost	All times	78-12	10-2-78
Kleberg Ave.	Lying anywhere from its intersection with Fifth St. for 200 feet east	Southernmost	All times	—	--
Lee Ave.	From its intersection with 11th St. and 12th St.	Northernmost	7:00 a.m. to 7:00 p.m.; M-F	89028	7-24-89
Ninth St.	Lying anywhere between its intersection with King Ave. and Ragland Ave.	Westernmost	All times	77-29	8-22-77
North Third St.	From its intersection with West Ella Ave. for 140 feet south	Easternmost	7:00 a.m. to 4:00 p.m.; M-F	—	--

# Parking Schedules

43

<i>Street</i>	<i>Location</i>	<i>Side</i>	<i>Time</i>	<i>Ord No.</i>	<i>Date Passed</i>
North Third St.	Lying anywhere between its intersection with West Ella Ave. and West Santa Gertrudis Ave.	Westernmost	7:00 a.m. to 4:00 p.m.; M-F	—	--
Santa Gertrudis Ave.	From its intersection with Sixth St. westerly to its intersection with Armstrong Ave.	Northernmost and Southernmost	All times	90002	2-5-90
Santa Gertrudis Ave.	Between Sixth St. and Armstrong Ave.	North	All times	—	7-9-73
Santa Gertrudis Ave.	From its intersection with 14th St. for 200 feet west	Northernmost and Southernmost	All times	—	--
Santa Gertrudis Ave.	300 feet east and west of its intersection of 17th St.	Both	All times	88007	3-28-88
Santa Gertrudis St.	Lying anywhere between its intersection with University Blvd. and its intersection with Santa Monica St.	Northernmost	All times	—	9-9-74
Sixth St.	Lying anywhere between its intersection with Yoakum Ave. and Nettie Ave.	Easternmost and Westernmost	All times	—	--
Sixth St.	Lying between Yoakum and Lott Sts.	Easternmost or Westernmost	All times	82026	6-14-82
South Eighth St.	Between the alley and East Caesar St. of the 1100 block	East	All times	—	3-24-75
South U.S. 77 Bypass (south-bound lane)	From its intersection with Corral Ave. from 1,000 feet north	Westernmost	All times	97022	7-28-97
South U.S. 77 Bypass	From its intersection with Santa Gertrudis Ave. for	Westernmost	All times	97022	7-28-97

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Side</i></b>	<b><i>Time</i></b>	<b><i>Ord No.</i></b>	<b><i>Date Passed</i></b>
(south-bound lane)	1,000 feet north				

1998 S-2

## Kingsville - Traffic Code

<b>Street</b>	<b>Location</b>	<b>Side</b>	<b>Time</b>	<b>Ord No.</b>	<b>Date Passed</b>
South U.S. 77 Bypass (south-bound lane)	From its intersection with Ceasar Ave. for 1,000 feet north	Westernmost	All times	97022	7-28-97
South U.S. 77 Bypass (south-bound lane)	From its intersection with General Cavazos Blvd. for 1,000 feet north	Westernmost	All times	97022	7-28-97
South U.S. 77 Bypass (south-bound lane)	From its intersection with F.M. 1717 for 1,000 feet north	Westernmost	All times	97022	7-28-97
South U.S. 77 Bypass (south-bound lane)	From its intersection with Southcreek for 1,000 north	Westernmost	All times	97022	7-28-97
South U.S. 77 Bypass (north-bound lane)	From its intersection with Corral Ave. for 1,000 feet south	Easternmost	All times	97022	7-28-97
South U.S. 77 Bypass (north-bound lane)	From its intersection with Ceasar Ave. for 1,000 feet south	Easternmost	All times	97022	7-28-97
South U.S. 77 Bypass (north-bound lane)	From its intersection with F.M. 3320 for 1,000 feet south	Easternmost	All times	97022	7-28-97
South U.S. 77 Bypass (north-bound lane)	From its intersection with General Cavazos Blvd. for 1,000 feet south	Easternmost	All times	97022	7-28-97
South U.S. 77 Bypass (north-bound lane)	From its intersection with Trant Rd. for 1,000 feet south	Easternmost	All times	97022	7-28-97
South U.S. 77 Bypass (north-bound lane)	From its intersection with F.M. for 1,000 feet south	Easternmost	All times	97022	7-28-97

<b><i>Street</i></b>	<b><i>Location</i></b>	<b><i>Side</i></b>	<b><i>Time</i></b>	<b><i>Ord No.</i></b>	<b><i>Date Passed</i></b>
Tenth St.	From its intersection with Yoakum Ave. for 140 feet south	Easternmost and Westernmos t	All times	—	- -

1998 S-2

## Parking Schedules

45

<i><b>Street</b></i>	<i><b>Location</b></i>	<i><b>Side</b></i>	<i><b>Time</b></i>	<i><b>Ord No.</b></i>	<i><b>Date Passed</b></i>
Wells Street	South of King Avenue for a distance of 66 feet	Both	All times	99034	10-25-99
West Alice Ave.	East 98.88 feet of the 800 Block adjacent to Fire Station #2	North	All times	—	5-8-61
West Lee Ave.	Lying anywhere between its intersection with Fourth St. and its intersection with Armstrong St.	Northernmos t	7:00 a.m. to 7:00 p.m.; M-F	—	1-28-74
West Richard St.	800, 900 and 1,000 blocks adjacent to Block One of the Lantana Park Addition	South	All times	—	1-3-69

('62 Code, § 10-7-22; Am. Ord. 98004, passed 3-9-98) Penalty, see § 1-1-99



## ARTICLE 7: TRAFFIC CALMING DEVICES

### Section

- 7-7-1 Authority to install
- 7-7-2 Definitions
- 7-7-3 Project eligibility requirements and design standards
- 7-7-4 Project prioritization
- 7-7-5 Citizen cost participation responsibility
- 7-7-6 Design, construction, maintenance, removal and alteration
- 7-7-7 Traffic calming device study process
- 7-7-8 Funding for approved traffic calming projects

### § 7-7-1 AUTHORITY TO INSTALL.

The City Manager, or such officers or employees of the city designated by the City Manager, shall, within their discretion, place and maintain traffic calming devices and measures, and any associated traffic control signs and other devices, to discourage cut-through traffic and to minimize unsafe travel speeds in residential neighborhoods, as allowed under the provisions of the city's residential traffic management program.  
(Ord. 2003-34, passed 10-21-03)

### § 7-7-2 DEFINITIONS.

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

**75TH PERCENTILE TRAVEL SPEED.** The speed at which 75% of the traffic on a particular street travels at or below, determined by a random measurement of travel speeds.

**85TH PERCENTILE TRAVEL SPEED.** The speed at which 85% of the traffic on a particular street travels at or below, determined by a random measurement of travel speeds.

**HOUSEHOLD.** A single-family unit dwelling, townhouses, duplex, condominium, or apartment complex along a residential or neighborhood collector street.

**NEIGHBORHOOD COLLECTOR STREET.** A street which has primary function to circulate traffic within a subdivision comprised mainly of single-family unit dwellings, but has an additional function for serving local property access.

**PETITION.** The document provided by the city for the purpose of formally identifying the number of households within the petition area that support the requested installation of a traffic calming device(s).

**PETITION AREA.** The area along a street or streets having households to which the petition for traffic calming devices must be presented.

**PROJECT REQUESTOR.** The individual or individuals, or property owner association, which submits the initial request to the city for consideration of a traffic calming device(s).

**PROJECT STREET.** That portion of a particular street, within the right-of-way of which a traffic calming device is proposed to be constructed under this article.

**PROPERTY OWNER.** The owner(s) of any tract or parcel of real property within a neighborhood area.

**PROPERTY OWNER ASSOCIATION.** Any homeowners association, property owners' group or civic association, whether incorporated or not, whose membership includes property owners and/or residents of a neighborhood area.

**RESIDENT.** Any person who resides on or owns or operates a home upon any tract or parcel of real property within a neighborhood area.

**RESIDENTIAL STREET.** A street which has primary function to serve local property access within a subdivision comprised mainly of single-family unit dwellings, townhouses, duplexes, condominiums, or apartment complexes.

**TRAFFIC CALMING DEVICES.** A design element, including speed humps and regulatory access restriction, in and/or along a street or intersection, having the sole purpose to discourage cut-through traffic and to minimize travel speeds.  
(Ord. 2003-34, passed 10-21-03; Am. Ord. 2006-02, passed 1-23-06)

### **§ 7-7-3 PROJECT ELIGIBILITY REQUIREMENTS AND DESIGN STANDARDS.**

All of the following criteria shall be satisfied for a street to be considered eligible for traffic calming devices and/or measures once the city has received a citizen request for residential traffic calming.

(A) *Operational and geometric requirements of the street; consideration of physical devices.*

(1) Only functionally-classified "residential" and "neighborhood collector" streets having not more than one travel lane in each direction and not more than 40 feet in width (measured from back-of-curb to back-of-curb) shall be considered for installation of traffic calming devices. Any functionally-classified "through street" identified in § 15-3-30(D) or other street which function to substantially serve through traffic immediately abutting residential subdivisions shall not qualify.

(2) The street shall have a posted or prima facie speed limit of 30 mile per hour or less determined in accordance with the city's method of establishing speed zones.

(3) A street shall be shown to have an average (75th percentile) travel speed above the legal speed limit to be eligible for a speed hump.

(4) Speed humps shall not be located in a horizontal curve or on a vertical curve where visibility is restricted.

(5) The street should have curb and gutter. Consideration may be given to streets without curb and gutter if it is determined that street drainage can be accommodated and that it will be possible to prevent vehicle run-arounds.

(6) The street shall be approved by both the fire department and the police department for installation of the traffic calming device. After petition or request is received, and upon determination by the City Engineering Department that a street or streets have the necessary physical and geometric characteristics to qualify for a traffic calming device, a layout of the subdivision will be forwarded to the Fire and Police Departments for their identification of streets which must be kept free of any traffic calming devices. Unless both the Fire Department and the Police Department approve a traffic calming on the project street, no physical traffic calming devices will be allowed on the project street.

(7) The average daily two-day traffic demand on the street shall not be less than 400 vehicles per day (averaged over not less than a three-weekday time period).

(8) Traffic calming device shall not be installed in front of the property of someone opposing the installation of the traffic calming device.

(B) *Operational and geometric characteristics of the street; consideration of passive (time regulated access restriction) devices.* The following basic criteria would be used to determine justification for an access restriction:

(1) A time regulated access restriction will be limited to not more than six hours during any day;

(2) Petition initiated by and signed by 90% of property owners abutting the street block under consideration;

(3) Street must be functionally-classified "residential" street (excluding neighborhood collector streets);

(4) Traffic demand on the street exceeds 750 vehicles per day (average weekday);

(5) Peak hour through traffic exceeds 50% of the total peak hour traffic;

(6) The 75th percentile traffic speed on the street exceeds the legal speed limit; and

(7) The City Engineer determines that an equally acceptable and reasonable alternative traffic route of higher functional classification is available to accommodate traffic denied access at the restricted street and would not negatively impact any other residential street.

(C) *Design standards for speed humps.*

(1) Dimension and cross-section:

(a) Two types of speed hump designs, circular or flat-topped, shall be considered. The circular speed hump will generally be approximately 12 feet long and have the cross-section of a segment of a circle with a maximum height of three inches at the center. The flat-topped speed hump will generally be approximately 22 feet long consisting of a 10-foot long plateau with 6-foot long circular arc approaches on either side. This flat-topped speed hump will be three inches in height.

(b) The cross-section design of a speed hump will depend on the traffic calming design speed objective for a particular project street. The following design speed objectives shall apply:

1. Thirty miles per hour design - for typical residential streets without any unique development or geometric features.\*

\*Note: The City Engineer may consider unusual levels of traffic accident experience to apply a design speed objective lower than 30 mph on any typical street.

2. Twenty-five miles per hour design - for streets abutting public parks/playgrounds, on streets which have horizontal curvature designed for this speed, or other type development which in the opinion of the City Engineer may generate an above average level of child pedestrian activity.

3. Twenty miles per hour - for street sections immediately abutting elementary schools or streets which have horizontal curvature designed for this speed.

4. Fifteen miles per hour design - used only on approaches to street sections having horizontal curvature designed for this speed.

5. On streets with curbs, humps should extend fully across the road from curb joint to curb joint according to the city standard detail. A 12-inch minimum taper may be considered for drainage. For humps installed on non-curbed roadways special treatment such as delineator posts or other approved traffic control device should be considered to prevent vehicle run-arounds.

(2) Spacing and location. Speed humps will usually be placed between 200 to 600 feet apart at the discretion of the City Engineer. Other spacing may be used based upon engineering judgment. The following guidelines will be considered when determining speed hump spacing but may be adjusted at the discretion of the City Engineer due to local circumstances in each case.

(a) On single short blocks (less than 600 feet) a single hump positioned near mid-point shall be considered.



(b) On single blocks of moderate length (601 to 1,200 feet), a two-hump configuration shall be considered.

(c) On very long single blocks (exceeding 1,200 feet), no more than three humps shall be considered.

(d) On lengthy continuous street segments or for humps provided over a series of blocks, interior humps shall be placed 400 feet to 600 feet apart.

(3) The following points shall be considered when locating speed humps (or other traffic calming device):

(a) Speed hump will not be located in front of a driveway or within an intersection. Speed humps will not be located within 100 feet of an intersection.

(b) The first hump in a series should be installed within approximately 200 feet downstream of a stop sign.

(c) Speed humps will not be located over, or contain, manholes, or be located adjacent to fire hydrants or driveways.

(d) For humps located near drainage inlets, the hump will be placed just downstream of the inlet. If this is not feasible, special treatment must be considered for drainage.

(e) If possible, humps will be located on property lines rather than directly in front of a residence.

(f) The advantage of existing or potential street lighting should be taken into account when determining hump locations.

(4) The following points will be considered when locating speed humps (or other traffic calming device), but may be adjusted at the discretion of the City Engineer due to local circumstances in each case.

(a) A speed hump will not be located in front of a driveway or within an intersection. Speed humps will not be located within 100 feet of an intersection.

(b) The first hump in a series should be installed within approximately 200 feet downstream of a stop sign.

(c) Speed humps will not be located over, or contain, manholes or be located adjacent to fire hydrants or driveways.

(d) For humps located near drainage inlets, the hump will be placed just downstream of the inlet. If this is not feasible, special treatment must be considered for drainage.

(e) If possible, humps will be located on property lines rather than directly in front of a residence.

(f) The advantage of existing or potential street lighting should be taken into account when determining hump locations.

(5) Traffic control. Traffic control consisting of signs, pavement markings and enhanced street lighting should be provided to advise roadway users of a speed hump's presence and to guide their subsequent action. Traffic signs and pavement markings shall conform to the Texas Manual of Uniform Traffic Control and Devices (MUTCD) standards.

(D) *Project prioritization criteria.* Traffic calming device projects shall be ranked according to the criteria established in this section. Projects will be assigned points on the basis of existing speeds and volumes, average number of speed related accidents documents by the Kingsville Police Department (KPD), proximity of abutting public park area, and presence of school and/or other special pedestrian generators in the area. The project accumulating the greatest number of points shall be assigned the highest priority. Among projects with the same ranks, higher priority will be given to the one with the earliest application date. The city may revise priorities on the basis of continuing traffic accident experience which has occurred beyond the time the initial evaluation and priority ranking had been completed.

(1) Accident criteria. All accidents considered for point assignment shall have causative factors (including, but not limited to excessive travel speed) which have a strong likelihood for mitigation by one or more traffic calming devices.

<b><i>Total Number of Reported Accidents Over a Period of Three Consecutive Years</i></b>	<b><i>Points Assigned</i></b>
Less than 2	0
2	1
3 - 4	2
4 - 5	3
6 - 7	4
8 or more	5

(2) Speed criteria. The speed criteria considers the percentage of vehicles traveling greater than 7 mph over the posted speed limit. This information will be obtained from a series of radar speed studies on the project street on normal weekday periods during peak hour traffic periods (7:00 a.m. - 9:00 a.m., 11:00 a.m. - 1:00 p.m. and 4:00 p.m. - 6:00 p.m.).

<b><i>Percentage of Vehicles Traveling Greater than 7 mph Over the Posted Speed Limit</i></b>	<b><i>Points Assigned</i></b>
0	0
1 - 2	1
3 - 4	2
5 - 6	3
7 - 8	4
9 - 10	5
11 - 12	6
13 - 14	7
15 - 16	8
17 - 18	9
19 - 20	10
Greater than 20%	11

(3) Traffic volume criteria. Traffic volumes (two-way) during any one of the normal peak hours and during a minimum three-weekday study are considered.

#### Speed Humps

<b><i>Hourly Volume (vehicles/hour)</i></b>	<b><i>Points Assigned</i></b>
Less than 50	0
51 - 100	1
101 - 200	3
201 - 300	5
301 - 400	7
Greater than 400	9

(4) Type of neighborhood criteria. Points will be assigned to the project if there are schools and/or special pedestrian generators (such as parks, elderly housing, community center, shopping areas).

Elementary school on project street	3 points
Middle school on project street	2 points
School within a 1,000-foot radius of the project street	1 point
Special pedestrian generators within 1,000-foot radius of the project street (libraries, neighborhood recreation centers, community center, ballpark complex, shopping mall, or strip shopping center)	1 point for each facility
Absence of sidewalks on the project street	1 point
No available functional paralleling arterial and collector "through" street within 1/4 mile	1 point
Public park within a 1,000-foot radius of the project street	1 point

(5) Cost sharing criteria. The cost for a traffic calming device shall be shared between the city and the residents according to the following criteria. Points considered for cost share are based on points assigned for priority ranking.

<b><i>Points from Priority Ranking</i></b>	<b><i>City's Cost Share</i></b>
20 and above	100%
16 - 19	75%
12 - 15	50%
8 - 11	25%
4 - 7	0%

(Ord. 2003-34, passed 10-21-03; Am. Ord. 2006-02, passed 1-23-06)

#### **§ 7-7-4 PROJECT PRIORITIZATION.**

Speed hump projects satisfying the criteria in § 7-7-3 will be prioritized on a citywide basis using the criteria developed by the City Engineering Office in § 7-7-3.

(Ord. 2003-34, passed 10-21-03)

**§ 7-7-5 CITIZEN COST PARTICIPATION RESPONSIBILITY.**

(A) The cost for speed hump installation (including signs, pavement markings and, if necessary, special features) may be shared between the city and the residents.

(B) Cost-sharing criteria shall be used to determine the residents' share of the installation cost, according to the cost-share identified in § 7-7-8.

(C) City staff will submit a statement to the requestor(s) of each approved project indicating the estimated total installation cost, city's cost share (if any), residents' cost share (if any), and the project's ranking on the priority list. If the project does not receive high enough priority to receive full or partial city funding, yet still satisfies the city's eligibility criteria (§ 7-7-3) and accumulates at least four criteria ranking points, residents will have the option to voluntarily pay for full installation cost.

(D) The residents' cost share is that percentage of the total cost which is not the city's responsibility. One or more residents may pay this share or it may come from other private sources - the exact manner of which would be left to the residents.

(E) For projects eligible for partial city funding, it will be the responsibility of the requester(s) to ensure the residents' cost share is deposited with the city not less than 90 days prior to the planned date of installation. If the city does not receive the residents' cost share within this time, the project will be removed from the priority list. In such case, a new petition must be submitted if the neighborhood wants to be considered for installation of a traffic calming device in the next fiscal year. Other guaranteed payment procedures may be offered to cover the residents' cost share, at the discretion of the city.

(F) Residents will be permitted to expedite the traffic calming device installation by voluntarily paying the full installation as long as the project street satisfies the minimum eligibility requirements (§ 7-7-3).

(Ord. 2003-34, passed 10-21-03)

**§ 7-7-6 DESIGN, CONSTRUCTION, MAINTENANCE, REMOVAL AND ALTERATION.**

(A) Design standards and installation procedures for speed humps and related features, such as signs and pavement markings shall be prepared by the City Engineering Office (refer to Appendix C, attached to Ordinance 2003-34). Construction of speed humps will be administered by the City Engineering Office in conjunction with the city's street service department or by contract installation, at the discretion of the city. The city will maintain the speed humps and traffic diverters and all related features.

(B) The process for speed humps alteration or removal requested by the residents shall be the same as the process for installation, except that there will be not city participation in the cost incurred. A petition approved by the neighborhood association, documenting that at least two-thirds of all the households and businesses adjacent to the speed hump street are in favor of the devices' removal, shall be required.

(C) In case the City Engineering Office determines that an unforeseen problem has resulted due to the hump, it may be redesigned or removed by the city. In such case, the city will bear the full cost of removal and restoration of the street to original condition.  
(Ord. 2003-34, passed 10-21-03)

#### **§ 7-7-7 TRAFFIC CALMING DEVICE STUDY PROCESS.**

The following items describe the procedure to be followed for speed hump installation:

(A) *Project request.* Request for speed hump installation can be initiated by any one individual, group of residents, or neighborhood association. A request shall be sent in writing to the City Engineer.

(B) *Preliminary review of citizen/neighborhood request.*

(1) After a request for a traffic calming device has been received, city engineering staff will conduct an initial investigation of the street's eligibility in regards to the operational and geometric characteristics (§ 7-7-3). The Fire and Police Department will be forwarded a copy of the petition and subdivision layout, following determination of the initial investigation that the basic criteria is satisfied, for these Department's review and specification of any streets which should not have calming devices.

(2) If the operational and geometric requirements for eligibility are not met, or if the Fire and Police Departments do not approve the request, the street shall not be considered for the traffic calming device and the requester(s) will be notified.

(3) If after initial investigation, it is determined that the street qualified for the traffic calming device, a petition and an endorsement statement for the neighborhood association (if applicable) shall be mailed to the requester(s). The project requester(s) will be responsible for circulating the petition in the petition area.

(4) If the approved petition and endorsement statement for the neighborhood association (if applicable) is received by the specified date, city staff shall conduct a field investigation and collect preliminary data, including traffic volumes and speeds.

(5) An approved project street will be placed on the list of streets eligible for the traffic calming device installation. A priority ranking will be assigned to the street according to project prioritization criteria identified in § 7-7-8.

(C) *Petition requirement/process.*

(1) The petition area may be extended by the City Engineer to include nearby streets which may see an increase in traffic as a result of this project. This "petition area" will be defined by the City's Engineering Office. It is intended that the petition is to be presented by residents on a project block section or block sections, to the City's Engineering Department on the perceived impact the traffic calming device(s) would have on upstream and downstream block sections.

(2) A petition from the residents and business owners within the defined petition area documenting that at least two-thirds of all households adjacent to the project street support the installation of a traffic calming device for the study to proceed further. Multi-family dwellings with more than four units shall be counted as one household, with the property owner or manager representing the household. If a household is occupied by a renter, the property owner of that household is responsible for signing the petition.

(D) *Appeal process.*

(1) Any citizen, group of citizens, or neighborhood association that has requested or petitioned for a traffic calming project and seeks to contest the point ranking, relative priority to other approved traffic calming projects, or disapproval rendered by the City Engineer, and/or the interpretation or application of any criteria, described herein, may file an appeal with the City Engineer on the prescribed appeal form. The appeal must be filed within ten days after a notice of project rating and related decision regarding the requested or petitioned project has been provided to the requesting citizen, group of citizens, or neighborhood association.

(2) When an appeal is timely filed, a hearing shall be scheduled before the City's Planning and Zoning Commission in its first available monthly meeting following receipt of the appeal, or contingent on satisfying proper legal notice requirements for posting of the Planning and Zoning Commission's meeting agenda. Upon conducting the hearing, including any supplemental information the appellant may wish to present, the Planning and Zoning Commission shall make a recommendation to the City Commission on the appeal.

(3) The City Manager shall set the date of such hearing before the City Commission, and the City Commission will have final authority on the appealed project rating and decision for what traffic calming devices, if any, will be authorized.

(Ord. 2003-34, passed 10-21-03)

## **§ 7-7-8 FUNDING FOR APPROVED TRAFFIC CALMING PROJECTS.**

(A) City funds will be allocated once a year, after the residential traffic management neighborhood program budget request is prepared by the Engineering Department. During a fiscal year, city funding will proceed in descending order from the top of priority list. Project requests received during a fiscal year (with completed studies) shall be eligible for funding during the same fiscal year.

(B) During the formulation of each fiscal year budget, the engineering department shall recommend an annual operating budget for the residential traffic management program based on pending eligible projects waiting to be undertaken plus additional projects estimated to be requested for the budget year. The City Commission will approve an annual operating budget for each fiscal year.

(C) Once an approved project street is listed on the priority list, it will be considered for funding up to three consecutive years. If after three years a project has not been constructed (whether due to limited funds or a low priority rating), a recertification of support for the traffic calming device will be



required. This time limit ensures that the project request has not become obsolete because of changing traffic conditions and/or support of new residents in the area. The project requester(s) and the neighborhood association will be notified when the three-year time limit expires. Recertification of the petition may result in the project receiving a different (higher or lower) relative priority with other approved projects. If the recertification process fails to support the project, the project will be removed from the priority list. A new request may be made to re-enter the project after six months of the recertification effort, and, in such case, the usual procedures will be followed.

(D) Of the city's annual allocated funds, which may vary from year-to-year, 70% will be reserved for projects requiring 100% city financing. The remainder of the allocated city funds will be reserved for projects which require cost sharing by the residents. The funding split of 70% and 30% is subject to revision based on the need to undertake highest priority projects. City funding participating will proceed in descending order from the top of the priority list until all annual funds are allocated to projects.

(E) Upon receipt of residents' share (if any) and allotment of city's share (if any), the selected traffic calming device shall be installed as scheduling permits. Once funds have been committed for a particular project, the funding shall not be withdrawn unless so requested in writing by the petitioner(s). The construction of the traffic calming device and the associated placement of signs and markings shall conform to the current design standards as established by the city Engineering Department.

(Ord. 2003-34, passed 10-21-03)

## **ARTICLE 8: TRAFFIC CONTROL DEVICES**

### **Section**

- 7-8-1 Authority to install traffic control devices
- 7-8-2 Specifications for traffic control devices
- 7-8-3 Traffic control areas

### **§ 7-8-1 AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES.**

The Chief of Police shall place and maintain traffic control signs, signals and devices when and as required under the traffic regulations of the municipality to make effective the provisions of said regulations, and may place and maintain such additional traffic control devices as he may deem necessary.

(Ord. ORD-2005-10, passed 3-14-05)

### **§ 7-8-2 SPECIFICATIONS FOR TRAFFIC CONTROL DEVICES.**

All traffic control signs, signals and devices shall conform to the approved specifications. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the municipality. All traffic control devices so erected and not inconsistent with the provisions of this title shall be official traffic control devices.

(Ord. ORD-2005-10, passed 3-14-05)

### **§ 7-8-3 TRAFFIC CONTROL AREAS.**

(A) The City of Kingsville shall be sectioned into the following traffic control areas:

(1) Area A is bounded on the north by the city limits; on the east by the east side of Armstrong; on the south by the south side of Santa Gertrudis Avenue; on the west by the city limits.

(2) Area B is bounded on the north by the city limits; on the east by the west side of Sixth Street; on the south by the south side of Santa Gertrudis Avenue; on the west by east side of Armstrong.

(3) Area C is bounded on the north by the city limits; on the east by the east side of Fourteenth Street; on the south by the south side of Santa Gertrudis Avenue; on the west by the west side of Sixth Street.

(4) Area D is bounded on the north by the city limits; on the east by the city limits; on the south by the south side of Santa Gertrudis Avenue; on the west by the east side of Fourteenth Street.

(5) Area E is bounded on the north by the south side of Santa Gertrudis Avenue; on the east by the east side of Armstrong Avenue; on the south by the south side of King Avenue; on the west by the southwest side of King Avenue.

(6) Area F is bounded on the north by the south side of Santa Gertrudis Avenue; on the east by the west side of Sixth Street; on the south by south side of King Avenue; on the west by the east side of Armstrong Avenue.

(7) Area G is bounded on the north by the south side of Santa Gertrudis Avenue; on the east by the east side of Fourteenth Street; on the south by the south side of King Avenue; on the west by the west side of Sixth Street.

(8) Area H is bounded on the north by the south side of Santa Gertrudis Avenue; on the east by the city limits; on the south by the south side of King Avenue; on the west by the east side of Fourteenth Street.

(9) Area I is bounded on the north by the south and southwest side of King Avenue; on the east by the east side of Armstrong Avenue; on the south by the city limits; on the west by the city limits.

(10) Area J is bounded on the north by the south side of King Avenue; on the east by the west side of Sixth Street; on the south by the south side of Caesar Avenue; on the west by the east side of Armstrong Avenue.

(11) Area K is bounded on the north by the south side of King Avenue; on the east by the east side of Fourteenth Street; on the south by the south side of Caesar Avenue; on the west by the west side of Sixth Street.

(12) Area L is bounded on the north by the south side of King Avenue; on the east by the city limits; on the south by the south side of Caesar Avenue; on the west by the east side of Fourteenth Street.

(13) Area M is bounded on the north by the south side of Caesar Avenue; on the east by the west side of Sixth Street; on the south by the city limits; on the west by the city limits and east side of Armstrong Avenue.

(14) Area N is bounded on the north by the south side of Caesar Avenue; on the east by the east side of Fourteenth Street; on the south by the south side of Military Highway; on the west by the west side of Armstrong Avenue.

(15) Area O is bounded on the north by the south side of Caesar Avenue; on the east by the city limits; on the south by the south side of Military Highway; on the west by the east side of Fourteenth Street.

(16) Area P is bounded on the north by the south side of Military Highway; on the east by the city limits; on the south by the city limits; and on the west by the city limits.

(B) Furthermore, recognizing the importance and need for safe and effective traffic control, and implementing the recommendation of the April 1976 Traffic Engineering Study for the City of Kingsville, prepared by Traffic Engineers, Inc., the Commission of the City of Kingsville does hereby enact the following ordinance for the safe and effective management of automobile traffic within the City of Kingsville.

<b>AREA A</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Santa Monica Blvd. at Santa Gertrudis Ave.	Southbound	Delete yield sign Install stop sign
2. Santa Monica Blvd. at Santa Rosa Dr.	Westbound	Install stop sign
3. Santa Barbara Dr. at Santa Monica Dr.	Southbound	Install yield sign
4. Santa Dolores Dr. at Santa Monica Blvd.	Southbound	Install yield sign
5. Santa Anita Dr. at Santa Monica Blvd.	Westbound	Install yield sign
6. Santa Cecilia Dr. at Santa Monica Blvd.	Southbound	Install yield sign
7. Santa Fe Dr. at Santa Elena Dr.	Eastbound	Install yield sign
8. Santa Elena Dr. at Santa Gertrudis Ave.	Southbound	Delete yield sign Install stop sign
9. Santa Fe Dr. at Santa Rosa Dr.	Westbound	Delete yield sign Install stop sign
10. Wanda Dr. at Avenue I	Northbound	Install yield sign
11. Wanda Dr. at Corral Ave.	Southbound	Install stop sign
12. Santa Gertrudis Ave. at Santa Rosa Dr.	Southbound	Install stop sign
13. Wanda Dr. at Avenue F	Southbound	Install yield sign
14. Santa Rosa Dr. at Santa Gertrudis Ave.	Northbound	Install do-not-enter sign

<b>AREA A</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
15. Santa Rosa Dr. at Santa Gertrudis Ave	Southbound	Install yield sign
16. Santa Maria Dr. at Santa Rosa Dr.	Westbound	Install stop sign
17. Santa Rosa Dr. 400' north at Santa Fe Dr.	Northbound	Install 30 MPH sign
18. Corral Ave. 1200' west at Seale St.	Westbound	Install 30 MPH sign

<b>AREA B</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Ella Ave. at Third St.	Westbound	Install stop sign
2. Nettie Ave. at Second St.	Northbound	Install stop sign
3. Nettie Ave. at Fifth St.	Eastbound - Westbound	Install stop sign
4. Avenue A at Third St.	Eastbound - Westbound	Delete yield sign Install stop sign
5. Avenue B at Second St.	Southbound	Install stop sign
6. Avenue B at Fifth St.	Eastbound - Westbound	Install stop sign
7. Avenue C at Well St.	Southbound	Install stop sign
8. Avenue C at First St.	Northbound - Southbound	Install stop sign
9. Avenue C at Second St.	Northbound - Southbound	Install stop sign
10. Avenue C at Fourth St.	Northbound	Install yield sign
11. Avenue C at Fifth St.	Westbound	Install stop sign
12. Avenue D at Wells St.	Northbound - Southbound	Install stop sign
13. Avenue D at First St.	Northbound - Southbound	Install stop sign
14. Avenue D at Second St.	Northbound - Southbound	Install stop sign
15. Mesquite Ave. at First St.	Northbound -	Install stop sign

<b>AREA B</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
	Southbound	
16. Mesquite Ave. at Second St.	Northbound - Southbound	Install stop sign

2006 S-8

<b>AREA B</b>		
<b>Intersection</b>	<b>Direction</b>	<b>Device</b>
17. Corral Ave. at Wells St.	Northbound - Southbound	Install stop sign
18. Corral Ave. at First St.	Northbound - Southbound	Install stop sign
19. Corral Ave. at Second St.	Northbound	Install stop sign
20. Avenue F at Wells St.	Northbound - Southbound	Install yield sign
21. Avenue F at First St.	Eastbound	Install stop sign
22. Avenue G at Wells St.	Northbound - Southbound	Install yield sign
23. Avenue G at First St.	Eastbound	Install stop sign
24. Young Dr. at Corral Ave.	Southbound	Install stop sign
25. Railroad Ave. at Avenue D	Northbound - Southbound	Install stop signs
26. West Avenue D at Third St.	Eastbound - Westbound Northbound - Southbound	Install stop signs
27. North Ninth Street at Sixth Street	Northbound	Install stop sign

<b>AREA C</b>		
<b>Intersection</b>	<b>Direction</b>	<b>Device</b>
1. Garcia Ave. at Wilson St.	Eastbound	Install yield sign
2. Vela Avenue at Wilson St	Eastbound	Install stop sign
3. Avenue B at Twelfth St.	Southbound	Delete yield sign Install stop sign
4. Avenue A at Twelfth St.	Eastbound- Westbound	Install stop sign
5. Vela Ave. at Twelfth St.	Westbound	Install stop sign
6. Nettie Ave. at Twelfth St.	Eastbound	Install stop sign
7. Ella Ave. at Twelfth St.	Eastbound	Install stop sign
8. Ella Ave. at Tenth St.	Eastbound - Westbound	Install stop sign

<b>AREA C</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
9. Elia Ave. at Eleventh St.	Southbound	Install yield sign

2006 S-8

<b>AREA C</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
10. Nettie Ave. at Eleventh St.	Northbound	Install yield sign
11. Nettie Ave. at Tenth St.	Eastbound – Westbound	Install stop sign
12. Avenue A at Tenth St.	Westbound	Install stop sign
13. Avenue D at Tenth St.	Northbound - Southbound	Install stop sign
14. Mesquite Ave. at Tenth St.	Northbound – Southbound	Install stop sign
15. Corral Ave. at Tenth St.	Northbound	Install stop sign
16. Ella Ave. at Eighth St.	Northbound - Southbound	Install stop sign
17. Avenue B at Seventh St.	Southbound	Install stop sign
18. Avenue B at Eighth St.	Southbound	Install stop sign
19. Avenue C at Eight St.	Northbound – Southbound	Install yield sign
20. Nettie Ave. at Seventh St.	Eastbound – Westbound	Delete Stop Sign
21. Nettie Ave. at Eighth St.	Eastbound – Westbound	Install stop signs
22. Ninth St. at Santa Gertrudis Ave.	Northbound – Southbound	Install stop sign
23. Santa Gertrudis Ave. at Sixth St.	Eastbound – Westbound Northbound - Southbound	Install traffic signal

<b>AREA D</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Fifteenth St. at Ella Ave	Southbound	Install stop sign
2. Sixteenth St. at Ella Ave.	Southbound	Install yield sign
3. Sixteenth St. at Nettie Ave.	Northbound – Southbound	Install stop sign
4. Sixteenth St. at Avenue B	Northbound – Southbound	Install stop signs
5. Sixteenth St. at Avenue C	Westbound	Install stop sign

<b>AREA D</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
6. Sixteenth St. at Avenue D	Northbound - Southbound	Install stop sign
7. Sixteenth St. at Mesquite Ave.	Westbound	Install stop sign

2006 S-8

<b>AREA D</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
8. Seventeenth St. at Mesquite Ave.	Eastbound	Install stop sign
9. Fairview Dr. at Fairview So.	Eastbound — Westbound	Install stop sign
10. Fairview Dr. at Fairview No.	Eastbound — Westbound	Install stop sign
11. Brookshire Dr. at Gillette Dr.	Northbound	Install stop sign
12. Avenue F at Twentieth St.	Eastbound	Install stop sign

<b>AREA E</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Kleberg Ave. at Jackson Ave.	Northbound — Southbound	Install yield sign
2. Yoakum at Jackson Ave.	Eastbound — Westbound	Install stop sign
3. Cypher Ave. at University Blvd.	Eastbound	Install stop sign
4. Henrietta Ave. at Seale St.	Westbound	Install yield sign
5. Henrietta Ave. at University Blvd.	Eastbound	Install stop sign
6. Henrietta Ave. at Oris Dr.	Northbound	Install stop sign
7. Henrietta Ave. at Jackson Ave.	Northbound	Install stop sign
8. Lantana Dr. at Wanda Dr.	Eastbound	Install yield sign
9. Lee Ave. at University Blvd.	Eastbound	Install stop sign
10. Lee Ave. at Lantana Dr.	Westbound	Install yield sign
11. Lee Ave. at Wanda Dr.	(2) Northbound — Southbound	Install Yield Sign
12. Alice Ave. at Wanda Dr.	Northbound	Install yield sign
13. Alice Ave. at Lantana Dr.	Northbound	Install yield sign
14. Richard Ave. at Lantana Dr.	Northbound	Install stop sign

<b>AREA F</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Yoakum Ave. at First St.	Northbound — Southbound	Delete yield sign Install stop signs
2. Park Dr. at Lee Ave.	Northbound	Install stop sign
3. Kleberg Ave. at Third St.	Westbound	Delete stop sign
4. Yoakum Ave. at Fourth St.	Northbound — Southbound	Install stop signs
5. Lee St. at First St.	Northbound — Southbound	Install stop signs
6. 5th St. at Richard St.	Northbound — Southbound	Delete stop signs Install stop sign eastbound
7. 6th St. at Richard St.	Eastbound	Delete stop sign

<b>AREA G</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Kleberg Ave. at Thirteenth St.	Northbound – Southbound	Install stop signs
2. Yoakum Ave. at Eleventh St.	Northbound – Southbound	Delete yield signs Install stop signs
3. Henrietta Ave. at Thirteenth St.	Northbound – Southbound	Delete yield signs Install stop signs
4. Lee Ave. at Thirteenth St.	Northbound – Southbound	Delete yield signs Install stop signs
5. Alice Ave. at Twelfth St.	Northbound - Southbound	Install stop signs
6. Alice Ave. at Tenth St.	Northbound – Southbound	Install stop signs
7. Richard Ave. at Twelfth St.	Eastbound – Westbound	Install stop signs
8. Lee Ave. at Twelfth St.	Northbound – Southbound Eastbound - Westbound	Install stop signs
9. Alice Ave. at Twelfth St.	Eastbound – Westbound	Delete Stop Signs
10. Seventh Street at Kleberg	Northbound –	Remove traffic signal

<b>AREA G</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
Avenue	Southbound	Install stop signs

2007 S-9

<b>AREA G</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
11. Lee St. at Sixth St.	Eastbound – Westbound	Remove traffic signal Install stop signs

<b>AREA H</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. King Ave. at Eighteenth St.	Northbound	Install stop sign
2. Kleberg Ave. at Nineteenth St.	Eastbound	Install stop sign
3. Kleberg Ave. at Fifteenth St.	Northbound – Southbound	Install stop sign
4. Yoakum Ave. at Seventeenth St.	Eastbound – Westbound	Install stop signs
5. Henrietta Ave. at Seventeenth St.	Eastbound – Westbound	Install stop signs
6. Henrietta Ave. at Fifteenth St.	Northbound – Southbound	Install stop signs
7. Alice Ave. at Seventeenth St.	Westbound	Install stop signs
8. Richard Ave. at Seventeenth St.	Eastbound – Westbound	Install stop signs
9. Henrietta Ave. at Sixteenth St.	Northbound – Southbound Eastbound - Westbound	Install stop signs

<b>AREA I</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Kenedy Ave at May St.	Southbound	Install stop sign
2. Kenedy Ave. at Milton St.	Southbound	Install stop sign
3. Kenedy Ave. at Frances St.	Northbound	Install stop sign
4. Lott St. at Williams St.	Eastbound	Install yield sign
5. Huisache Ave. at Lantana Dr.	Westbound	Install stop sign
6. Huisache Ave. at Williams St.	Eastbound - Westbound	Install yield signs
7. Huisache Ave. at Wanda Dr.	Eastbound – Westbound	Install yield signs

**Kingsville - Traffic Code**

<b>AREA I</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
8. Warren Ave. at Armstrong Ave.	Westbound	Delete yield sign Install stop sign
9. Ragland Ave. at Armstrong Ave.	Westbound	Delete yield sign Install stop sign
10. Jackson Ave. at Kenedy Ave.	Southbound	Install stop sign

<b>AREA J</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Kenedy Ave. at Wells St.	Southbound	Install stop sign
2. Huisache Ave. at Fifth St.	Southbound	Delete yield sign Install stop sign
3. Fordyce Ave. at Third St.	Eastbound	Delete stop sign
4. Fordyce Ave. at First St.	Northbound — Southbound	Install yield signs
5. Johnston Ave. at Wells St.	Northbound — Southbound	Install stop signs
6. Doddridge Ave. at Wells St.	Northbound — Southbound	Install stop signs
7. Doddridge Ave. at First St.	Northbound — Southbound	Install yield signs
8. Warren Ave. at Wells St.	Northbound — Southbound	Install yield signs
9. Ragland Ave. at Wells St.	Northbound — Southbound	Install yield signs
10. Ragland Ave. at First St.	Northbound — Southbound	Install yield signs
11. Caesar Ave. at Second St.	Northbound	Install yield sign
12. Caesar Ave. at First St.	Northbound — Southbound	Install stop signs
13. Caesar Ave. at Wells St.	Southbound	Install stop sign
	Northbound -	

<b>AREA J</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
14. Huisache Ave. at Second St.	Southbound Eastbound - Westbound	Install stop signs
15. 4th St. at Lott St.	Northbound — Southbound	Delete yield signs Install stop signs
16. 4th St. at Huisache Ave.	Southbound	Delete yield sign Install stop sign

2007 S-9

<b>AREA K</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Kenedy Ave. at Eleventh St.	Northbound - Southbound	Delete yield signs Install stop signs
2. Lott Ave. at Eleventh St.	Northbound - Southbound	Delete yield signs Install stop signs
3. Huisache Ave. at Eleventh St.	Southbound	Install stop sign
4. Johnston Ave. at Seventh St.	Northbound - Southbound	Install yield signs
5. Doddridge Ave. at Seventh St.	Eastbound -Westbound	Install yield signs



<b>AREA K</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
6. Warren Ave. at Seventh St.	Eastbound - Westbound	Install yield signs
7. Ragland Ave. at Eight St.	Eastbound - Westbound	Delete yield signs Install stop signs
8. Fordyce Ave. at Tenth St.	Eastbound - Westbound	Delete stop signs
9. Johnston Ave. at Tenth St.	Northbound - Southbound	Delete stop signs
10. Fordyce Ave. at Eleventh St.	Eastbound - Westbound	Delete stop signs
11. 9th Street at King Street	Northbound	Install stop sign

<b>AREA L</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Kenedy Ave. at Eighteenth St.	Southbound	Install stop sign
2. Kenedy Ave. at Nineteenth St.	Southbound	Install stop sign
3. Kenedy Ave. at Twenty-First St.	Northbound	Install stop sign
4. Kenedy Ave. at Twenty-Second St.	Northbound	Install stop sign
5. Kenedy Ave. at Twenty-Third St.	Northbound	Install stop sign
6. Kenedy Ave. at Twenty-Fourth St.	Northbound	Install stop sign
7. Kenedy Ave. at Twenty-Sixth St.	Northbound	Install stop sign
8. Lott Ave. at Twenty-Third St.	Southbound	Delete yield sign Install stop sign
9. Lott Ave. at Twenty-Second St.	Southbound	Install stop sign
10. Lott Ave. at Twenty-First St.	Southbound	Install stop sign
11. Lott Ave. at Nineteenth St.	Northbound	Delete yield sign Install stop sign
12. Lott Ave. at Eighteenth St.	Northbound	Delete yield sign Install stop sign
13. Huisache Ave. at Sixteenth St.	Eastbound - Westbound	Install stop sign



<b>AREA L</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
14. Huisache Ave. at Seventeenth St.	Westbound	Install stop sign
15. Huisache Ave. at Nineteenth St.	Westbound	Install stop sign
16. Fordyce Ave. at Nineteenth St.	Westbound	Install stop sign
17. Fordyce Ave. Eighteenth St.	Eastbound	Install stop sign
18. Fordyce Ave. at Seventeenth St.	Westbound	Install stop sign
19. Johnston Ave. at Seventeenth St.	Eastbound	Install stop sign
20. Johnston Ave. at Nineteenth St.	Westbound	Install stop sign
21. Warren Ave. at Nineteenth St.	Southbound	Install stop sign
22. Warren Ave. at Inez St.	Southbound	Install stop sign
23. Warren Ave. at Twenty First St.	Southbound	Install stop sign
24. Calvin St. at Twenty First St.	Westbound	Install yield sign
25. Linda St. at Twenty First St.	Westbound	Install yield sign
26. Nancy St. at Twenty First St.	Westbound	Install yield sign
27. Mildred St. at Twenty First St.	Westbound	Install yield sign
28. Oklahoma Ave. at Twenty Fourth St.	Southbound	Install stop sign
29. Oklahoma Ave. at Twenty Fifth St.	Southbound	Install stop sign
30. Oklahoma Ave. at Twenty Sixth St.	Southbound	Install yield sign
31. Louisiana Ave. at Twenty Second St.	Northbound	Install stop sign
32. Huisache Ave at Lott Ave.	Northbound	Install stop sign
33. Fordyce Ave. at Lott Ave.	Northbound	Install stop sign
34. Johnston Ave. at Lott Ave	Northbound	Delete yield sign Install stop sign
35. Louisiana Ave. at Johnston Ave.	Northbound	Install stop sign
36. Oklahoma Ave. at Johnston Ave.	Westbound	Install stop sign

<b>AREA L</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
37. Twenty Third St. at John St.	Northbound - Southbound	Install stop sign
38. Maple St. at Nineteenth St.	Westbound	Install yield sign
39. Colorado Ave. at Louisiana Ave.	Southbound	Install yield sign

<b>AREA M</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Hoffman Ave. at Wells St.	Eastbound	Install stop sign
2. Ailsie Ave. at Second St.	Northbound	Install stop sign
3. Briarwood Dr. at Fifth St.	Southbound	Install yield sign
4. Candlewood Dr. at Fourth St.	Northbound	Install stop sign
5. Candlewood Dr. at Second St.	Westbound	Install stop sign
6. Candlewood Dr. at FM 1356	Westbound	Install stop sign
7. Birchwood Dr. at Third St.	Northbound - Southbound	Install stop sign
8. Birchwood Dr. at Fourth St.	Northbound	Install stop sign

<b>AREA N</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Hoffman Ave. at Eleventh St.	Westbound	Install yield sign
2. Hoffman Ave. at Thirteenth St.	Eastbound	Install stop sign
3. Shelton Ave. at Seventh St.	Northbound - Southbound	Install stop sign
4. Ailsie Ave at Seventh St.	Southbound	Install stop sign
5. Ailsie Ave. at Eleventh St.	Southbound	Install stop sign
6. Otis Ave. at Carol Ave.	Eastbound	Install stop sign
7. Otis Ave. at Loop 428/US 77 Business	Southbound	Install stop sign

2006 S-8

<b>AREA N</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
8. Otis Ave. at Sixth St.	Westbound	Delete yield sign Install stop sign
9. Carol Ave. at Sixth St.	Westbound	Delete yield sign Install stop sign
10. Martin Ave. at Seventh St.	Southbound	Install yield sign
11. Martin Ave. at Carol Ave.	Northbound	Install yield sign
12. Pasadena Dr. at Loop 428/US 77 Business	Northbound	Install stop sign
13. Pasadena Dr. at Pasadena Dr.	Southbound	Install stop sign
14. South Park Dr. at Ailsie Ave. (east intersection)	Northbound	Install stop sign
15. South Park Dr. at Ailsie Ave. (west intersection)	Northbound	Install stop sign

<b>AREA O</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Lawndale Dr. at Circle Dr. South	Southbound	Install stop sign
2. Kathleen St. at Lawndale Dr.	Southbound	Install stop sign
3. Lawrence Dr. at Center Dr.	Northbound	Install yield sign
4. Lawrence Dr. at Lawndale Dr.	Eastbound	Install yield sign
5. Elizabeth Ave. at Lawndale Dr.	Eastbound	Install yield sign
6. Elizabeth Ave. at Annette St.	Westbound	Install stop sign
7. Ailsie Ave. at Annette St.	Southbound	Install stop sign
8. Ailsie Ave. at Jerome Dr.	Northbound	Install stop sign
9. Ailsie Ave. at Shelly Dr.	Northbound	Install stop sign
10. Ailsie Ave. at Bilvan Dr.	Northbound	Install stop sign

<b>AREA O</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
11. Ailsie Ave. at Kelly Dr.	Northbound	Install stop sign
12. Shelly Dr. at Palm Ave.	Westbound	Install stop sign
13. General Cavazos Boulevard (FM 1356) at Shelly Dr.	Southbound	Install stop sign
14. Paulson Falls Blvd. at General Cavazos Boulevard	Northbound	Install stop sign
15. Margaret Lane at Paulson Falls Boulevard	Eastbound	Install stop sign
16. Margaret Lane at Paulson Falls Boulevard	Westbound	Install stop sign
17. Margaret Lane at Alice Lane	Eastbound	Install stop sign
18. Alice Lane at 140 feet west of FM 3320	Westbound	Install stop sign
19. Alice Lane at FM 3320	Eastbound	Install stop sign
20. Windcrest Drive at Sherwood Ave.	Eastbound	Install stop sign
21. Windcrest Drive at Rettye Drive	Westbound	Install stop sign
22. Christy Ave. at Rettye Drive	Westbound	Install stop sign
23. Brenda Ave. at Rettye Drive	Westbound	Install stop sign
24. Bilvan Drive at Brenda Ave.	Southbound	Install stop sign
25. Margaret Lane at Alice Lane	Eastbound	Install stop sign
26. Alice Lane at 140 feet west of FM 3320	Westbound	Install stop sign
27. Alice Lane at FM 3320	Eastbound	Install stop sign

<b>AREA P</b>		
<b><i>Intersection</i></b>	<b><i>Direction</i></b>	<b><i>Device</i></b>
1. Escondido Dr. at Allen Dr.	Southbound	Install stop sign
2. Nelda Dr. at Allen Dr.	Eastbound	Install stop sign
3. Kleberg Park Road (west entrance)	Northbound	Install yield sign
4. Billy Evans Ave. and Chandler St.	Eastbound - Westbound	Install yield sign
5. Cecil Ave. and Chandler St.	Eastbound - Westbound	Install yield sign
6. Jay Vee Ave. and Chandler St.	Southbound	Install yield sign

(Ord. ORD-2005-10, passed 3-14-05; Am. Ord. ORD-2006-01, passed 1-9-06; Am. Ord. ORD-2006-23, passed 5-10-06)

## **CHAPTER IX: GENERAL REGULATIONS**

### **Article**

- 1. ABANDONED AND JUNKED MOTOR VEHICLES**
- 2. ALARM SYSTEMS**
- 3. ANIMALS**
- 4. FAIR HOUSING**
- 5. FIRE PREVENTION AND PROTECTION**
- 6. NOISE CONTROL**
- 7. NUISANCES**
- 8. PARKS AND RECREATION**
- 9. SMOKING REGULATIONS**
- 10. STREETS AND SIDEWALKS**  
**APPENDIX: REGULATIONS FOR ACCESS DRIVEWAYS**  
**TO STATE HIGHWAYS**



## ARTICLE 1: ABANDONED AND JUNKED MOTOR VEHICLES

### Section

#### ***Abandoned Motor Vehicles***

- 9-1-1 Definitions
- 9-1-2 Abandoned motor vehicle
- 9-1-3 Police Department to take possession of abandoned motor vehicles
- 9-1-4 Notification of owner and lien holders
- 9-1-5 Storage fees
- 9-1-6 Auction of abandoned motor vehicles
- 9-1-7 Law enforcement agency use of certain abandoned motor vehicles
- 9-1-8 Vehicle abandoned in storage facility

#### ***Junked Motor Vehicles***

- 9-1-10 Definitions
- 9-1-11 Declaring a public nuisance
- 9-1-12 Authority to abate; notice to state
- 9-1-13 Notice to owner to abate
- 9-1-14 Hearing
- 9-1-15 Exceptions
- 9-1-16 Disposal of junked vehicles
- 9-1-17 Authority to enforce; right-of-entry
- 9-1-18 Vehicles blocking traffic

#### ***Statutory reference:***

*Abandoned and junked motor vehicles, see TEX. TRANS. CODE, §§ 683.001 et seq.*

#### ***Cross-reference:***

*Junk yards; dumping grounds, see §§ 11-9-1 et seq.*  
*Nuisances, see §§ 9-7-1 et seq.*

## **ABANDONED MOTOR VEHICLES**

### **§ 9-1-1 DEFINITIONS.**

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

**GARAGEKEEPER.** An owner or operator of a storage facility.

**MOTOR VEHICLE.** A vehicle that is subject to registration under TEX. TRANS. CODE, Chapter 501.

**MOTOR VEHICLE DEMOLISHER.** A person in the business of:

- (1) Converting motor vehicles into processed scrap or scrap metal; or
- (2) Wrecking or dismantling motor vehicles.

**OUTBOARD MOTOR.** An outboard motor subject to registration under TEX. PARKS AND WILDLIFE CODE, Chapter 31.

**STORAGE FACILITY.** Includes a garage, parking lot, or establishment for the servicing, repairing, or parking of motor vehicles.

**WATERCRAFT.** A vessel subject to registration under TEX. PARKS AND WILDLIFE CODE, Chapter 31.

**ABANDONED NUISANCE VEHICLE.** A motor vehicle that is at least ten years old and is of a condition only to be junked, crushed, or dismantled.

**VEHICLE STORAGE FACILITY.** A vehicle storage facility, as defined by TEX. OCCUPATIONS CODE, § 2303.002, which is operated by a person who holds a license issued under Chapter 2303 of that Code to operate that vehicle storage facility.  
(Ord. 2006-12, passed 4-10-06)

#### **§ 9-1-2 ABANDONED MOTOR VEHICLE.**

(A) For the purposes of this chapter, a motor vehicle is abandoned if the motor vehicle either:

- (1) Is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;
- (2) Has remained illegally on public property for more than 48 hours;
- (3) Has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;
- (4) Has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours;

(5) Has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway; or

(6) Is considered an abandoned motor vehicle under TEX. TRANS. CODE, § 644.153(r).

(B) In this section, "controlled access highway" has the meaning assigned by TEX. TRANS. CODE, § 541.302.  
(Ord. 2006-12, passed 4-10-06)

### **§ 9-1-3 POLICE DEPARTMENT TO TAKE POSSESSION OF ABANDONED MOTOR VEHICLES.**

The Police Department may take into custody any abandoned motor vehicle, watercraft or outboard motor found on public or private property. In such connection, the Police Department may employ its own personnel, equipment and facilities or hire persons, equipment and facilities for the purpose of removing, preserving, sending notice, disposing and storing abandoned motor vehicles, watercraft or outboard motors taken into custody under this article.  
(‘62 Code, § 6-15-2) (Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

### **§ 9-1-4 NOTIFICATION OF OWNER AND LIEN HOLDERS.**

The Police Department shall send notice of abandonment pursuant to TEX. TRANS. CODE, § 683.012.  
(‘62 Code, § 6-15-3) (Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

### **§ 9-1-5 STORAGE FEES.**

A Police Department or the agent of the Police Department that takes into custody an abandoned motor vehicle, watercraft, or outboard motor is entitled to reasonable storage fees:

(A) For not more than ten days, beginning on the day the item is taken into custody and ending on the day the required notice is mailed; and

(B) Beginning on the day after the day the agency mails notice and ending on the day accrued charges are paid and the vehicle, watercraft, or outboard motor is removed.  
(Ord. 2006-12, passed 4-10-06)

**§ 9-1-6 AUCTION OF ABANDONED MOTOR VEHICLES.**

If an abandoned motor vehicle has not been reclaimed as provided for in TEX. TRANS. CODE § 683.012, then the item may be auctioned pursuant to TEX. TRANS. CODE § 683.014. ('62 Code, § 6-15-4) (Ord. —, passed 11-8-71; Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

**§ 9-1-7 LAW ENFORCEMENT AGENCY USE OF CERTAIN ABANDONED MOTOR VEHICLES.**

(A) The law enforcement agency that takes an abandoned motor vehicle into custody that is not claimed under TEX. TRANS. CODE § 683.012 may use the vehicle for agency purposes.

(B) The Police Department shall auction the vehicle as provided by TEX. TRANS. CODE § 683.014 if the agency discontinues use of the vehicle.

(C) This section does not apply to an abandoned vehicle on which there is a garagekeeper's lien.

(D) This section does not apply to a vehicle that is removed to a privately owned storage facility.  
(Ord. 2006-12, passed 4-10-06)

**§ 9-1-8 VEHICLE ABANDONED IN STORAGE FACILITY.**

A vehicle abandonment in a storage facility shall be disposed of pursuant to TEX. TRANS. CODE, Chapter 683, subchapter C.  
(Ord. 2006-12, passed 4-10-06)

***JUNKED MOTOR VEHICLES*****§ 9-1-10 DEFINITIONS.**

A ***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.

(Ord. 2006-12, passed 4-10-06)

**§ 9-1-11 DECLARING A PUBLIC NUISANCE.**

(A) Junked vehicles, including parts thereof, located in any place where it is visible at any time of the year from a public place or public right-of-way:

(1) Is detrimental to the safety and welfare of the general public;

(2) Tends to reduce the value of private property;

(3) Invite vandalism;

(4) Creates a fire hazard;

(5) Is an attractive nuisance creating a hazard to the health and safety of minors;

(6) Produces urban blight adverse to the maintenance and continuing development of the city; and

(7) Is a public nuisance.

(B) A person commits an offense if the person maintains a public nuisance described by this section, punishable by a fine not to exceed \$200. Pursuant to TEX. TRANS. CODE § 683.073(c), the court shall order abatement and removal of the nuisance on conviction.

('62 Code, § 6-12-3) (Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

**§ 9-1-12 AUTHORITY TO ABATE; NOTICE TO STATE.**

(A) The city has the authority to abate and remove a junked vehicle or part of a junked vehicle as a public nuisance from private or public property or a public right-a-way pursuant to TEX. TRANS. CODE § 683.074. If, after notice as set out in § 9-1-13, no request for a hearing is made and the owner or

occupant of the premises does not abate the nuisance, the Chief of Police, his or her duly authorized agent, or a city-authorized agent shall go upon the premises and remove the junked vehicle or parts thereof.

(B) The Chief of Police or his or her duly authorized agent who is a full-time employee of the city may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

(C) The Chief of Police, his or her duly authorized agent, or a city-authorized agent shall, within five days after the date of removal of the junked vehicle, give the notice provided pursuant to § 9-1-13 (identify the vehicle or part of the vehicle removed) to the Texas Highway Department.

(D) The relocation of a junked vehicle that is a public nuisance to another location in the city after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location. ('62 Code, §§ 6-12-6 and 6-12-7) (Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

#### **§ 9-1-13 NOTICE TO OWNER TO ABATE.**

(A) Whenever any such public nuisance exists within the city in violation of § 9-1-11, the Chief of Police, his or her duly authorized agent, or a city-authorized agent shall provide notice by either personal delivery or certified mail with a five-day return requested. Notice must be given to:

(1) The last known registered owner of the nuisance;

(2) Each lienholder of record of the nuisance; and

(3) The owner or occupant of either: the property on which the nuisance is located or if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(B) Such notice shall be in writing and specify the public nuisance, its location, and must state that:

(1) The nuisance must be abated and removed not later than the tenth day after the date on which the notice was personally delivered or mailed; and

(2) Any request for a hearing must be made in writing to the City Secretary at her office at City Hall before that ten day period expires.

(C) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.

(D) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

('62 Code, § 6-12-4) (Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

#### **§ 9-1-14 HEARING.**

After a public hearing is requested in the manner provided in § 9-1-12, the City Secretary shall cause the notice to be forwarded to the Chairman of the Board of Adjustment for the city to be put upon its agenda for its hearing. The hearing shall be held not earlier than the 11th day after the date of the service of notice. At the hearing, the junked motor vehicle is presumed, unless demonstrated by the owner, to be inoperable. The Board of Adjustment shall determine whether or not the junked motor vehicle, or parts thereof, constitute a public nuisance and, after a hearing and ruling, shall, by resolution, make such orders as it deems proper. If the Board of Adjustment finds that the violation complained of does constitute a public nuisance, it shall order the Chief of Police or a city-authorized agent to remove same. This order shall include a description of the vehicle, or parts thereof, the car identification and license number of the vehicle if available at the site. The order shall contain provision that, after such vehicle has been removed, it shall not be reconstructed or made operable, and that it will become city property for removal and disposal. The order shall further state that the expense of the removal, in addition to a \$100 service charge, shall be paid by the owner or occupant of such premises that requested the hearing.

('62 Code, § 6-12-5) (Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

#### **§ 9-1-15 EXCEPTIONS.**

(A) This subarticle shall not apply to a vehicle or vehicle part:

(1) That is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property; or

(2) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

(a) Maintained in an orderly manner;

(b) Not a health hazard; and

(c) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

(B) In this section:



(1) **ANTIQUE VEHICLE** means a passenger car or truck that is at least 25 years old.

(2) **MOTOR VEHICLE COLLECTOR** means a person who:

(a) Owns one or more antique or special interest vehicles; and

(b) Acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

(3) **SPECIAL INTEREST VEHICLE** means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

('62 Code, § 6-12-8) (Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

#### **§ 9-1-16 DISPOSAL OF JUNKED VEHICLES.**

(A) Junked vehicles, or parts thereof, may be removed to a scrap yard, a motor vehicle demolisher, or a suitable site operated by the city.

(B) The city may operate a disposal site pursuant to TEX. TRANS. CODE, § 683.078.

('62 Code, § 6-12-9) (Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

#### **§ 9-1-17 AUTHORITY TO ENFORCE; RIGHT-OF-ENTRY.**

As stated in § 9-1-12, any person authorized by the city to administer the provisions of this subarticle may enter upon private property for the purposes specified in the article: to examine vehicles or parts thereof, to obtain information as to the identity of vehicles, and to remove or direct the removal of a vehicle or parts thereof declared to be a nuisance pursuant to the article. The Municipal Court of the city shall have authority to issue all orders necessary to enforce such article. The Municipal Court shall order abatement and removal of the nuisance on conviction, and shall prohibit a vehicle from being reconstructed or made operable after removal.

('62 Code, § 6-12-10) (Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)

#### **§ 9-1-18 VEHICLES BLOCKING TRAFFIC.**

Nothing in this subarticle shall affect statutes that permit immediate removal of a vehicle left on public property that constitutes an obstruction to traffic.

('62 Code, § 6-12-11) (Ord. —, passed 11-8-71; Am. Ord. ORD-2001-03, passed 2-26-01; Am. Ord. 2006-12, passed 4-10-06)



## ARTICLE 2: ALARM SYSTEMS

### Section

- 9-2-1 Definitions
- 9-2-2 Maintenance of alarm systems required
- 9-2-3 False alarm fee
- 9-2-4 Exemption for new alarms

- 9-2-99 Penalty

#### **Cross-reference:**

*Fire Department, see §§ 3-5-1 et seq.*

*Police Department, see §§ 3-4-1 et seq.*

### § 9-2-1 DEFINITIONS.

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

**ALARM.** A fire alarm which automatically or manually notifies an off-premises location of the alarm whether by exterior bell, sound device, telephone, radio, or other communication system. ('62 Code, § 6-18-1)

**FALSE ALARM.** An alarm received by the Police or Fire Departments of the city for which there is no indication of fire or criminal activity. Should the Police suspect the possibility an intruder or other suspicious activity has occurred, the alarm shall not be classified as false. ('62 Code, § 6-18-3)

### § 9-2-2 MAINTENANCE OF ALARM SYSTEMS REQUIRED.

All alarm systems, whether manual or automatic, shall be maintained so as to provide reliable operation. **RELIABLE OPERATION** is defined as operating when tested and not causing more than one false alarm in any calendar year.

('62 Code, § 6-18-2) (Am. Ord. ORD-2003-24, passed 9-22-03) Penalty, see § 9-2-99

**§ 9-2-3 FALSE ALARM FEE.**

Should any alarm signal more than one false alarm in any calendar year, the owner shall be charged a fee of \$40 per false alarm to defray the cost of responding to the alarm. The Police and Fire Departments shall forward a report of false alarms to the Billing Department on a monthly basis.

('62 Code, § 6-18-4) (Am. Ord. ORD-2003-24, passed 9-22-03)

**§ 9-2-4 EXEMPTION FOR NEW ALARMS.**

New alarm systems shall be exempted from the false alarm fee for a period of 45 calendar days to permit adjustment of the system. The owner or alarm company may present receipts or an installation affidavit to establish the date of installation.

('62 Code, § 6-18-5) (Am. Ord. ORD-2003-24, passed 9-22-03)

**§ 9-2-99 PENALTY.**

The owner of an alarm may be charged with a violation of this article for failure to maintain the alarm should a false alarm occur more than five times in a calendar month. The penalty for violation upon conviction shall not exceed \$200.

('62 Code, § 6-18-6) (Ord. 88022, passed 9-12-88)

## **ARTICLE 3: ANIMALS**

### **Section**

#### ***General Provisions***

- 9-3-1 Definitions
- 9-3-2 Keeping of certain animals restricted; permit requirement
- 9-3-3 Permit application and validity; sanitary requirements
- 9-3-4 Messenger pigeons; permit requirements
- 9-3-5 Practices to be observed by keeper; inspection
- 9-3-6 Exceptions to limitations
- 9-3-7 Impoundment; sale of unclaimed animals; disposition of funds
- 9-3-8 Swine
- 9-3-9 Keeping of certain animals prohibited; permit requirements
- 9-3-10 Prohibited animal permit revocation
- 9-3-11 Exception to combined total of animals

#### ***Dogs and Cats***

- 9-3-25 Definitions
- 9-3-26 Creation, supervision and duties of Animal Control Section
- 9-3-27 Erection and maintenance of a City-County Animal Shelter
- 9-3-28 Rabies immunization required
- 9-3-29 Vaccination certificate required; display upon request
- 9-3-30 Animal license required; fees; vaccination certificate prerequisite to issuance; tags
- 9-3-31 Exceptions to licensing requirement
- 9-3-32 Running at large prohibited
- 9-3-33 Use of license tags issued for other animals
- 9-3-34 Procedure when an animal bites a person
- 9-3-35 Impounding animals; authority of Animal Control Section
- 9-3-36 Exhibiting symptoms of rabies
- 9-3-37 Redemption of animal; destroying animals not redeemed
- 9-3-38 Duty of veterinarians attending animals infected with communicable diseases
- 9-3-39 Animals which have died of rabies
- 9-3-40 Duty of person knowing of animals exhibiting symptoms of rabies
- 9-3-41 Duty of owner of animal bitten by rabid animal
- 9-3-42 Disposition of monies collected by the Animal Control Section and City-County Animal Shelter

- 9-3-43 Abandoning or dumping animals in city
- 9-3-44 Reporting stray animals to Supervisor of Animal Control
- 9-3-45 Interference with Animal Control

9-3-99 Penalty

**Statutory reference:**

*For state law concerning animals generally, see TEX HEALTH & SAFETY CODE, Title 10 and TEX. PENAL CODE, §§ 42.09 and 42.10*

*Rabies Control Act, see TEX. PENAL CODE, § 42.09*

## **GENERAL PROVISIONS**

### **§ 9-3-1 DEFINITIONS.**

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

**ANIMALS or POULTRY.** As specifically named herein, by whatever other name they might be called, includes every age and sex of each of the herein named species of animal or poultry.

**HYBRID ANIMALS.** First, second or third generation offspring of two animals of different species, one of which is from the wild.

**PERMIT.** Any permit granted by the Health Officer pursuant to power granted to him in this article.

**PROHIBITED ANIMAL.** Any venomous or poisonous amphibian or reptile or potentially dangerous reptile because of its size such as boas, pythons, anacondas, monitor lizards and crocodilians; any member of the class Aves that is protected from human possession by federal law and any of the large flightless birds such as ostriches, rhea, emus and cassowaries; any of the class Mammalia that is not normally born and raised in captivity, such as, but not limited to, cheetah, lion, tiger, bobcat, jaguar, leopard, cougar, wolves, dingos, coyotes, jackals, weasels, skunks, mink, badgers, bears, kangaroos, opossums, bats, sloths, anteaters, armadillos, elephants, monkeys, raccoons, chimpanzees, gorillas, porcupines, antelope, deer, bison, camels, peccaries (javelinas). This does not include those mammals bred and raised as pets or offered for sale such as domestic cats, dogs, hamsters, guinea pigs, gerbils, or domestic hares.

**RATPROOF.** The state of being constructed so as to effectively prevent entry of rats.

**SANITARY.** Any condition of good order and cleanliness which precludes the probability of disease transmission.

('62 Code, § 6-3-1) (Ord. —, passed 1-28-54; Am. Ord. 87011, passed 6-22-87; Am. Ord. 93006, passed 4-12-93)

**§ 9-3-2 KEEPING OF CERTAIN ANIMALS RESTRICTED; PERMIT REQUIREMENT.**

It is and shall be unlawful for any person to keep, own, maintain, use or have in their possession any rabbits, hares, guinea pigs, horses, mules, donkeys, cattle, goats, sheep, chickens, turkeys, guineas, geese, ducks or homing pigeons, within the corporate limits; except that such animals or poultry may be kept under the conditions hereinafter set forth, provided a permit is first obtained as hereinafter provided. This section shall not apply to the keeping of dogs as provided in §§ 9-3-25 et seq. of this article.

('62 Code, § 6-3-2) (Ord. —, passed 1-28-54; Am. Ord. 200020, passed 10-9-00; Am. Ord. ORD-2002-34, passed 12-16-02) Penalty, see § 9-3-99

**§ 9-3-3 PERMIT APPLICATION AND VALIDITY; SANITARY REQUIREMENTS.**

(A) *Permit application required.* Permits are required as a prerequisite to the keeping, owning, maintaining, using or having in one's possession any rabbits, horses, hares, guinea pigs, mules, donkeys, cattle, goats, sheep, chickens, turkeys, guineas, geese, ducks and homing pigeons. Permits may be obtained by written application and compliance with the sanitary requirements as set forth by the Health Officer. The application shall affirmatively show that the applicant has facilities for keeping such animals or poultry in quarters meeting the standards set by the Health Officer, which will confine the animals or poultry within limits not closer than 100 feet to the exterior limits of any dwelling resided in by anyone other than the applicant.

(B) *Permit for livestock exhibition.* However, any person under 19 years of age, who is an active member of a nonprofit organization actively engaged in the exhibition of livestock (including rabbits and/or hares), may, upon proper application and proof of such membership, be authorized to keep rabbits and/or hares, without complying with the 100-foot requirement stated in division (A). Additionally, upon proper application and proof of such membership, such persons may be authorized to keep rabbits, hares, guinea pigs, goats, sheep, chickens, turkeys, guineas, geese, ducks or pigeons without complying with the 100-foot requirement stated herein during the period of November 1 through March 31 with the written consent of any owner and/or occupant of a swelling within the 100-foot requirement. The limits contained in division (C) shall apply provided, however, the combined limit for goats and/or sheep shall not exceed four and the number of poultry shall not exceed 25.

(C) *Limits on non-exhibition livestock.* No permit shall be issued or be valid if issued for the permitting and/or keeping upon any premises or within an area within the city limits a combined total of more than 12 of the following: rabbits, hares, guinea pigs, chickens, turkeys, guineas, geese and ducks; or a combined total of more than two of the following: horses, mules, donkeys, goats, sheep, and cattle. Each such permit, unless revoked sooner, shall be valid and effective for not more than 12 months from its date of issuance thereof.

('62 Code, § 6-3-3) (Ord. 81049, passed 11-23-81; Am. Ord. 200020, passed 10-9-00; Am. Ord. ORD-2002-34, passed 12-16-02)

**§ 9-3-4 MESSENGER PIGEONS; PERMIT REQUIREMENTS.**

Permits may be obtained for the keeping of Antwerp Messenger Pigeons, commonly called carrier or homing pigeons, by filing written application showing the following:

(A) That such pigeons will be confined to closed lofts, and released therefrom only for training and exercise flights and not allowed to fly at will.

(B) That no other breed of pigeons will be kept in the same loft.

(C) That the pigeons shall not be raised for any commercial or business purposes (this division shall also pertain to parakeets).

(D) Only pigeons banded with seamless identification bands of the type approved by a National Organized Pigeon Association shall be permitted to be kept under such permit and the number kept in any one loft shall not exceed in number the standard recommended by the National Pigeon Association.

(E) The standards of sanitation for the keeping of pigeons as established by the Health Officer shall be followed.  
( '62 Code, § 6-3-4)

**§ 9-3-5 PRACTICES TO BE OBSERVED BY KEEPER; INSPECTION.**

Upon the obtaining of such permit from the Health Officer provided in the preceding sections, every keeper shall observe the following practices:

(A) The distance between the exterior limits of the place where such animal or poultry are kept and the exterior limits of the nearest dwelling occupied by any person other than the applicant, owner, or permit holder, shall be not less than 100 feet except as otherwise provided in § 9-3-3.

(B) The failure of any keeper of any of the animals or poultry to comply with the provisions of this subarticle or the sanitation standards and requirements established by the Health Officer shall be cause for the Health Officer to refuse to grant a permit, or revoke a permit that has been previously granted to such keeper.

(C) Every keeper of any of the animals or poultry shall confine the same in an enclosure sufficient to prevent their running at large and such enclosure shall be maintained in a clean and sanitary condition at all times and an approved insecticide shall be used as often as deemed necessary by the Health Officer.

(D) Every keeper of any of the animals or poultry shall cause the litter and droppings therefrom to be collected daily in a container or receptacle of such a type that when closed, it is ratproof and fly-tight and after each such collection shall cause such container or receptacle to be kept closed. At least once each week, each such keeper shall cause all litter and droppings so collected to be disposed of in such a way as not to permit fly breeding.

(E) Every keeper of any of the animals shall cause all feed provided therefor to be stored and kept in a ratproof, fly-tight building, box, container or receptacle.

(F) The premises shall be subject to inspection by the Health Officer or any of his subordinates at any reasonable hour of the day.

('62 Code, § 6-3-5) (Ord. 81049, passed 11-23-81) Penalty, see § 9-3-99



**§ 9-3-6 EXCEPTIONS TO LIMITATIONS.**

Where the application is for the keeping of animals, parakeets or poultry within the limited number herein set forth, in medical laboratories and/or educational institutions for medical research, or in veterinarian hospitals for treatment, or in a commercial pet shop established for the sale of pets and pet supplies, they shall be kept under the same conditions prescribed by the Health Officer for such limited purposes without the necessity of compliance with the distance and structural requirements herein otherwise set forth.

('62 Code, § 6-3-6)

**§ 9-3-7 IMPOUNDMENT; SALE OF UNCLAIMED ANIMALS; DISPOSITION OF FUNDS.**

(A) It shall be the duty of the Sanitarian to take up and impound any such animals found running at large within the corporate limits and the owner thereof shall be required to pay to the Sanitarian such redemption fees as are set forth in § 9-3-42 of this article for the animals prior to securing a return of the animal from the pound. ('62 Code, § 6-3-7)

(B) In event the animal is not claimed by the owner thereof within 10 days after it has been taken up by the Sanitarian, it shall be sold by the Sanitarian at public auction, for cash, after giving two days notice of the sale by posting notices containing the description of the animal and time and place of the sale of three public places within the city. ('62 Code, § 6-3-8)

(C) The money realized from such sale shall be applied, first, to meeting the expenses of such sale and the payment of the costs of taking up and caring for the animal and the balance shall be held subject to the order of the owner of the animal who shall be entitled to receive same upon proving his title to the animal. ('62 Code, § 6-3-9)

**§ 9-3-8 SWINE.**

It shall be unlawful for any person owning or having in charge swine of any description, to keep or allow same to be kept within the corporate limits.

('62 Code, § 6-3-10) Penalty, see § 9-3-99

**§ 9-3-9 KEEPING OF CERTAIN ANIMALS PROHIBITED; PERMIT REQUIREMENTS.**

(A) No person shall keep, own, maintain, use or have in such person's possession or on premises under such person's control within the city, any prohibited animal, described in subdivision (B)(1) below, unless a one year renewable permit, described in subdivision (B)(2) below, is secured from the City-County Health Office. Veterinarian buildings, educational institution (buildings), commercial variety shows featuring animal acts for public entertainment, as long as such animals are properly confined, are exempt from such requirements except for § 9-3-10(B)(4).

(B) Where the keeping of these animals in medical laboratories or in veterinarian hospitals for treatment or on the premises of any recognized humane society (offices), such animals shall be kept under conditions prescribed by the City-County Health Officer or his authorized representative without the necessity of compliance to this section. Any individuals presently maintaining ownership of any prohibited animal prior to the effective date of this section may request a permit allowing the prohibited animal, limit of two, to be within the city limits for a period of four years upon meeting the criteria as set by subdivision (2) of this division.

(1) *Prohibited animal.* Any venomous or poisonous amphibian or reptile or potentially dangerous reptile because of its size such as boas, pythons, anacondas, monitor lizards and crocodilians; any member of the class Aves that is protected from human possession by federal law and any of the large flightless birds such as ostriches, rhea, emus and cassowaries; any of the class Mammalia that is not normally born and raised in captivity, such as, but not limited to, cheetah, lion, tiger, bobcat, jaguar, leopard, cougar, wolves, dingos, coyotes, jackals, weasels, skunks, mink, badgers, bears, kangaroos, opossums, bats, sloths, anteaters, armadillos, elephants, monkeys, raccoons, chimpanzees, gorillas, porcupines, antelope, deer, bison, camels, peccaries (javelinas). This does not include those mammals bred and raised as pets or offered for sale such as domestic cats, dogs, hamsters, guinea pigs, gerbils or domestic hares. Hybrid animals shall also be prohibited animals.

(2) *Prohibited animal permit.* Individuals will be allowed to keep prohibited animals upon providing proper and secure habitats and a one year renewable \$50 permit from the City-County Health Office. Such permit will not be construed as absolving the holder of any liabilities.

(a) *Proper and secure habitat.* The design for the animal's habitat will be a double fenced and double gate type as per attached to Ordinance 87011 on file in the office of the City Clerk. The compartment shall be of sufficient size to allow the animal to move around for stretching, walking, and the like, and according to standards set by the Health Department.

(b) The owner of any prohibited animal shall maintain an insurance policy on the animal within the minimum limits of \$100,000 for property damage, personal injury or death for each person and \$300,000 for each occurrence or incident. The insurance policy shall be kept current and on file with the City-County Health Unit. Should the insurance policy lapse or be cancelled for any reason, the animal will be impounded by the Health Unit immediately and kept until the insurance coverage is restored.

(c) *Application for permit.* Permit is hereinafter referred to, required to be had as a prerequisite to the keeping, owning, maintaining, using or having in their possession, any prohibited animal as defined in § 9-3-1, may be obtained by meeting requirements stated for, proper and secure habitat, and standards of sanitary conditions set by the Health Officer or his authorized agent. No permit shall be issued or be valid if issued for the permitting and/or keeping upon any premises or within an area within the city limits a combined total of more than two prohibited animals as defined in § 9-3-1. Permits, unless sooner revoked, shall be valid and effective for no more than 12 months from date of issuance and renewable then. No such animal registered under a permit will be placed in quarantine if such animal bites a human or animal. Any person having knowledge of an animal bite to a human or animal will report the incident to the local health authorities as soon as possible, but

no later than 24 hours from the time of the incident. The animal involved in the biting will be humanely destroyed in such a manner that the brain is not mutilated. The brain shall be submitted to Texas Department of Health laboratory for rabies diagnosis. The only period for which prohibited animal permits shall be issued will be for a period of 30 days following the effective date of this section.

('62 Code, § 6-3-11) (Ord. 93006, passed 4-12-93) Penalty, see § 9-3-99

### **§ 9-3-10 PROHIBITED ANIMAL PERMIT REVOCATION.**

(A) The City-County Health Officer or his authorized representative may revoke the prohibited animal permit after giving the holder of the permit two prior written citations. Any person whose permit is revoked shall within 15 days thereafter and in a manner indicated in the notice of revocation, humanely divest himself and/or herself of all animals owned, kept, or harbored by such person by authority of the prohibited animal ordinance. No part of the permit fee shall be refunded.

(B) The City-County Health Officer or his authorized representative may revoke the permit if one or more of the following provisions for animal care are violated:

(1) No owner shall fail to provide such owner's animals with good and wholesome food and water, necessary clean and sanitary shelter and protection from weather, veterinary care when needed to prevent suffering, and with humane care and treatment at all times.

(2) No person shall beat, cruelly treat, torment or otherwise abuse an animal, or cause, instigate, or permit one animal to fight with another animal or human being.

(3) If the animal for which the permit is secured escapes its confinement or becomes a nuisance because of a disturbance, vocal or otherwise or because of odor.

(4) If the animal bites, scratches, or otherwise attacks another animal or person, the rules pursuant to § 007(b) of Quarantine Methods and Testing of the Rabies Control and Eradication 301.58.03 001-012 Texas Department of Health and Veterinary Public Health; House Bill 2323.

(5) In which permission to inspect such premises has been refused by the applicant, owner of the animal or holder of such permit, or the person in charge of such premises at the time of request for inspection is made.

(6) No person who has been convicted within the preceding 60 months of cruelty of animals under this subarticle or any other jurisdiction in the United States shall be allowed a permit.

('62 Code, § 6-3-12) (Ord. 87011, passed 6-22-87) Penalty, see § 9-3-99

**§ 9-3-11 EXCEPTION TO COMBINED TOTAL OF ANIMALS.**

The provisions of Section 9-3-3 of the City Code which prohibits the keeping of certain combined totals of the following animals: rabbits, hares, guinea pigs, chickens, turkeys, guineas, geese, ducks, horses, mules (including jennies for the purposes of this section), donkeys, and cattle, shall have no application under the following conditions and circumstances, provided that, all other applicable ordinances and laws, including, without limitation, those applicable to health and sanitation, shall be fully applicable and not suspended:

(A) For a period of four years when property is first annexed into the city limits; or

(B) When permitted by the Master Zoning Ordinance of the city, but only after all requisites of law zoning the property have been met; or

(C) A greater time than four years is permitted under the following procedure:

(1) That any person lawfully operating a commercial or business establishment on the date of the effective date of annexation into the city may apply for a period longer than four years when the hereinbefore cited provisions of 9-3-3 shall no longer be applicable as follows.

(2) That within two years of annexation such person shall apply to the Board of Adjustments for a specific extension period longer than four years. After notice and opportunity for hearing the Board of Adjustments shall make recommendation as it sees fit to the City Commission.

(3) That the City Commission after receiving such recommendation shall cause to be published a public notice and shall hold a public hearing on such request. The City Commission after notice and opportunity for hearing shall grant or refuse to grant an additional period of time when the four year suspension of enforcement provided herein for is applicable. The City Commission may never grant an extension of the four year suspension of the prohibition provided for herein unless it determines as a fact that additional time is needed by the commercial or retail establishment to amortize nonrecoupable losses brought about by the combined total of animal prohibition provided for in Section 9-3-3 of the City Code.

(Ord. 97004, passed 2-24-97)

***DOGS AND CATS*****§ 9-3-25 DEFINITIONS.**

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

**ANIMAL.** An animal shall mean all members of the canine and feline family.

**ANIMAL LICENSE.** An animal license is the printed or written permission issued by the City-County Health Officer or his authorized representative authorizing the holder to keep an animal within the corporate limits of the city.

**CITY-COUNTY ANIMAL SHELTER.** A place operated by the City-County Health Department for the impounding of dogs and/or other animals.

**IMPOUND.** To place an animal within the confines of an animal control vehicle or City-County Animal Shelter.

**LICENSE TAG.** A license tag is a metal tag of a design prescribed by the City-County Health Officer or his representative with a number to identify the animal to its owner.

**LICENSED VETERINARIAN.** A licensed veterinarian is a practitioner of veterinary medicine who holds a valid license to practice his profession.

**OWNER.** The owner of an animal is a person, firm, corporation, company or association who owns, harbors or keeps an animal on his or her premises, or who permits an animal to remain on or about his or her premises. An animal shall be presumed to be harbored if it is fed or sheltered for three days or more within any period of 60 days or less.

**QUARANTINE.** To detain or isolate on account of suspected contagion.

**RESTRAINT.** An animal shall be deemed to be restrained when it is:

- (1) Confined on the premises of the owner within a fence or closure;
- (2) Fastened or picketed by a lead, rope or chain so as to keep the animal on the premises of the owner. The lead rope or chain shall not be of such length as to allow the animal access to a sidewalk, street or any city easement/right-of-way.
- (3) Under the control of a person by a leash;
- (4) Within a vehicle being driven or parked;
- (5) At heel beside a person and obedient to that person's command.

**RUN AT LARGE.** To be free of restraint on or beyond the premises of the owner.

**VACCINATION.** A protective inoculation against rabies by inoculation with antirabic vaccine recognized and approved by the United States Department of Agriculture given in an amount sufficient to provide an immunity.

**VACCINATION CERTIFICATE.** A certificate showing on its face that the animal described thereon has received an inoculation of antirabic vaccine in an amount sufficient to produce an immunity and bearing the signature of a licensed veterinarian.

**VICIOUS ANIMAL.** Any animal will be declared a vicious animal if it exhibits fierce, dangerous or vicious propensities which might endanger the safety of persons or animals in proximity of the animal. Any animal which is involved in two bites of any person or persons or involved in two bites of any other animal or animals or any combination thereof shall be declared prima facie vicious.

('62 Code, § 6-2-1) (Ord. 77-23, passed 9-12-77; Am. Ord. 79-33, passed 12-10-79; Am. Ord. 84019, passed 9-10-84; Am. Ord. 2005-16, passed 4-25-05)

#### **§ 9-3-26 CREATION, SUPERVISION AND DUTIES OF ANIMAL CONTROL SECTION.**

(A) There is hereby created an Animal Control Section in the City-County Health Department.

(B) A Supervisor of Animal Control and such other personnel and equipment necessary within budget limitations to carry out the provisions of this subarticle shall be employed by the City-County Health Department and such supervisor and personnel shall be under the direction of the City-County Health Officer.

(C) It shall be the responsibility of the Supervisor of Animal Control:

(1) To supervise operation of the City-County Animal Shelter.

(2) To require that the owners and all persons in possession of any female animal shall confine same while the animal is in season (in heat).

(3) To cause to be maintained in the Animal Control Section, a permanent record of the serial numbers of animal licenses and animal license tags issued, the name and address of the person to whom issued, and the amount paid therefor to the Animal Control Section and full description of the animal.

(4) To cause to be maintained in the Animal Control Section, a record of each animal impounded. The record will show a description of the animal, the number of the animal license tag if the animal is wearing a license tag, the name of the owner to whom the animal license was issued and shall show in each case how the animal was disposed of.

('62 Code, § 6-2-2)

#### **§ 9-3-27 ERECTION AND MAINTENANCE OF A CITY-COUNTY ANIMAL SHELTER.**

There shall be erected and maintained under the supervision of the City-County Health Officer or his authorized representative, a suitable building and kennels for the confinement of all animals found running at large in violation of the provisions of this subarticle. Such buildings and

kennels shall be  
2006 S-8

kept in a sanitary condition and all animals taken up and impounded therein shall be properly watered and fed while confined in the building and kennels.

('62 Code, § 6-2-3)

**§ 9-3-28 RABIES IMMUNIZATION REQUIRED.**

It shall be unlawful for any person to own or keep any animal in the city unless the animal is immunized annually against rabies by the injection of antirabic vaccine in an amount sufficient to produce an immunity.

('62 Code, § 6-2-4) Penalty, see § 9-3-99

**§ 9-3-29 VACCINATION CERTIFICATE REQUIRED; DISPLAY UPON REQUEST.**

(A) Every person owning or keeping any animal immunized against rabies shall procure a written vaccination certificate signed by the veterinarian administering the vaccine, giving an accurate description of the animal, date of immunization, the name and address of the owner of the animal and the license metal tag number, the metal tag to be affixed to the collar of the animal.

(B) Any authorized agent of the City-County Health Officer may request to see the vaccination certificate at any time, and the failure of the owner or person in possession of the animal to exhibit the vaccination certificate upon request, shall constitute an offense under this subarticle.

('62 Code, § 6-2-5) Penalty, see § 9-3-99

**§ 9-3-30 ANIMAL LICENSE REQUIRED; FEES; VACCINATION CERTIFICATE PREREQUISITE TO ISSUANCE; TAGS.**

(A) It shall be unlawful for the owner to have, harbor or keep or to cause or permit to be harbored or kept any unlicensed animal in the city. ('62 Code, § 6-2-6) (Ord. 77-23, passed 9-12-77)

(B) Every owner of an animal, upon presenting a vaccination certificate, as provided in § 9-3-29(A), to the Supervisor of Animal Control or his representative showing that the animal has been vaccinated with antirabic vaccine within the preceding 12 months and the payment of a fee, shall be issued a numbered license and a corresponding numbered license tag. The fee shall cover a period of one year following the date of vaccination. The animal license tags shall be of such design for each year as the City-County Health Officer may prescribe. In the event the license tag is lost, a duplicate may be obtained from the Supervisor of Animal Control upon presentation of a valid vaccination certificate and the payment of \$1. ('62 Code, § 6-2-7) (Ord. 79-33, passed 12-10-79)

Penalty, see § 9-3-99



**§ 9-3-31 EXCEPTIONS TO LICENSING REQUIREMENT.**

The provisions of § 9-3-30(A) requiring a license for animals shall not apply to the following:

(A) Any animal under three months of age, provided the animal is not permitted to run at large.

(B) Animals owned by a non-resident whose stay in the city will not exceed 30 days and provided that the owner keeps his animal confined at all times while in the city, and can show proof of vaccination for rabies.

(C) Any animal brought into the city and entered in any animal show or exhibition, provided that this exception shall not be operative longer than a period of time commencing not more than seven days before any the show or exhibition is held and ending not more than seven days after the animal's participation in the show or exhibition.

(D) Animals in veterinary hospitals, boarding kennels, or a breeding kennel; provided the animals are securely confined at all times.

(E) Any seeing eye dogs or governmental police dogs.  
(62 Code, § 6-2-8)

**§ 9-3-32 RUNNING AT LARGE PROHIBITED.**

(A) It shall be unlawful for any owner of any animal to permit the animal to run at large within the city.

(B) Any animal running at large in the city shall be taken up by the Supervisor or employees of the Animal Control Section and impounded in a place provided by the City-County Health Department for that purpose.  
(62 Code, § 6-2-9) Penalty, see § 9-3-99

**§ 9-3-33 USE OF LICENSE TAGS ISSUED FOR OTHER ANIMALS.**

It shall be unlawful for any person to attach to the collar of any animal, subject to licensing under this subarticle, a license tag which has been issued for any other animal.  
(62 Code, § 6-2-10) (Ord. 77-23, passed 9-12-77) Penalty, see § 9-3-99

**§ 9-3-34 PROCEDURE WHEN AN ANIMAL BITES A PERSON.**

(A) It shall be unlawful for any owner of any animal involved in a bite incident to fail or refuse to have the animal placed under quarantine immediately after the bite incident. During hours when

a veterinarian is not available, the animal will be quarantined at the City/County Health Department Animal Shelter.

(B) (1) Whenever an animal bites a person and the owner or person in control of the animal is known and fails, neglects or refuses to deliver the animal to a licensed veterinarian or to the Animal Control Section of the City-County Health Department and such fact is made known to the Judge of the Municipal Court upon affidavit of a credible person, it shall be the duty of such Judge to issue a written order directed to the Chief of Police commanding him to seize the animal and deliver it to the Animal Control Section at once.

(2) If the owner of the animal is unknown or unavailable for notification and the animal in question has been identified by the bitten person to an animal control officer a presumption shall arise that the animal is a danger to public health thereby authorizing an animal control officer to impound immediately such animal.

(C) Owners of animals confined in the City-County Animal Shelter under the provisions of this section shall pay board on the animal at the rate of \$4 per day and an impounding fee of \$10.

(D) Animals which are not removed by the owner within 24 hours, after the expiration of the 10 day period or after the authorized release from observation as provided herein, shall be impounded under the provisions of § 9-3-36(B) of this subarticle.

(E) (1) Whenever the same animal bites any person twice or bites two or more persons while the animal is not under proper restraint as defined in § 9-3-25 of this subarticle and upon verification of the bite the animal will be impounded and will not be released unless the City-County Health Department receives written notification by the owner of the animal that the animal will be removed from the city limits immediately. If such notification is not received within two days after the expiration of the 10 day quarantine period, the animal will be humanely destroyed.

(2) Upon investigation and verification of a second bite incident attributed to any animal, that animal shall be impounded and quarantined only at the City-County Health Department Animal Shelter.

(3) If any animal is released upon the owner's written promise to move the animal outside the limits and that animal is later returned to any place within the city limits, that animal will be impounded and destroyed by the City-County Health Department.

(F) Whenever an animal bites a person and causes serious bodily injury, that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ, that animal shall be immediately impounded, and upon verification of the injury by a medical doctor, such animal shall be humanely destroyed.

(G) (1) Whenever an animal bites a person and that person is a member of the immediate household and the animal involved in the bite belongs to the household, the animal may be placed under observation at that household as long as the animal is confined properly and not allowed direct exposure to any person or animal outside of the household.

(2) The animal quarantined at the owner's household will be subject to inspection by the City-County Health Director or his authorized representatives at any time during the usual business hours of the Health Department, 8:00 a.m. to 6:00 p.m., Monday through Saturday or at any time upon receipt of a complaint alleging that the animal is not being quarantined properly. Animals which are not properly quarantined will be immediately impounded by the City-County Health Department.

('62 Code, § 6-2-11) (Ord. 79-23, passed 9-12-77; Am. Ord. 79-33, passed 12-10-79; Am. Ord. 81048, passed 11-23-81; Am. Ord. 84019, passed 9-10-84) Penalty, see § 9-3-99

### **§ 9-3-35 IMPOUNDING ANIMALS; AUTHORITY OF ANIMAL CONTROL SECTION.**

(A) The Animal Control Section shall have authority to impound the following:

- (1) Any animal that runs at large within the city.
- (2) Any animal not restrained as required by § 9-3-34.
- (3) Any animal which is exhibiting symptoms of rabies or suspected of having rabies.
- (4) Any vicious animal.

(B) The operators of the City-County Animal Shelter or its agents or employees shall have authority to humanely destroy any impounded animal whose retention would be detrimental to the health and welfare of other persons or other animals in the City-County Animal Shelter or in the community or any animal sick, injured or diseased or any animal not redeemed within 72 hours after being picked up.

(C) Citing to appear.

(1) When an animal is found in violation of this subarticle, with the exception of §§ 9-3-34 and 9-3-37, and the ownership of the animal is known to the agent of the Animal Control Section of the City-County Health Department, such animal need not be impounded as provided herein. In lieu of impoundment, the agent for the Animal Control Section of the City-County Health Department, may, if the owner of the animal agrees to sign a citation, issue a citation which shall require the person to appear in the Municipal Court within 10 days to answer a charge of a violation of this subarticle. Notice of the court date shall be noted on the citation.

(2) Signing of the citation by the owner shall only be a promise to appear and is not an admission of guilt.

(3) It shall be unlawful to fail to appear in Municipal Court on the date noted on the citation.

(4) Should the owner fail or refuse to sign the citation, an agent of the Animal Control Section of the City-County Health Department shall file a complaint against such owner in the Municipal Court.

('62 Code, § 6-2-12) (Ord. 77-23, passed 9-12-77; Am. Ord. 79-33, passed 12-10-79; Am. Ord. 2005-16, passed 4-25-05)



**§ 9-3-36 REDEMPTION OF ANIMAL; DESTROYING ANIMALS NOT REDEEMED.**

(A) All animals impounded under the provisions of this subarticle shall be held for at least 72 hours not including the day of pick up during which time the owner may reclaim and redeem the animal upon paying to the Animal Control Section an impoundment fee of \$10 and \$4 per day for each day in the pound and the license fee and vaccination fee before being released. If the owner presents a valid vaccination certificate, the animal may be released without vaccination fee. After release of the animal, if the vaccination tag and license tag have not been secured in 10 days from the date of release the fees shall be forfeited. ('62 Code, § 6-2-14) (Ord. 81048, passed 11-23-81)

(B) Animals that are not reclaimed within the 72 hours after the day of impoundment shall be humanely put to death. ('62 Code, § 6-2-15)

**§ 9-3-37 EXHIBITING SYMPTOMS OF RABIES.**

(A) Whenever an animal is exhibiting any symptoms of rabies, the animal shall be held under observation at the owner's expense for a period of 10 days (or less upon advice of competent medical authority) in the City-County Animal Shelter or a veterinary hospital operated by a licensed veterinarian. No such animal shall be released from observation until a licensed veterinarian certifies to the best of his knowledge that the animal is not affected with rabies.

(B) Owners of animals confined in the City-County Animal Shelter under the provisions of this section shall pay board on the animal at the rate of \$4 per day.

(C) Animals which are not removed by the owner within 24 hours after the expiration of the 10 day observation period shall be impounded.  
( '62 Code, § 6-2-13) (Ord. 77-23, passed 9-12-77; Am. Ord. 79-33, passed 12-10-79; Am. Ord. 81048, passed 11-23-81)

**§ 9-3-38 DUTY OF VETERINARIANS ATTENDING ANIMALS INFECTED WITH COMMUNICABLE DISEASES.**

(A) It shall be the duty of all veterinarians to report in writing all clinical or suspected cases of rabies under their care, to the Supervisor of Animal Control, within 24 hours after the animal is admitted to a hospital or visited.

(B) Such report shall:

(1) Give the location of the veterinary hospital;

(2) Name and address of the owner;

(3) Location of the patient;

(4) Names and addresses of persons bitten; and

(5) A negative statement if no persons were bitten.

('62 Code, § 6-2-16) Penalty, see § 9-3-99

#### **§ 9-3-39 ANIMALS WHICH HAVE DIED OF RABIES.**

The heads of animals that have died of rabies or suspected of having died of rabies shall be turned over to the Supervisor of Animal Control or a licensed veterinarian for dispatch to an authorized laboratory for diagnosis.

('62 Code, § 6-2-17)

#### **§ 9-3-40 DUTY OF PERSON KNOWING OF ANIMALS EXHIBITING SYMPTOMS OF RABIES.**

Whenever an animal is infected with rabies or suspected of being infected with rabies, or has been bitten by an animal known or suspected of being infected with rabies, the owner of the animal or any person having knowledge thereof shall immediately notify the Supervisor of Animal Control where the animal may be found.

('62 Code, § 6-2-18) (Ord. 77-23, passed 9-12-77) Penalty, see § 9-3-99

#### **§ 9-3-41 DUTY OF OWNER OF ANIMAL BITTEN BY RABID ANIMAL.**

The Supervisor of Animal Control shall serve notice in writing upon an owner of an animal known to have been bitten by an animal known to be infected with rabies, requiring the owner to have the animal to be put to death under the supervision of the Supervisor of Animal Control or to have the animal quarantined by a licensed veterinarian or the City-County Animal Shelter within 24 hours for a period of not less than one month nor more than one year after the bite.

('62 Code, § 6-2-19) (Ord. 79-33, passed 12-10-79) Penalty, see § 9-3-99

#### **§ 9-3-42 DISPOSITION OF MONIES COLLECTED BY THE ANIMAL CONTROL SECTION AND CITY-COUNTY ANIMAL SHELTER.**

All monies collected under the provisions of this subarticle by the Animal Control Section of the City-County Health Department and by the operators of the Animal Shelter shall be remitted daily to the City Secretary along with a detailed list of the fees collected.

('62 Code, § 6-2-20)

**§ 9-3-43 ABANDONING OR DUMPING ANIMALS IN CITY.**

It shall be unlawful for any person to abandon or dump an animal within the corporate limits of the city.

('62 Code, § 6-2-21) Penalty, see § 9-3-99

**§ 9-3-44 REPORTING STRAY ANIMALS TO SUPERVISOR OF ANIMAL CONTROL.**

It shall be the duty of every person to report to the Supervisor of Animal Control the presence and description of stolen, strayed, or lost animals which appear at or take up at, the person's premises. The report to be made within 24 hours after discovery of their presence. Failure to so comply herewith shall subject the offender to the penalties provided for in this article.

('62 Code, § 6-2-22) Penalty, see § 9-3-99

**§ 9-3-45 INTERFERENCE WITH ANIMAL CONTROL.**

(A) It shall be unlawful for any person to interfere with the Supervisor of Animal Control or his assistants in the execution of the provisions of this subarticle.

(B) It is a defense to prosecution under this section that the interference alleged consisted of speech, not otherwise unlawful, only.

('62 Code, § 6-2-24) (Ord. 79-33, passed 12-10-79) Penalty, see § 9-3-99

**§ 9-3-99 PENALTY.**

(A) Any person who violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty provided in § 1-1-99.

(B) Any person who violates any provision of §§ 9-3-25 through 9-3-45 shall be guilty of a misdemeanor and upon conviction in the Municipal Court of the city shall be fined in a sum not to exceed \$200 for each violation. Each and every day such violation continues shall constitute a separate offense. ('62 Code, § 6-2-23) (Ord. 77-23, passed 9-12-77)



## ARTICLE 4: FAIR HOUSING

### Section

- 9-4-1 Declaration of policy
- 9-4-2 Definitions
- 9-4-3 Discrimination in the sale or rental of housing
- 9-4-4 Discrimination in the financing of housing
- 9-4-5 Discrimination in the provision of brokerage services
- 9-4-6 Exemptions and exclusions
- 9-4-7 Complaints
- 9-4-8 Investigation and conciliation
- 9-4-9 Legal proceedings
- 9-4-10 Cooperation with Secretary of Housing and Urban Development
- 9-4-11 Unlawful intimidation
- 9-4-12 Committee created

9-4-99 Penalty

### **Statutory reference:**

*Authority to adopt fair housing code, see TEX. LOC. GOV'T CODE, § 51.002*

### **§ 9-4-1 DECLARATION OF POLICY.**

(A) It is hereby declared to be the policy of the city to bring about, through fair, orderly and lawful procedures, the opportunity for each person to obtain housing without regard to his race, color, religion, sex, handicap, familial status, or national origin.

(B) It is further declared that this policy is grounded upon a recognition of the inalienable right of each individual to provide for himself and his family a dwelling that the denial of such a right through considerations based upon race, color, religion, sex, handicap, familial status, or national origin is detrimental to the welfare of the inhabitants of the city and constitutes an unjust denial or deprivation of such inalienable right which is within the power and proper responsibility of government in general, and the city government, in particular, to prevent.

('62 Code, § 6-16-1) (Am. Ord. 2005-31, passed 8-10-05)

**§ 9-4-2 DEFINITIONS.**

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

***DISCRIMINATORY HOUSING PRACTICE.*** An act that is unlawful under §§ 9-4-3 through 9-4-5.

***DWELLING.*** Any building, structure, or portion thereof which is occupied as, or designed and intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

***PERSON.*** One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and any other organization or entity of whatever character.

***TO RENT.*** To lease, to sublease, to let and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

('62 Code, § 6-16-2) (Am. Ord. 2005-31, passed 8-10-05)

**§ 9-4-3 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

Except as exempted by § 9-4-6, it shall be unlawful:

(A) To refuse the sale 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, religion, sex, handicap, familial status, or national origin.

(B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status, or national origin.

(C) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination.

(D) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(E) For profit, or with the hope or expectation of profit, to 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, religion, sex, handicap, familial status, or national origin.

('62 Code, § 6-16-3) (Am. Ord. 2005-31, passed 8-10-05) Penalty, see § 9-4-99

#### **§ 9-4-4 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 in the making of commercial 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 him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, handicap, familial status, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

('62 Code, § 6-16-4) (Am. Ord. 2005-31, passed 8-10-05) Penalty, see § 9-4-99

#### **§ 9-4-5 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.**

It shall be unlawful to deny any person 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 against him in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

('62 Code, § 6-16-5) (Am. Ord. 2005-31, passed 8-10-05) Penalty, see § 9-4-99

#### **§ 9-4-6 EXEMPTIONS AND EXCLUSIONS.**

(A) There shall be exempted from the application of § 9-4-3:

(1) Any single-family house sold or rented by an owner; provided that such private individual owner does not own more than three such single-family houses, wherever located within the city at any one time; provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subdivision shall apply only with respect to one such sale within any 24 month period; provided further that such bona fide private individual 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 a part of the proceeds from the sale or

rental of, more than three such single-family houses at any one time; provided further the sale or rental of any such single-family house shall be excepted from the application of this article only if such house is sold or rented 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; and without the publication, posting or mailing of any advertisement or written notice in violation of § 9-4-3(C) of this article; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(2) The rental of rooms or 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 living quarters as his residence.

(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 organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to person of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

('62 Code, § 6-16-6) (Am. Ord. 2005-31, passed 8-10-05)

#### **§ 9-4-7 COMPLAINTS.**

(A) Any person who claims to have been injured by a discriminatory housing practice or believes that he will be irrevocably injured by a discriminatory housing practice (hereafter referred to as "person aggrieved") may file a complaint with the Citizen's Committee on Housing by submitting such complaint to the City Secretary at 200 E. Kleberg, Kingsville, Texas, 78363 or phoning (361) 595-8002 for assistance. Such complaints shall be in writing and shall identify the person alleged to have committed the discriminatory housing practice and shall set forth the particulars thereof.

(B) If in the course of any investigation as provided in § 9-4-8 hereof, on a complaint filed with or referred to the Citizen's Committee on Housing, the Citizen's Committee on Housing shall receive credible evidence and shall have probable cause to believe that the person or persons named in such complaint have committed a discriminatory housing practice on grounds stated in such complaint, the Citizen's Committee on Housing may prepare and file a complaint in the Municipal Court.

(C) Upon the filing or referral of any complaint, the Citizen's Committee on Housing shall furnish a copy of the same to the person or persons named in the complaint.

(D) A complaint hereunder shall be filed within 30 days after the alleged discriminatory housing practice has occurred. Complaints shall state the facts upon which the allegations of discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time before 10 days of trial. A respondent may in his own discretion file a written answer to the complaint against him, and with the leave of the Municipal Court, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time.  
( '62 Code, § 6-16-7) (Am. Ord. 2005-31, passed 8-10-05)

#### **§ 9-4-8 INVESTIGATION AND CONCILIATION.**

(A) Upon the filing of a complaint as herein provided, the Citizen's Committee on Housing may provide for the taking and recording of testimony and statements of such persons who appear and may provide for the examination, recording and copying of any and all documents which are produced.

(B) During or after the investigation, the Citizen's Committee on Housing shall, if it appears that a discriminatory housing practice has occurred, attempt by informal endeavors to effect conciliation, including voluntary discontinuance or rectification of the discriminatory housing practice and voluntary compliance and adequate assurance of future voluntary compliance with the provisions of this article.

(C) In the event conciliation is effected, the Citizen's Committee on Housing shall disclose nothing the or done in the course of such conciliation in such a way as to make public identification of the person or persons named in the complaint without the written consent of the persons concerned.  
( '62 Code, § 6-16-8) (Am. Ord. 2005-31, passed 8-10-05)

#### **§ 9-4-9 LEGAL PROCEEDINGS.**

(A) Upon the completion of the investigation and informal endeavors of conciliation by the Citizen's Committee on Housing, the Citizen's Committee on Housing shall then institute a charge in Municipal Court.

(B) The final instituting of the charge by the Citizen's Committee on Housing in the Municipal Court and the other actions to be taken by the Citizen's Committee on Housing under this article, shall be cumulative of all other remedies and procedures for the effectuation and enforcement of this article and the prosecution of alleged violators of this article.  
( '62 Code, § 6-16-9) (Am. Ord. 2005-31, passed 8-10-05)

#### **§ 9-4-10 COOPERATION WITH SECRETARY OF HOUSING AND URBAN DEVELOPMENT.**

The Citizen's Committee on Housing may render such service to the Secretary of Housing and Urban Development as they shall deem appropriate to further the policies of this article and may accept



remuneration from the Secretary of services rendered to assist with the carrying out of the provisions of federal law.

('62 Code, § 6-16-10) (Am. Ord. 2005-31, passed 8-10-05)

#### **§ 9-4-11 UNLAWFUL INTIMIDATION.**

It shall be unlawful for any persons, whether or not acting under color of law, by force or threat of force to willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with:

(A) Any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(B) Any person because he is or has been or in order to intimidate such person or any other person or class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A); or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) Any person because he is or has been or in order to discourage such person or any other person from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A) of this section, or participating lawfully in speech or peaceable assembly opposing any denial of the opportunity so to participate.

('62 Code, § 6-16-11) (Am. Ord. 2005-31, passed 8-10-05) Penalty, see § 9-4-99

#### **§ 9-4-12 COMMITTEE CREATED.**

There is hereby created a committee having the powers and duties set forth in this article. The committee shall be designated as the "Citizen's Committee on Housing" and shall consist of five members, appointed for a term of two years, by the City Commission. The members shall serve at the pleasure of the City Commission and may be removed by the City Commission. The Citizen's Committee on Housing shall establish its own rules of procedure and manner of investigation. Its records shall become part of the files of the Police Department.

('62 Code, § 6-16-13) (Am. Ord. 2005-31, passed 8-10-05)

**§ 9-4-99 PENALTY.**

Any person, firm or corporation violating the terms and provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in a sum not to exceed \$200.

('62 Code, § 6-16-12) (Am. Ord. 2005-31, passed 8-10-05)



## ARTICLE 5: FIRE PREVENTION AND PROTECTION

### Section

#### ***General Provisions***

- 9-5-1 Fireworks unlawful; definition
- 9-5-2 Storage of gasoline in glass containers

#### ***Fire Prevention Code***

- 9-5-10 Adoption
- 9-5-11 Conflicting ordinances; more restrictive to prevail
- 9-5-12 Fire prevention permit schedule and fees
- 9-5-13 Permits and certificates
- 9-5-14 Kingsville Fire Department

#### ***Fire Zones***

- 9-5-20 Fire zones
- 9-5-21 First Fire Zone
- 9-5-22 Second Fire Zone

#### ***Fire Billing Services***

- 9-5-30 Services
- 9-5-31 Definition of buildings
- 9-5-32 Explanation of charges
- 9-5-33 Fees

- 9-5-99 Penalty

#### ***Statutory reference:***

*Municipal fire protection, see TEX. LOC. GOV'T CODE, §§ 342.001 et seq.*

#### ***Cross-reference:***

*Fire Department, see §§ 3-5-1 et seq.*

*Oil and gas wells, see § 11-11-45*

*Smoking regulations, see §§ 9-9-1 et seq.*

**GENERAL PROVISIONS****§ 9-5-1 FIREWORKS UNLAWFUL; DEFINITION.**

(A) It shall be unlawful to sell, offer to sell, shoot or discharge fireworks as herein defined within the corporate limits of the city. ('62 Code, § 7-3-2)

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

**FIREWORKS.** Any and all types of firecrackers, regardless of size, Roman candles, or similar devices known by other trade names, sky rockets, devil's torpedoes, or any similar fireworks which are discharged by throwing against some object, and other fireworks which explode by use of a fuse or by concussion. ('62 Code, § 7-3-1)

Penalty, see § 9-5-99

**Statutory reference:**

*Authority to regulate fireworks, see TEX. LOC. GOV'T CODE, § 342.003(a)(8)*

**§ 9-5-2 STORAGE OF GASOLINE IN GLASS CONTAINERS.**

(A) It shall be unlawful for any person to place or fill or cause to be placed or filled, any glass container with gasoline or kerosene within the city limits. ('62 Code, § 7-4-1)

(B) It shall be unlawful for any person to store gasoline or kerosene in a glass container within the city limits. ('62 Code, § 7-4-2)

Penalty, see § 9-5-99

**FIRE PREVENTION CODE****§ 9-5-10 ADOPTION.**

There is hereby adopted the fire prevention regulations of the city, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion. The *Standard Fire Prevention Code*, 2000 Edition, as approved by the Southern Building Code Congress International, is hereby adopted in its entirety except to the extent as herein amended or when in conflict with locally adopted ordinances dealing with administration and personnel.

('62 Code, § 7-1-1) (Ord. 92028, passed 10-12-92; Am. Ord. 99007, passed 2-8-99; Am. Ord. ORD-2001-34, passed 12-17-01)

**§ 9-5-11 CONFLICTING ORDINANCES; MORE RESTRICTIVE TO PREVAIL.**

Should this subarticle conflict with any other ordinance of the city relating to fire prevention, the more restrictive shall prevail. All previously adopted Fire Prevention Codes are hereby repealed.

('62 Code, § 7-1-2) (Ord. 92028, passed 10-12-92; Am. Ord. ORD-2001-34, passed 12-17-01)



**§ 9-5-12 FIRE PREVENTION PERMIT SCHEDULE AND FEES.**

As the city has approved fire prevention regulations for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion.

(A) *Written notices and citations.* At such time as an inspection is conducted by the Fire Marshal or his or her designee and minor fire code violations are found to exist written notice specifying the defects is to be given to the business owner or any person in charge of the premises. A reasonable amount of time shall be given to abate the violation. If a violation of the Fire Prevention Code is unabated after written notice and a reasonable amount of time, then the Fire Official or Fire Inspector may issue a citation to the business owner or to any person in charge of the premises. However, the following violations are considered to be of a serious nature and citations may be issued immediately without prior written notice:

(1) Locked or blocked exits in assembly or educational occupancies;

(2) Nonfunctional or disabled fire alarm system, where required;

(3) Closed valves to sprinkler system;

(4) Overcrowded conditions;

(5) Illegal burning;

(6) No smoke detectors where required;

(7) No fire extinguisher where required;

(8) Any other condition that in the opinion of the Fire Marshal or his or her designee, poses imminent danger; and

(9) Penalty. A person commits an offense if the person violates any of the provisions of this Fire Prevention Code. Except as provided in § 1-1-99, the penalty shall be not less than a \$50 fine and not to exceed a maximum of \$2,000 per day per violation.

(B) *Modification of Fire Prevention Code.*

(1) The City Manager, the Fire Chief, and the Fire Marshal, acting together, shall have the power to modify any provision of the Fire Prevention Code, upon application in writing by the owner or lessee or their duly authorized agents, when there are practical difficulties in the way of carrying out the strict letter of the code; provided that the spirit of the code shall be observed, public safety secured and substantial justice done. Such modification shall only be applicable upon the unanimous approval of the City Manager, the Fire Chief, and the Fire Marshal in writing.

The particulars of such modification when granted or allowed by such unanimous approval shall be entered into the records of the Fire Marshal and a signed copy shall be furnished to the applicant.

(2) Appeals.

(a) General. Whenever it is claimed that the provisions of this code do not apply, or when it is claimed that the true intent and meaning of this code or any of the regulations thereunder have been misconstrued or incorrectly interpreted, the owner of such building or structure, or his duly authorized by filing notice of appeal to the decision of the Fire Marshal to the City Manager by filing notice of appeal with the Fire Chief. Notice of appeal shall be in writing and filed within 15 days after the decision is rendered by the Fire Official.

(b) Unsafe or dangerous buildings. In case of a building, structure or operation which, in the opinion of the Fire Official, is unsafe or dangerous, the Fire Marshal may, in his or her order, limit the time for such appeal to a shorter period.

(3) Decisions.

(a) Variances. The City Manager, Fire Chief, and Fire Marshal, collectively, when so appealed to and after a hearing, may vary the application of any provision of this code to any particular case when, in their opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this code or public interest, or when, in their opinion, the interpretation of the Fire Marshal should be modified or reversed.

(b) Action. In every case, reach a decision without unreasonable or unnecessary delay. Each decision shall also include the reasons for the decision. If a decision reverses or modifies a refusal, order, or disallowance of the Fire Marshal, or varies the application of any provision of this code, the Fire Marshal shall immediately take action in accordance with such decision.

(c) Decisions are final. Every decision of the City Manager, Fire Chief, and Fire Marshal shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.

*(C) Investigation of fires and prosecution for arson and the like.*

(l) Investigations. The City Attorney, upon the request of the Fire Marshal, shall assist the Fire Marshal and his or her deputies in the investigation of any fire which in the opinion of the Fire Marshal might have resulted from carelessness or design. The Fire Marshal, when in his or her opinion further investigation as to the cause of any fire is necessary, shall take or cause to be taken the testimony under oath of all persons supposed to be cognizant of any facts or to have means or knowledge in relation to the matter under investigation, and he or she shall cause the same to be reduced to writing. If he or she is of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with any attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such offenses, or either of them, then in that event he or she shall furnish to the proper prosecuting attorney all such evidence together with the names of witnesses and all of the information obtained by him or her, including a copy of all the pertinent and material testimony taken in the case.

(2) Witnesses. The Fire Marshal shall have the power to summon and compel the attendance of witnesses before him or her to testify in relation to any matter which is by the provisions of this code



a subject for inquiry and investigation, and he or she may require the production of any book, paper, or document deemed pertinent thereto.

(3) Oaths, affirmations and summons. The Fire Marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him, and false swearing shall be punished as such. Any witness who refuses to be sworn, or who refuses to testify, or who disobeys any lawful order of the Fire Marshal, or who fails or refuses to produce any book, paper, or document touching any matter under examination, or who is guilty of any contemptuous conduct after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of violating this chapter. It shall be the duty of the Fire Marshal to make complaint against the person so refusing to comply with the summons or order of the Fire Marshal before the municipal court of the city.

(4) Rewards. The Mayor is authorized and directed to make public proclamation in the name of the city offering a reward of \$500 for the arrest and conviction in a court of competent and final jurisdiction, of any person found guilty of the crime of arson, as defined in the statutes of the state, within the limits of the city and to have the proclamation printed upon placards 8 inches by 12 inches in size and placed in wooden frames, under glass, and posted in at least 20 public buildings in the city.

(5) Arson. It shall be unlawful for any person who as a guest or occupant of any hotel, rooming house, tourist court, motel or any other place renting rooms for the accommodation of the public who shall, by smoking, or attempting to light or to smoke cigars, cigarettes, pipes or tobacco in any manner in which lighters or matches are employed, or who, in the disposition of lighted matches, cigars or cigarettes or live embers of any smoking material, in a careless, reckless or negligent manner, whether willfully or not, sets a fire to any mattress, bedding, furniture, curtains, drapes or any other household furnishings.

(6) Tampering with fire protection systems. It shall be unlawful for any person to tamper with, remove, injure or destroy any wiring, bracket, fixture, orifice, extinguishing system, fire alarm or any part thereof or appurtenance thereto, of the fire protection systems required by this code.

(7) False alarms. It shall be unlawful for any person to turn in to the Fire Department or to any city division, department, or official any false alarm of fire or any false report of the existence of any bomb or other explosive.

(D) *Liability.* Any public employee, officer or other persons responsible for the enforcement of this code, acting for the city in the discharge of his duties shall not thereby render himself or herself liable personally for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties.

(Ord. ORD-2002-27, passed 10-14-02; Am. Ord. ORD-2004-24, passed 8-23-04) Penalty, see § 9-5-99

**§ 9-5-13 PERMITS AND CERTIFICATES.***(A) Permits by use.***(1) Airports, heliports and helistops.**

(a) No person shall use any building, shed or enclosure as an aircraft hangar, or for the purpose of servicing or repairing any aircraft, without a permit.

(b) No person shall operate an aircraft refueler unless a valid permit has been issued for such vehicle.

**(2) Combustible fibers.** Storing or handling combustible fibers in quantities in excess of 100 cubic feet shall require a permit.

**(3) Compressed gas.** A permit shall be required for the storage, handling or use at normal temperature and pressure of more than 2,000 cubic feet of flammable compressed gas or 6,000 cubic feet of nonflammable compressed gas.

**(4) Cryogenic fluids.** Except when regulated by federal or state regulations a permit shall be obtained for:

(a) Production, storage or sale of cryogenic fluids.

(b) Transportation on the highway of flammable cryogenic fluids in excess of 120 gallons.

(c) Transportation on the highway of liquefied oxygen or cryogenic oxidizers in excess of 120 gallons.

(d) Storage and transportation of nonflammable, nontoxic cryogenic fluids in excess of 500 gallons.

(e) Storage or use of more than 10 gallons of liquefied oxygen, flammable cryogenic fluids or cryogenic oxidizers.

**(5) Day care facilities.** A permit shall be required to operate a day care facility.

**(6) Dry cleaning plants.**

(a) No person shall engage in the business of dry cleaning without a permit. Such permit shall prescribe the type of system to be used.

(b) No change shall be made in the solvent used in the equipment to a solvent in a more hazardous class unless permission for such change shall first have been obtained from the Fire Official and a new permit issued.

(7) Explosive materials shall not be permitted within the city limits except those being transported on US Highway 77 Bypass.

(8) Flammable and combustible liquids. A permit shall be obtained for the following:

(a) Storage, handling or use of Class I flammable liquids as defined by the current International Fire Code in excess of three gallons in any dwelling or other place of human habitation, or in excess of six gallons in any other building or other occupancy, or in excess of ten gallons outside of any building.

(b) Exceptions:

1. The storage or use of flammable liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant.

2. The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.

3. Storage, handling or use of Class II or III liquids as defined by the current International Fire Code in excess of 25 gallons in a building; or in excess of 60 gallons outside a building, except for fuel oil used in connection with oil burning equipment.

4. For the manufacturing, processing, blending, or refining of flammable or combustible liquids. Applications for a permit shall be accompanied by plans showing the topography of the proposed site, the proximity of the plant to places of assembly, residential, or mercantile occupancies, and adequacy of water supply for fire control.

5. Installation or removal of an underground or aboveground flammable/combustible liquid storage tanks.

(c) No person shall install or remove an underground or aboveground flammable/combustible liquid storage tank without a permit.

(9) Reserved.

(10) Fumigation and thermal insecticide fogging.

(a) No person shall engage in the business of fumigation or thermal insecticidal fogging is to begin.

(b) Fumigators and thermal insecticidal foggers shall pay an annual permit fee in the amount of \$315.

(c) Annual permit holders must call at least 24 hours before the fumigation is to begin.

(d) The Fire Marshal is to be notified at least 24 hours before any building or structure is to be closed in connection with the use of any toxic or flammable fumigant and at the time the building or structure is released for occupancy.

(11) Hazardous chemicals.

(a) No person, firm or corporation shall store, dispense, use or handle hazardous materials in excess of those quantities specified in Table 2703.1.1(1) unless a valid permit has been issued. No person, firm, or corporation shall abandon, remove, place temporarily out of service, close, or substantially modify a storage or processing facility, or other area regulated by this code until a permit has been issued by the Fire Official.

(b) A permit shall be obtained from the Fire Marshal for the storage, dispensing, use, or handling of hazardous materials in excess of those quantities listed herein.

(c) A permit shall be required to store, handle or use hazardous production materials regulated by Chapter 27 of the International Fire Code.

(12) High piled combustible stock. No person shall use any building or portion of a building, exceeding 2,500 square feet for the storage of high piled combustible stock without first obtaining a permit from the Fire Official. A floor plan showing the dimensions and location of stock piles and aisles shall be submitted upon application for a permit.

(13) Liquefied and compressed natural gas. No person shall construct or operate a facility within the scope of Chapters 30 and 38 of the current International Fire Code without a permit or other appropriate authorization.

(14) Liquefied petroleum gas.

(a) No person shall install or maintain any LP gas container, or operate any tank vehicle which is used for the transportation of LP gas without a permit. Where a single container or the aggregate of interconnected containers is over 2,000-gallon water capacity, the installer shall submit plans to the Fire Marshal. A permit shall not be required for the installation or maintenance of less than 120-gallon water capacity.

(b) Installers shall maintain a record of all installations for which a permit is not required by Chapter 38 of the current International Fire Code and have it available for inspection by the Fire Marshal.

(c) Exception: installation of gas burning appliances and replacing of portable cylinders.

(15) Lumber storage. No person shall store in excess of 100,000 board feet of lumber without a permit.

(16) Mechanical refrigeration. No person shall install or operate a refrigeration unit or

system containing in excess of 20 pounds of refrigerant other than air or water without a permit.

Exception: air-conditioning units or systems.

(17) Organic coatings. A permit shall be required for any organic coating manufacturing operation making more than one gallon of an organic coating on any working day.

(18) Repair garages. No person shall use any building, shed or enclosure as a place of business for the purpose of repairing any motor vehicle therein, without a permit as allowed by § 15-6-19.

(19) Tank vehicles for flammable and combustible liquids. No person shall engage in the business of delivering flammable or combustible liquids from tank vehicles without a permit.

(20) Tents and air supported structures. No person shall erect, operate or maintain a tent or air supported structure covering an area in excess of 120 square feet without a permit.

Exception: tents used exclusively for camping purposes.

(21) Tire rebuilding plant. No person shall operate or maintain any tire recapping or rebuilding plant without a permit.

(22) Places of assembly. No place of assembly as defined in Chapter 2 of the current International Fire Code shall be maintained, operated or used as such without a permit. The permit shall not be issued unless all seats, stands, and structures conform to the requirements of the city.

(23) Wrecking yard, junk yard or waste handling plant. No person shall conduct or maintain any wrecking yard, junk yard or waste material handling plant without a permit.

(24) Day care facilities. A permit shall be required to operate a day care facility.

(25) Fireworks. No person shall conduct an indoor display or outdoor display which utilizes fireworks without a permit and provide a surety bond or public liability insurance for a minimum of \$100,000 as noted in Chapter 33 of the current International Fire Code.

(26) Foster homes/group homes. A permit shall be required to operate a foster home or a group home.

(27) High rise life safety systems. No person shall install, enlarge or extend a high rise life safety system without a permit from the Fire Official.

(28) Hospitals and nursing homes. A permit shall be required to operate a hospital or nursing home.

(29) Restaurants. A permit shall be required to operate a restaurant.

(30) Underground and aboveground fuel tanks. No person shall install or remove underground and aboveground fuel storage tanks without a permit.

(31) Unvented portable fuel burning heaters. No person shall sell, purchase or use an unvented portable fuel burning heater within the city limits without a permit.  
(Ord. ORD-2002-27, passed 10-14-02; Am. Ord. ORD-2004-24, passed 8-23-04)

#### § 9-5-14 KINGSVILLE FIRE DEPARTMENT.

(A) *Permit fees.* Applications for permits shall be accompanied by the payment of fees in accordance with the Kingsville Fire Prevention Permit Fee Schedule, as follows:

<b><i>FIRE PREVENTION CODE PERMIT SCHEDULE</i></b>	
<b><i>Permit Type</i></b>	<b><i>Fee</i></b>
Airports, Heliports and Helistops	\$59 annually
Assembly, A-1 or A-2	\$70 annually
Bowling pin and bowling alley resurfacing and refinishing	\$62 per insp.
Cellulose nitrate motion picture film	\$52.50 annually
Cellulose nitrate plastic (pyroxylin)	\$52.50 annually
Churches (one-time fee - no day care facility on premises)	\$67
Combustible fibers (storage and handling)	\$87 annually
Compressed gas	\$64 annually
Cryogenic fluids	\$64 annually
Dry cleaning plants	\$70 annually
Explosives, blasting agents and ammunition	\$93 annually
Fire/arson reports	\$4 (per page)
Fire alarm systems (required 15,000 sq. ft. zones)	\$37 (per zone)
Flammable and combustible liquids	\$71 annually
Flammable finishes	\$70 annually

**FIRE PREVENTION CODE PERMIT SCHEDULE (Cont'd)**

<b>Permit Type</b>	<b>Fee</b>
Foster homes/group homes	\$40 annually
Fumigation and thermal insecticide fogging	\$315 annually
Hazardous chemicals	\$87 annually
High piled combustible stock (>12' high)	\$63 annually
High rise life safety system (testing before issuance of C. of O.)	\$166 (per test)
Liquefied natural gas	\$63 annually
Liquefied petroleum gas	\$63 annually
Lumber storage	\$63 annually
Magnesium	\$25 annually
Mechanical refrigeration	\$30 annually
Organic coatings	\$63 annually
Ovens	\$32.50 annually
Places of assembly	\$58 annually
Pressure test	\$56 (per visit)
Pulverized particles (dust)	\$22.50 annually
Repair garages	\$60 annually
Restaurants (facilities that accommodate 100 or less occupants)	\$40 annually
Tank vehicles for flammable and combustible liquids	\$40 annually
Tents and air supported structures	\$70 annually
Tire rebuilding plant	\$40 annually
Underground/aboveground fuel tanks (installation and/or removal)	\$56 (per insp.)
Wrecking yard, junkyard or waste handling	\$40 annually
Fireworks display (aerial)	\$185 (per display)



**Kingsville - General Regulations**

<b><i>FIRE PREVENTION CODE PERMIT SCHEDULE</i></b> (Cont'd)	
<b><i>Permit Type</i></b>	<b><i>Fee</i></b>
Fireworks display (Non-aerial)	\$109 (per display)
Open burning (See 3 below)	\$93 per day
Automatic sprinklers, standpipes and fire lines (testing) per riser	\$55 annually
Extinguishing systems per system	\$44 annually
Fire alarms systems (per floor)	\$37 per floor
Hospital and nursing homes	\$1.20 (per bed)
Day care facilities (or similar short term occupancies)	\$40 annually

(1) A special \$25 special handling fee is required if an inspector must handle the permit inspection in such a way as to interfere with his regular scheduled duties or if less than 24 hours notice is given for an inspection.

(2) Churches that do not have a day care facility must pay a one-time fee for an assembly occupancy.

(3) If a site does not meet the standards for issuance of a permit after two inspections, the applicant must submit a new application and pay a permit fee before any subsequent inspections will be conducted.

(B) *Applications and fee required for failure to pass inspection.* If a site does not meet the standards for issuance of a permit after two inspections, the applicant must submit a new application and pay a permit fee before any subsequent inspections will be conducted.

(C) *Burning permits.* Burning permits will not be issued unless the Fire Department approves the material to be burned as recommended by the Texas Commission on Environmental Quality (TCEQ).

(Ord. ORD-2002-27, passed 10-14-02; Am. Ord. ORD-2004-24, passed 8-23-04; Am. Ord. 2005-24, passed 7-11-05)

***FIRE ZONES*****§ 9-5-20 FIRE ZONES.**

There shall be two fire zones or districts within the city, styled First Fire Zone and Second Fire Zone.

('62 Code, § 7-2-1)

**§ 9-5-21 FIRST FIRE ZONE.**

The First Fire Zone shall be within the following described boundaries: Beginning at the intersection of the alley between Kleberg and King Avenues in the city, with 11th Street, and continuing west along the alley line to Eighth Street, thence south along Eighth Street to the alley between King and Kenedy, thence west along the alley to Sixth Street, thence north along Sixth Street to King Avenue, thence west along King Avenue across the railroad tracks to Fourth Street, thence north along Fourth Street to Henrietta Avenue, thence east along Henrietta Avenue to the east right-of-way line of the Missouri Pacific Railroad, thence north along the right-of-way line to Lee Avenue, thence east along Lee Avenue to Seventh Street, thence south along Seventh Street to Henrietta Avenue, thence east along Henrietta to Eighth Street, thence south along Eighth Street to Yoakum Avenue, thence east along Yoakum Avenue to Ninth Street, thence south along Ninth Street, to the alley between Yoakum and Kleberg Avenue, thence east along the alley to 11th Street, thence along 11th Street to the alley between King and Kleberg same being the point of beginning.

('62 Code, § 7-2-2)

**§ 9-5-22 SECOND FIRE ZONE.**

The Second Fire Zone shall be within the following described boundaries:

(A) *Parcel No. 2.* Beginning at the intersection of Fourth Street and Henrietta Avenue in the city, thence north along Fourth Street to its intersection with Alice Avenue, thence east along Alice Avenue to its intersection with Fifth Street, thence north along Fifth Street to its intersection with Santa Gertrudis Avenue, thence west along Santa Gertrudis Avenue across the railroad tracks to the east right-of-way line to the railroad property, thence north along the right-of-way line to its intersection with Ella Avenue, thence east along Ella Avenue to its intersection with Seventh Street, thence south along Seventh Street to its intersection with Santa Gertrudis Avenue, thence east long Santa Gertrudis Avenue to its intersection with Eighth Street, thence south along Eighth Street to its intersection with Henrietta Avenue, thence west along Henrietta Avenue to its intersection with Seventh Street, thence north along Seventh Street to its intersection with Lee Avenue, thence west along Lee Avenue to its intersection with the east right-of-way line of the railroad property, thence south along the east right-of-way line of the railroad property to its intersection with Henrietta Avenue thence west along the Henrietta Avenue to

its intersection with Fourth Street same being the point of beginning. Beginning at the intersection of King Avenue and Sixth Street in the city, thence west along King Avenue to the alley between Fourth and Fifth Streets, thence south along the alley line to its intersection with Kenedy Street thence east along Kenedy Street to the east right-of-way line of the railroad, thence south along the east right-of-way line of the railroad property to its intersection with Doddridge Avenue, thence east along Doddridge Avenue to the mid-point between Sixth and Seventh Streets, thence north equal distance between Sixth and Seventh Streets to its intersection with Huisache Avenue, thence east along Huisache Avenue to Seventh Street, thence north along Seventh Street to its intersection with the alley between Kenedy and King Avenues, thence west along the alley to its intersection with Sixth Street, thence north along Sixth Street to its intersection with King Avenue being a point of beginning.

(B) *Parcel No. 5.* Beginning at the intersection of the alley between Yoakum and Kleberg Avenues at its intersection with Ninth Street in the city, thence north along Ninth Street to its intersection with Yoakum Avenue, thence east along Yoakum Avenue to its intersection with 11th Street, thence south along 11th Street to its intersection with the alley between Yoakum and Kleberg Avenues, thence west along the alley line to its intersection with Ninth Street, same being the point of beginning.  
(‘62 Code, § 7-2-3)

### ***FIRE BILLING SERVICES***

#### **§ 9-5-30 SERVICES.**

The city shall assess and collect fees for certain services rendered by the Fire Department, excluding residential properties. The fees for use of personnel, equipment and supplies established in this subarticle shall be assessed and collected when such are used in connection with the following events or incidents:

- (A) Vehicle fires;
- (B) Vehicle accidents/extrication from vehicles;
- (C) Hazardous mitigation operations/fluid mitigation at traffic accidents;
- (D) Rescues or rescue attempts;
- (E) Scene and safety control at incidents; and/or

(F) Commercial property fires.

(Ord. 2006-07, passed 3-6-06)

**§ 9-5-31 DEFINITION OF BUILDINGS.**

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

**COMMERCIAL BUILDING.** Any building which is used for commercial, institutional or industrial purposes but shall also include hotels, motels, or other buildings intended for transient lodging. Rental housing of any type is considered to be commercial for the purposes of this subarticle.

**RESIDENTIAL BUILDING.** Any building owned, used and occupied by the owner exclusively for residential purposes, including mobile homes.  
(Ord. 2006-07, passed 3-6-06)

**§ 9-5-32 EXPLANATION OF CHARGES.**

(A) *Vehicle fires, vehicle accidents, extrication from vehicles, rescues or rescue attempts.* Fire suppression at a vehicle fire, by Fire Department personnel, for containment or extinguishing a fire. Anytime a person has to be lifted or taken out of an emergency situation or forcible entry is necessary to gain proper access to victims when the Fire Department assists ambulance or EMS (Emergency Medical Services) personnel in a coordinated effort on their own. This could include, but is not limited to: car accidents, industrial accidents, confined spaces, below grade rescues, or even high angle rescues to name a few.

(B) *Commercial property fires.* Fire suppression at a commercial property fire is any time Fire Department personnel have to contain or extinguish a fire. It can also be the laying of hose lines and positioning a hand line for the protection of individuals or property at the scene because of fire, smoke, or leaking fluids or other substances, such as gasoline or other hazardous materials.

(C) *Hazardous mitigation operations/fluid mitigation at traffic accidents.* Any time Fire Department personnel have to deal with any hazardous substances via containment or absorption with pads for carbon-based substances like gas or oil, or removal via pads and sand or other means permitted by the DEP (Department of Environmental Protection). This could be a car accident, trucking accident or a fix facility accident. The mitigation of all hazardous material and substances is done in conjunction with the DEP when required.

(D) *Scene and safety control at incidents.* Positioning of fire/rescue apparatus and personnel at an emergency, so as to protect the scene from other traffic and deny entry into the scene of unauthorized personnel. Scene control may also include initial assessment of victims, basic life support, safely staging other incoming agencies responding to an incident. Prioritizing victims for treatment and transport, and may also include a pulled hose line for protection of people on scene from possible fires, fumes, residue and other hazards such as gasoline and air bag propellants. One of the most important functions is establishing incident command of the scene, which is the Fire Department's responsibility at emergency incidents of this nature, and to coordinate with other responding agencies at the scene when necessary.  
(Ord. 2006-07, passed 3-6-06)

**Kingsville - General Regulations****§ 9-5-33 FEES.**

(A) *Apparatus.* The following fees for fire apparatus shall be charged for operations response:

1. Class A pumper, per hour	\$450.00	(staffed)
2. Aerial apparatus, per hour	\$600.00	(staffed)
3. Tanker apparatus, per hour	\$375.00	(staffed)
4. Attack truck, per hour	\$375.00	(staffed)
5. Heavy rescue truck, per hour	\$500.00	(staffed)
6. Command unit, per hour	\$250.00	(staffed)
7. Rescue boat, per hour	\$150.00	(staffed)
8. Rehab unit, per hour	\$75.00	(staffed)
9. Staff vehicle, per hour	\$75.00	(staffed)
10. Rehab, per hour	\$75.00	(staffed)
11. Fire/medic ATV, per hour	\$150.00	(staffed)

(B) *Personnel.* The following fees for certified personnel shall be charged for operations response:

1. Firefighter, per hour	\$ 35.00
2. Haz-mat tech, per hour	\$40.00
3. Haz-mat operations level, per hour	\$35.00
4. Haz-mat awareness level, per hour	\$25.00
5. Fire inspectors, per hour	\$35.00
6. Fire investigators, per hour	\$75.00
7. Dive team, per hour	\$200.00
8. Incident commander, per hour	\$75.00

(C) *Haz-mat.* The following fees for haz-mat supplies shall be charged for operations response:

1. Absorbent, per bag	\$15.00
2. Drum liners, each	\$8.00



## Fire Prevention and Protection

36M

3. Lite-Dri, per 50 lb bag	\$20.00
4. Top-Sol, per bag	\$30.00
5. Barricade tape, per roll	\$20.00
6. Poly sheeting, per roll	\$50.00
7. Plug and patch kit, each	\$30.00
8. Disposable coveralls, each	\$20.00
9. Latex gloves, pair	\$5.00
10. Disposable goggles, pair	\$10.00
11. Broom, each	\$20.00
12. Shovel, each	\$50.00

(D) *Protective equipment replacement.* The following fees for damaged or contaminated protective equipment shall be charged for operations response:

1. Helmet, each	\$ 350.00
2. Nomex hood, each	\$25.00
3. Bunker coat, each	\$650.00
4. Bunker pants, each	\$650.00
5. FF boots, each	\$120.00
6. FF gloves, each	\$45.00

(E) *Firefighting agents.* The following fees for specialized fire protection supplies shall be charged for operations response:

1. AFFF foam, per gallon	\$ 35.00
2. Class A foam, per gallon	\$20.00
3. Light water, per gallon	\$20.00
4. Super-all, per gallon	\$20.00
5. Micro-blaze, per gallon	\$30.00

**Kingsville - General Regulations**

(F) *Firefighting equipment replacement.* The following fee for damaged or contaminated equipment shall be charged for operations response:

1. Hose 1.0" (each 50')	\$101.00
2. Hose 1.75" (each 50')	\$115.00
3. Hose 2.5" (each 50')	\$145.00
4. Hose 3.0" (each 50')	\$225.00
5. Hose 5.0" (each 100')	\$685.00
6. Hose 1.0" booster (each 50')	\$270.00
7. SCBA air mask (each)	\$240.00
8. SCBA air pak complete (each)	\$2,300.00
9. SCBA spare cylinders (each)	\$990.00
10. 12' roof ladder (each)	\$275.00
11. 14' roof ladder (each)	\$335.00
12. 24' extension ladder (each)	\$525.00
13. 35' extension ladder (each)	\$925.00
14. A-frame combo ladder (each)	\$414.00
15. PASS alarm (each)	\$200.00
16. Portable radio (each)	\$2,500.00
17. Fog nozzle 1.5-1.75" (each)	\$625.00
18. Fog nozzle 1.0" (each)	\$510.00
19. Fog nozzle 2.5" each)	\$680.00
20. Fog nozzle 2.5" Playpipe (each)	\$1,095.00
21. Fog nozzle 2.5" Master (each)	\$825.00
22. Stacked tips with shaper (each)	\$566.00
23. Deluge monitor without pie and tips (each)	\$2,080.00
24. Foam aerator tube (each)	\$396.00
25. 8' attic folding ladder (each)	\$230.00

## Fire Prevention and Protection

360

26. 10" attic folding ladder (each)	\$255.00
Note: This list is not all-inclusive of equipment that may be damaged or contaminated during the course of a response effort. Additional equipment that is not herein listed may be charged at actual replacement costs.	

(G) *Rescue equipment used.* The following fees for rescue equipment used shall be charged for operations response:

1. Spreaders, per hour	\$225.00
2. Cutters, per hour	\$225.00
3. Ram(s), per hour	\$225.00
4. Porta power, per hour	\$85.00
5. Ajax cutting tool, per hour	\$35.00
6. Acetylene cutting kit, per hour	\$185.00
7. Milwaukee saws-all, per hour	\$65.00
8. Air impact tools, per hour	\$85.00
9. Oxygen with mask, per hour	\$90.00
10. Air bags, per hour	\$275.00

(H) *Fire equipment used.* The following fees for fire equipment used shall be charged for operations response:

1. Camera with pictures (each set)	\$ 35.00
2. Cellular phone w/long distance charge	\$25.00
3. Command light	\$250.00
4. Tripod light (each)	\$25.00
5. Hand lights (each)	\$15.00
6. Water extinguisher (each)	\$15.00
7. ABC extinguisher (each)	\$40.00
8. CO2 extinguisher (each)	\$40.00

**Kingsville - General Regulations**

9. Purple K extinguisher (each)	\$75.00
10. Chain saw (per hour)	\$40.00
11. Rescue (K-12) saw (per hour)	\$40.00
12. Generator (per hour)	\$45.00
13. PPV fans (per hour)	\$50.00
14. Halligan tool	\$20.00
15. Bolt cutters (HD)	\$20.00
16. Salvage covers (each)	\$25.00
17. Hall runner (each)	\$15.00
18. Rolls of plastic (each)	\$30.00
19. Gas plug/gasoline plug kit	\$45.00
20. Gas meter; CO meter; Thermal meter	\$180.00
21. SCBA cylinder (each)	\$990.00
22. Refill SCBA bottle (each)	\$15.00
23. Barricade/scene tape	\$20.00
24. Tank, portable/fold-a-tank	\$150.00
25. Flappers/fire brooms (each)	\$10.00
26. K-tool	\$20.00
27. Stokes basket w/bridle	\$85.00
28. Windshield tool	\$10.00
29. Kendrix extrication device	\$95.00

(l) *Requested aid and/or specialized aid equipment.* Fees for requested aid and/or specialized aid equipment shall be charged for all operations.  
(Ord. 2006-07, passed 3-6-06)

**§ 9-5-99 PENALTY.**

Any person convicted of a violation of this article shall be punished in accordance with 1-1-99 of this Code.

('62 Code, §§ 7-1-3 and 7-5-1) (Ord. 92028, passed 10-12-92; Am. Ord. 99007, passed 2-8-99)



## ARTICLE 6: NOISE CONTROL

### Section

- 9-6-1 Unnecessary noises prohibited
- 9-6-2 Acts creating unlawful noises
- 9-6-3 Use of siren or whistle
- 9-6-4 Loud speakers and sound trucks; permit required

### § 9-6-1 UNNECESSARY NOISES PROHIBITED.

(A) *Noises; detrimental to life.* It shall be unlawful for any person to make, or cause to be made, noise of such character, intensity and duration as to be detrimental to life or health of any individual in the city.

(B) *Noises; interference with enjoyment of property.* It shall be unlawful for any person to make or cause to be made any unreasonably loud, disturbing and unnecessary noise which is offensive to the ordinary sensibilities of the inhabitants of the city, which noise renders the enjoyment of life or property uncomfortable, or interferes with public peace and comfort.

(C) *Unreasonably loud or disturbing noises.* It shall be unlawful for any person to make or cause to be made any unreasonably loud, disturbing and unnecessary noise.  
(’62 Code, § 6-9-1) Penalty, see § 1-1-99

### § 9-6-2 ACTS CREATING UNLAWFUL NOISES.

The following acts, among others, are declared to create loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive:

(A) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal, as may be required by state law, if other vehicle is backing, starting or turning in such a way as likely to cause a collision.

(B) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while in motion, except as a danger signal, as required by state law.

(C) The playing of any radio, television, phonograph or musical instrument in such a manner, or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to disturb the peace, quiet, comfort or repose of persons in any dwelling, apartment, hotel or other type of residence.

(D) The keeping of any animal or fowl which emits or makes an unreasonably loud, disturbing and unnecessary noise.

(E) The use of any automobile, motorcycle or other vehicle so out of repair, or so loaded, which emits or creates loud or unnecessary grating, grinding or rattling noise.

(F) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger.

(G) The discharge into the open air of the exhaust from any stationary steam engine or stationary internal combustion engine, except through a muffler or other device which will effectively and efficiently prevent loud or unusual noises, annoying noises, annoying smoke, and the escape of gas or steam.

(H) The discharge into the open air of the exhaust from any motor vehicle except through a muffler, or other device, which will effectively and efficiently prevent loud and unusual noises and annoying smoke.

(I) The erection (including excavation), demolition, alteration or repair of any building in a residential district, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety, for which a permit shall be obtained from the Building Inspector.

(J) The creation of any unreasonably loud, disturbing and unnecessary noise on any street adjacent to any school or court which is in session, or adjacent to any hospital; provided that conspicuous signs are located in such streets indicating that schools, hospitals and courts are adjacent thereto.

(K) The creation of unreasonable, loud, disturbing and unnecessary noises in connection with the loading or unloading of any vehicle, or the opening and destruction of bales, boxes, crates and containers, or the sounding of any bell or gong attached to any building located on any premises which disturbs the quiet or repose of persons occupying adjoining property or those occupying property across any street or alley within 200 feet radius.

(L) The shouting and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.

(M) The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show, sale or display of merchandise as to attract customers to any place of business.

(N) The use of mechanical loud speakers or electronic amplifier systems on trucks or other moving vehicles for the purpose of advertising any show, sale or display of merchandise or any other purpose.

('62 Code, § 6-9-2) (Am. Ord. ORD-2001-09, passed 2-26-01) Penalty, see § 1-1-99

### **§ 9-6-3 USE OF SIREN OR WHISTLE.**

It shall be unlawful for any vehicle to be equipped with, or for any person to use upon a vehicle, any bell, siren, compression or exhaust whistle, except that vehicles operated in the performance of duty by law enforcement officers, Fire Department and ambulances may attach and use a bell, siren, compression or exhaust whistle.

('62 Code, § 6-9-3) Penalty, see § 1-1-99

### **§ 9-6-4 LOUD SPEAKERS AND SOUND TRUCKS; PERMIT REQUIRED.**

It shall be unlawful for any person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instruments to intensify or to amplify or to reproduce the human voice, or any other sound, on any public street within the city without first obtaining a permit to do so. It shall likewise be unlawful for any person to use or operate, or cause to be operated, any such mechanical or electrical device, machine, apparatus or instrument or any other mechanical or electrical device, machine, apparatus or instrument, whether involving amplification or not, that emits or causes any loud, excessive or unusual noise, in any building or on any premises in the city, whereby the sound therefrom is cast directly upon the public streets or places, or where the device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public or which is so placed or operated that the sounds therefrom can be heard to the annoyance or inconvenience of travelers upon any street or public place, or of persons in neighboring premises; provided however, the Chief of Police may, in his discretion, grant a permit for the use of any of the devices prohibited herein, upon the showing of a public necessity, or that the same shall be used by a religious, charitable, or other nonprofit organization. The permit shall state the purpose of the use, and the length of time such permit is granted. Upon a showing of gross misuse, the permit may be cancelled by the Chief of Police, but the holder of a permit must be notified of the intention to so cancel his permit, and he shall be given ample opportunity to present evidence in his behalf.

('62 Code, § 6-1-29) Penalty, see § 1-1-99

**Statutory reference:**

*State statute authority, see TEX. LOC. GOV'T CODE, § 217.042*



## ARTICLE 7: NUISANCES

### Section

- 9-7-1 Acts prohibited
- 9-7-2 Definitions
- 9-7-3 Correction by city; lien
  
- 9-7-99 Criminal penalties; civil remedies

### § 9-7-1 ACTS PROHIBITED.

(A) It shall be unlawful for any person to intentionally, knowingly, recklessly, or acting with criminal negligence, deposit noxious matter on the property of another.

(B) It shall be unlawful for any person, after receiving notice in accordance herewith to intentionally, knowingly, recklessly, or acting with criminal negligence, to permit noxious matter to remain on premises under his or her care, control or custody.

(C) It shall be an affirmative defense to the unlawful acts described herein that the person was permitted or required by law to deposit or permit to remain such noxious matter. The affirmative defense is valid only if the afore-mentioned permission or requirement is in strict accordance with law, including, without limitation, the manner of depositing or allowing to remain.

(D) It is a defense to prosecution under this section that the vegetation is:

(1) Located on heavily wooded real property or portion thereof that reasonably prevents the operation of mowing machines;

(2) An agricultural crop, cultivated shrub, flowers or other decorative ornamental plant under cultivation; or

(3) Wildflowers, but only until the time as seeds have matured followed the final blooming of the majority of the plants.

A person who meets the requirements of an affirmative defense as set out in this subsection is still required to maintain a 50-foot mowed buffer between his and another property. (Ord. 97019, passed 6-23-97; Am. Ord. ORD-2001-07, passed 2-26-01; Am. Ord. ORD-2005-11, passed 3-14-05) Penalty, see § 9-7-99

**§ 9-7-2 DEFINITIONS.**

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

**ABATE.** To eliminate by removal, repair, rehabilitation or demolition.

**DEPOSIT.** Any divestiture of possession whether such divestiture of possession is actual or constructive.

**NOTICE** shall mean:

- (1) Personal notice to the owner in writing, or
- (2) By letter addressed to the owner at the owner's address found in the records of the appraisal district in which the property is located, or
- (3) If personal service cannot be obtained or the owner's address is unknown, then, notice shall be:
  - (a) By publication at least once, or
  - (b) By posting the notice on or near the front door of each building on the property to which the violation relates, or
  - (c) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.
- (4) If a notice to a property owner is returned by the United States Postal Service as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

**NOXIOUS MATTER.** Any matter, which is or is not subject to the process of oxidation and shall include, without limitation, filth; carrion; impure or unwholesome substances; weeds, grass, or similar vegetation in excess of 18 inches; rubbish; brush; and any other substance which would be objectionable, unsightly or unsanitary to a reasonable person.

**PERMIT TO REMAIN.** Failure to remove on a permanent basis, within the time required by law, as specified by any notice to abate noxious matter that is provided for herein.

**PREMISES.** All privately owned property, including vacant land or a building designed for residential, commercial, business, industrial or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, other structure appurtenant to the property, or easily accessible easements, alleys and rights-of-way.

**PREMISES OF ANOTHER.** Property over which a person has no right of care, control or custody. Property under the care, control or custody of the State of Texas or any of its political subdivisions shall always constitute **PREMISES OF ANOTHER**.

**REFUSE.** Garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter, animal and fish carcasses.

**RUBBISH.** Non-decayable waste from a public or private establishment or residence.

**WEEDS.** All rank and uncultivated vegetable growth or matter that:

(1) Has grown to more than 18 inches in height; or

(2) May create an unsanitary condition or become a harborage for rodents, vermin or other disease-carrying pests, regardless of the height of the weeds  
(Ord. 97019, passed 6-23-97; Am. Ord. ORD-2001-07, passed 2-26-01; Am. Ord. ORD-2005-11, passed 3-14-05)

### **§ 9-7-3 CORRECTION BY CITY; LIEN.**

(A) That the provisions of this section shall be cumulative of any criminal penalties or civil remedies provided for herein.

(B) Upon a determination that noxious matter exists upon a premises, its owner shall be given notice to abate such noxious matter within ten days after the receipt of such notice. Should the owner of the premises fail to comply with such notice of abatement within ten days, the city may do the work or make the improvements required, and assess the expenses on the premises upon which such expenses were incurred.

(C) The city in the notice of violation may inform the owner by certified mail, return receipt requested, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owners expense and assess the expense against the premises.

(D) The city shall assess expenses incurred under this section as follows:

(1) The Mayor or City Manager shall file a statement of such expenses incurred, giving the amount of such expenses, the date on which the work was done or improvements made, with the County Clerk, and the city shall have a privileged lien on such lot or real estate upon which the work was done or improvements made to secure the expenditures so made, in accordance with the provisions of TEX. HEALTH & SAFETY CODE §§ 342.006 et seq., which lien shall be second only to tax liens and liens for street improvements; and the amount shall bear 10% interest from the date the statement was filed.

(2) It is further provided that for any such expenditures and interest, suit may be instituted, and recovery and foreclosure of the lien may be had, in the name of the city. 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.

(E) The remedy provided by the assessment and foreclosure of a lien is in addition to any criminal penalties or other civil remedies provided for herein.

(F) The city may foreclose a lien on property established herein in a proceeding relating to the property brought under Subchapter E, Chapter 33, TEX. TAX CODE, as amended or hereinafter amended.

(Ord. 97019, passed 6-23-97; Am. Ord. ORD-2001-07, passed 2-26-01; Am. Ord. ORD-2005-11, passed 3-14-05)

#### **§ 9-7-99 CRIMINAL PENALTIES; CIVIL REMEDIES.**

(A) Unless otherwise provided for herein, punishment for any violation of this article shall be as follows, to wit: a fine of not less than \$150 nor more than \$2,000.

(B) If noxious matter is deposited on the property of another, upon conviction, punishment shall be assessed at a fine of not less than \$500 nor more than \$2,000.

(C) If noxious matter is deposited on the property of the State of Texas, or any political subdivision thereof, upon conviction, punishment shall be assessed at a fine of not less than \$500 nor more than \$2,000.

(D) If noxious material is deposited in any storm sewer system or sanitary sewer system of the city, upon conviction, punishment shall be assessed at a fine of not less than \$1,800 nor more than \$2,000.

(E) Each day or each occurrence, whichever more often occurs, shall constitute a separate offense.

(F) The recidivist provisions of the laws of the State of Texas shall be fully applicable and, if no such provisions are applicable, on the second and all subsequent offenses the minimum and maximum fine shall be twice that hereinbefore set out, provided that, in those cases herein where specific punishments for subsequent convictions are provided these specific punishments shall prevail over this division.

(G) In those instances in which noxious matter is deposited into the storm sewer system or sanitary sewer system of the city, the City Attorney may apply to a court of competent jurisdiction to request the court to order any corporeal personal property used in such deposit to escheat to the City of Kingsville or, in the alternative, that it be destroyed as contraband or a criminal instrument.

(H) Any signs or similar non-transitory structures deposited on any public street, highway, or right-of-way are declared purprestures. They shall be summarily abated and all costs for such abatement shall be collected from the owner or special owner thereof. This remedy shall be cumulative of any criminal provisions provided for herein.

(Ord. 97019, passed 6-23-97; Am. Ord. 98026, passed 11-23-98; Am. Ord. ORD-2001-07, passed 2-26-01; Am. Ord. ORD-2005-11, passed 3-14-05)



## ARTICLE 8: PARKS AND RECREATION

### Section

#### ***General Provisions***

9-8-1 Liquor in public parks prohibited; exception

#### ***Dick Kleberg Park and Lake***

9-8-10 Rules and regulations

9-8-11 Injuring property; littering prohibited

### **GENERAL PROVISIONS**

#### **§ 9-8-1 LIQUOR IN PUBLIC PARKS PROHIBITED; EXCEPTION.**

(A) Except as hereinafter provided, it shall be unlawful for any person to consume or possess any alcoholic beverage or beverages in any public park within the corporate limits of the city.

(B) In the event a person, persons, or corporation shall lease or rent the premises in the Kleberg Park known as the J. K. Northway Building for public or private use and shall desire to serve or permit alcoholic beverages to be consumed on the premises, the following rules shall appertain:

(1) (a) An application shall be made to the City-County Parks Board which shall contain the following:

1. The person or persons responsible for the use of the building.
2. The purpose for which the building is to be used.
3. The number of persons expected to attend the function for which the building let.
4. The type of beverages to be sold or consumed on the premises.
5. The type of security that will be provided by the applicant.
6. The hours such beverages will be sold or consumed on the premises.

**Kingsville - General Regulations**

7. The person whose license will be used for the sale of any alcoholic beverage.

8. The applicant shall sign a statement that all applicable state laws will be complied with before any alcoholic beverages are sold or consumed on the premises.

(b) If the City-County Parks Board deems that the public interest shall be served by the issuance of a permit for such purposes, such Board may issue a permit and such permit shall contain the rules applicable to same.

(2) In addition to the items enumerated above, the City-County Parks Board may make such additional requirements as they deem necessary for the safety and well-being of the persons attending such function.

('62 Code, § 6-1-53) Penalty, see § 1-1-99

***DICK KLEBERG PARK AND LAKE*****§ 9-8-10 RULES AND REGULATIONS.**

The following rules and regulations are hereby established for the use of the lake at Dick Kleberg Park in the city:

(A) No swimming, wading or bathing shall be allowed therein at any time.

(B) No boats or floats equipped with mechanical power shall be used thereon.

(C) No nets, seines or trout lines shall be, used for the catching of fish.

(D) Any person desiring to use a boat thereon shall first apply to the Parks and Recreation Department for a permit to do so. A permit shall be issued by the Director unless in his opinion such use would be detrimental to the lake and property thereon.

('62 Code, § 9-8-1) Penalty, see § 1-1-99

**§ 9-8-11 INJURING PROPERTY; LITTERING PROHIBITED.**

(A) It shall be unlawful for any person to injure, deface, mutilate, remove, pull down, break, or in any manner interfere with or molest, secrete or destroy any real or personal property belonging to or under the control of the Parks and Recreation Department either within or without the confines of Dick Kleberg Park.

(B) It shall be unlawful for any person to deposit dirt, trash, cans, papers or other litter onto the ground in Dick Kleberg Park or to throw or deposit the same into the lake therein situated.

('62 Code, § 9-8-2) Penalty, see § 1-1-99

## ARTICLE 9: SMOKING REGULATIONS

### Section

#### ***General Provisions***

- 9-9-1 Definitions
- 9-9-2 Scope
- 9-9-3 Enforcement
- 9-9-4 Smoking prohibited in certain public places
- 9-9-5 Exceptions
- 9-9-6 Designated smoking areas
- 9-9-7 Posting signs
- 9-9-8 Responsibility of owners, operators and others

#### ***Smoking In City Buildings and Vehicles***

- 9-9-20 Smoking prohibited in city buildings and vehicles
- 9-9-21 Designation of smoking areas; criteria
- 9-9-22 Posting of signs
- 9-9-23 Failure to comply; violation

#### ***Smoking in County Buildings***

- 9-9-30 Smoking prohibited in county buildings

- 9-9-99 Penalty

#### ***Cross-reference:***

*Adoption of Fire Prevention Code, see § 9-5-10*  
*Signs posted at oil tanks, see § 11-11-37*

## **GENERAL PROVISIONS**

### **§ 9-9-1 DEFINITIONS.**

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

***BAR, COCKTAIL LOUNGE, NIGHT CLUBS, AND PRIVATE CLUBS.*** Any establishments, or part of an establishment, engaged in the primary business of selling or dispensing alcoholic or other beverages.

**COMMON AREA.** Those enclosed areas which are external to retail stores or food service facilities which are used primarily by customers as a route of travel from one store to another.

**CUSTOMER.** A buyer, purchaser, consumer or patron of a business or an individual.

**EXEMPTED AREAS.** Those areas, locations and facilities not covered by this article, and defined further by § 9-9-5.

**PLACE OF EMPLOYMENT.** Any enclosed indoor area under the control of an employer to which employees have access during the course of employment, including, but not limited to, work areas, employee lounges, employee restrooms, conference rooms and employee cafeterias; a private residence is not a place of employment.

**PUBLIC PLACE.** Any enclosed indoor area that is used by the general public, or that is a place of employment, and includes, but is not limited to, stores, offices, restaurants, and other commercial establishments.

**SMOKE OR SMOKING.** The act of smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind, or any smoking substances of any form, or lighting a cigar, cigarette or pipe of any kind.  
(‘62 Code, § 6-19-1)

## **§ 9-9-2 SCOPE.**

(A) The provisions and requirements of this article shall be in addition to the prohibitions in the TEX. PENAL CODE, § 48.01, “Smoking Tobacco” and regulations in the *Standard Fire Prevention Code*, Chapter 5, §§ 506 et seq.

(B) The provisions and requirements of this article shall further be in addition to any provisions or requirements of any other applicable law, ordinance, rules or regulations.  
(‘62 Code, § 6-19-2)

## **§ 9-9-3 ENFORCEMENT.**

(A) The provisions of this article, as they relate to combustible materials such as the burning of cigarettes, cigars, or pipes of any kind, or any smoking substances of any form, shall be enforced by the Fire Chief.

(B) The Fire Chief shall recommend rules and regulations relating to the form, construction, and posting of “Smoking,” “No Smoking,” “Smoking Area,” “Smoking Prohibited” signs to be applicable within city limits. The rules and regulations proposed for the forms of these signs shall be submitted to the individuals or businesses affected by this article.

(C) After the effective date of this article and after the Fire Chief has seen to it that all affected individuals and businesses have placed the proper signs in their localities, this article will be enforced as follows:

(1) The City-County Health Unit shall inspect all food services establishments for compliance with the notice requirements of this article.

(2) The Fire Chief will be responsible for periodic inspections of all locations affected by this article except food service establishments as described in division (C)(1) above to ensure compliance with all the provisions of this article.

('62 Code, § 6-19-3)

### **§ 9-9-4 SMOKING PROHIBITED IN CERTAIN PUBLIC PLACES.**

A person commits an offense if he is in possession of a lit, smoldering or burning cigar, cigarette, tobacco pipe or any kind or any smoking substances of any form, in any of the following areas:

(A) Public primary or secondary school.

(B) Elevator.

(C) Enclosed theater or movie house.

(D) Library.

(E) Museum.

(F) Hospital.

(G) Transit system bus or intrastate bus.

(H) Shopping centers or malls.

(I) All retail or service establishments, including, but not limited to, any department store, grocery store, drug store, clothing store, shoe store, hardware store, and which shall include all public rooms or waiting rooms of public transportation facilities, such as a bus terminal.

(J) Any business which is entered upon which, when entered, contains a clearly visible sign prohibiting or restricting smoking.

(K) City Commission chamber of City Hall and in all facilities owned or leased by the city government in rooms or areas used by the public for public meetings when public meetings are in session.

(L) Food service establishments as long as the following is applied:

(1) Owners shall ensure that seating provided for nonsmokers is 25% of total seating or in direct proportion to the number of customers requesting nonsmoking, whichever is greater.

(2) Restrooms used for the public in food service establishments shall be designated as nonsmoking areas also.

('62 Code, § 6-19-4) Penalty, see § 9-9-99

#### **§ 9-9-5 EXCEPTIONS.**

The prohibitions contained in § 9-9-4 shall not apply to:

(A) Residences.

(B) Automobiles and charter buses.

(C) Bars, cocktail lounges, night clubs, and private clubs.

(D) Convention center, exposition center, dance and recreation halls.

(E) Hotel/motel lobbies and or common areas.

(F) Common areas of shopping centers and malls.

(G) In an entire room, hall, building or structure when such room, hall, building or structure is used for private functions, such as weddings, banquets, or parties.

(H) Barber shops, beauty salons and private enclosed offices where members of the public are not normally present.

(I) Smoking by actors as part of a stage production.

(J) In a location that is a retail or service establishment which is primarily engaged in the sale of tobacco, tobacco products or smoking implements.

('62 Code, § 6-19-5)

#### **§ 9-9-6 DESIGNATED SMOKING AREAS.**

(A) The owner or person in charge of any business, building, structure, space, place or area specified in § 9-9-4 may designate separate rooms or areas in which smoking is permitted.

(B) Such designation may be made, provided that:

(1) No area shall be designated as a smoking area in which smoking is prohibited by TEX. PENAL CODE § 48.01, by the Fire Chief, the Standard Fire Prevention Code or any other law.

(2) In designated smoking areas, existing physical barriers and ventilation systems shall be used where possible to minimize the toxic effect of smoke in adjacent nonsmoking areas.

(3) Designated nonsmoking areas shall be distinctly marked by visible and legible signs.  
(‘62 Code, § 6-19-6)

**§ 9-9-7 POSTING SIGNS.**

Signs prohibiting or permitting smoking, as the case may be, shall be displayed conspicuously by the owner or person having control of the business, building, structure, place, space, premises or area specified in § 9-9-4 of this article. In those areas in which smoking is prohibited by this article, the sign displayed shall read “No Smoking” and be prominently displayed.

(‘62 Code, § 6-19-7) Penalty, see § 9-9-99

**§ 9-9-8 RESPONSIBILITY OF OWNERS, OPERATORS AND OTHERS.**

It shall be unlawful for the owner, operator, manager, director or person otherwise in control of a building, structure, place, space, area or facility covered by this article to provide seating or service to any person who violates the provisions of this article by smoking in an area in which smoking is prohibited or to permit such person to remain on the premises if he or she continues to violate the provisions of this article after a warning.

(‘62 Code, § 6-19-8) Penalty, see § 9-9-99

***SMOKING IN CITY BUILDINGS AND VEHICLES***

**§ 9-9-20 SMOKING PROHIBITED IN CITY BUILDINGS AND VEHICLES.**

Except as otherwise provided in this section, no person shall smoke or carry a lighted cigar, cigarette, pipe or other form of smoking object or device in any city owned building or vehicle. City owned lobbies, auditoriums, vehicles, meeting rooms, hallways, reception areas, break rooms, restrooms, dormitories, eating areas, kitchens and elevators are specifically prohibited as smoking areas.

(‘62 Code, § 8-12-1) (Ord. 93002, passed 2-8-93) Penalty, see § 9-9-99

**§ 9-9-21 DESIGNATION OF SMOKING AREAS; CRITERIA.**

(A) Department heads shall adopt policies needed to implement this subarticle. Department heads shall also post appropriate areas outside city buildings for smoking. Consideration shall be taken as to ventilation, the size of the area, the impact on non-smokers, and the degree to which the public or other employees are required to use the area. Priority in the event of conflict shall be given to non-smokers. The Health Director shall approve the designation of smoking areas outside each building. ('62 Code, § 8-12-2) (Ord. 93002, passed 2-8-93)

(B) (1) Facilities with multiple restrooms may not have any areas designated for smoking.

(2) Portions of work areas, employee lounges, and break rooms may not be designated for smoking.

(3) Occupants to private offices may not designate their office as smoking areas. ('62 Code, § 8-12-3) (Ord. 93002, passed 2-8-93)  
Penalty, see § 9-9-99

**§ 9-9-22 POSTING OF SIGNS.**

Department heads shall post signs as required to implement this subarticle. Signs shall be of a durable material or laminated. A clearly visible sign with the words "Smoking is Prohibited by City Ordinance" will be posted at or near entrances to all city owned buildings and facilities. Clearly visible signs using the words "Smoking Permitted in This Area" will be posted in outdoor areas in which smoking is permitted. Signs shall be maintained by the department head in a manner to discourage tampering, damage, removal or concealment.  
( '62 Code, § 8-12-4) (Ord. 93002, passed 2-8-93) Penalty, see § 9-9-99

**§ 9-9-23 FAILURE TO COMPLY; VIOLATION.**

Compliance with this subarticle shall be verbally requested from anyone in violation with this subarticle. Individuals failing to comply with this subarticle after verbal warning shall be deemed in violation of this subarticle and city employees shall be subject to disciplinary action for violation.  
( '62 Code, § 8-12-5) (Ord. 93002, passed 2-8-93) Penalty, see § 9-9-99

**§ 9-9-99 PENALTY.**

(A) Any person who violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty provided in § 1-1-99.

(B) Any person violating any provisions of §§ 9-9-1 through 9-9-8 shall be fined not less than \$1 nor more than \$200 for each offense, and a separate offense shall be deemed committed on each occasion on which a violation occurs or continues after a warning to stop or desist. ('62 Code, § 6-19-9) (Ord. 89010, passed 2-27-89)

***SMOKING IN COUNTY BUILDINGS***

**§ 9-9-30 SMOKING PROHIBITED IN COUNTY BUILDINGS.**

(A) No person shall smoke or carry a lighted cigar, cigarette, pipe or other form of smoking object or device in any building owned by, possessed by or to which a right of possession exists in the County of Kleberg, Texas.

(B) A clearly visible sign with the words "Smoking is Prohibited by City Ordinance" shall be posted at or near entrances to all buildings to which this section is applicable.

(C) Violation of the provisions of this section shall constitute a misdemeanor and punishment shall be by a fine of not less than \$50 nor more than \$2,000 and each incident shall constitute a separate offense.

(Ord. 96025, passed - -)



## ARTICLE 10: STREETS AND SIDEWALKS

### Section

#### ***General Provisions***

- 9-10-1 Construction of sidewalks
- 9-10-2 Erection of poles
- 9-10-3 Repair of sidewalks required
- 9-10-4 Restricted construction; alteration; sidewalks and driveways required
- 9-10-5 Obstructions to streets and sidewalks
- 9-10-6 Barricades
- 9-10-7 Trees and shrubbery
- 9-10-8 Inanimate or animate objects on parkways and alleys
- 9-10-9 Water flowing upon streets
- 9-10-10 Window sills, porches or other projections above sidewalks to be kept clear
- 9-10-11 Awnings and signs

#### ***Curb Cuts and Driveways***

- 9-10-20 Permit required
- 9-10-21 Application; issuance of permit
- 9-10-22 Driveway construction requirements
- 9-10-23 Variations; Building Board
- 9-10-24 Restricted construction; alteration

#### ***Alleys, Streets and Pavement Cuts***

- 9-10-35 Permit required; fee
- 9-10-36 Application; issuance of permit
- 9-10-37 Initiation of work
- 9-10-38 Street closings
- 9-10-39 Barricades; flagpersons
- 9-10-40 Repair required

Appendix: Regulations for Access Driveways to State Highways

#### ***Statutory reference:***

*Municipal streets, see TEX. TRANS. CODE, §§ 311.001 et seq.*

**GENERAL PROVISIONS****§ 9-10-1 CONSTRUCTION OF SIDEWALKS.**

(A) It shall be unlawful for any person to construct or lay down cement sidewalks or cement curbs within the city without first advising the Engineer of his intention to do so, and all cement sidewalks and cement curbs shall be laid down and constructed under the supervision and direction of the Engineer so as to conform to the Street Alignment Map on file in the office of the Secretary.

(B) Upon the application of any person to lay down or construct cement sidewalks or cement curbs, it shall be the duty of the Engineer to view the premises where same is proposed to be laid, and furnish the person with the lines upon which same shall be laid and the levels thereof, the lines and levels to conform to the Street Alignment Map.

('62 Code, § 9-1-1) Penalty, see § 1-1-99

**§ 9-10-2 ERECTION OF POLES.**

(A) It shall be unlawful for any person to put down, erect or construct any telegraph, telephone or electric light poles or wires without first advising the Engineer of his intention to do so, and the poles and wires shall be erected and constructed so as to conform to the Street Alignment Map.

(B) Whenever any person shall desire to lay down, erect or construct any telegraph poles, telephone poles or electric light lines, it shall be the duty of the Engineer to view the premises where the poles or lines are proposed to be laid or placed and furnish the person with the lines upon which same shall be laid, and the lines shall conform to the Street Alignment Map.

('62 Code, § 9-1-2) Penalty, see § 1-1-99

**§ 9-10-3 REPAIR OF SIDEWALKS REQUIRED.**

(A) The owners of lots, or part of lots, blocks or other undivided parcels of land in this city, having sidewalks and/or curbs constructed adjacent thereto shall be and they are hereby required to keep the sidewalks and/or curbs in good repair.

(B) Whenever any sidewalk and/or curb adjacent to any lot, block, or part of same, or along any undivided parcel of land in this city shall become out of repair, or when any sidewalk shall be in any way obstructed so as to interrupt the free passage over the same, the Manager, or his representatives, shall notify the person owning or controlling the property fronting thereon to repair the same or to remove the obstruction, and it shall be the duty of the person to comply with the notification at once, and on failing or refusing to comply therewith, he shall be deemed guilty of a misdemeanor; and each day the sidewalk and or curb remains unrepaired, after the notification and failure or refusal to comply therewith, shall constitute a separate offense.

('62 Code, § 9-1-3) Penalty, see § 1-1-99

**§ 9-10-4 RESTRICTED CONSTRUCTION; ALTERATION; SIDEWALKS AND DRIVEWAYS REQUIRED.**

(A) From and after the effective date of this article, no person, firm or corporation shall construct, reconstruct, alter, repair or replace any improvements on property located in Class "C" Apartment, Class "L" Local Retail, Class "A" Business, Class "B" Business, Class "T" Trailer Park Districts without providing for sidewalks and driveways, no building permit shall be issued by the city for such improvements until a plot plan showing sidewalks and driveways have been approved by the City Engineer.

(B) Driveways and sidewalks required herein shall be constructed according to the requirements as set forth in § 9-10-22 of this article.

(C) Existing driveways that exceed the maximum width, that front on streets that have curb and gutter, shall reduce the excess width by the removal of driveway section and the installation of curb and gutter section. Existing driveways that exceed the maximum width, that front on streets that do not have curb and gutter, shall reduce the excess width by the removal of driveway section and the installation of barricade, concrete island or curb, if needed. In addition, concrete sidewalks shall be provided along the property fronting all public roadways or public right-of-way, including the side of all corner lots. However, in certain cases where the property is zoned for business and the property fronting a public roadway is used solely as a parking lot, and the parking lot is asphalt paved to city specifications, the requirement for a sidewalk may be waived by the City Commission provided that a protected and clearly delineated sidewalk path area is provided for pedestrian traffic.

(D) The applicable sections of the latest edition of the Texas Highway Department "Regulations For Access Driveway to State Highways" shall be used as a guide by the City Engineer in establishing sidewalks and driveways required hereby.

(E) It shall be the duty of the City Engineer to review all site plans for the compliance of sidewalks and driveways required by the city.

(F) Existing property that does not comply with this subarticle shall be considered as nonconforming, and shall be brought up to the standards of this subarticle at the time a building permit is requested.

('62 Code, § 9-1-4) (Ord. 77-5, passed 2-7-77) Penalty, see § 1-1-99

**§ 9-10-5 OBSTRUCTIONS TO STREETS AND SIDEWALKS.**

It shall be unlawful for any person to obstruct any street, alley or public place within the limits of the city, by placing thereon any lumber, building material, dirt, trash, trees, posts, rubbish, furniture,

white goods, yard debris, or any other noxious material. It shall be the responsibility of the property owner to mow and clean the alley and street right-of-ways (ROW) adjacent to their property in accordance with this and all other city ordinances. It shall further be unlawful to dig or excavate upon any of the streets, alleys or public places of the city any hole, trench, ditch, or other excavation without first notifying the City Engineer of the place where the work is to be done and the kind and character thereof, and obtaining permission in writing from the City Engineer to do so. No permission shall be given for any work of this character except upon condition that same shall be properly safeguarded during the day by either watchmen or signals, and at night by lanterns in such a manner as to prevent anyone falling or stumbling into such hole, ditch or excavation, or driving therein.

('62 Code, § 9-3-1) (Ord. 99023, passed 9-13-99; Am. Ord. 99031, passed 10-25-99; Am. Ord. ORD-2001-02, passed 1-22-01; Am. Ord. ORD-2002-05, passed 1-28-02; Am. Ord. ORD-2004-26, passed 9-13-04) Penalty, see § 1-1-99

#### **§ 9-10-6 BARRICADES.**

(A) The Police Department is hereby authorized to impose, place or build barricades consisting of saw horse, ropes or any similar objects or things across any public street within the city for any lawful purpose. Lawful purposes shall include, but not be confined to, parades, cakewalks, carnivals or other related activities where it is deemed appropriate by the Chief of Police, that such public streets be temporarily used for such purposes. The Police Department is further authorized to barricade such public streets in case of fire, automobile wrecks, demolition of buildings or other matters of a similar nature which would make traveling upon such barricaded street hazardous to the general motoring public or to firemen or police in the performance of their official duty. Such barricades shall be marked by red flags and/or signs posted in prominent view of the motoring public. ('62 Code, § 9-4-1)

(B) It shall be lawful for the Street Department to barricade public streets or portions of public streets that are hazardous to the travel of motor vehicles due to holes, construction work, or similar activities in progress. Such barricades shall be erected and marked in the same manner as set out in division (A). ('62 Code, § 9-4-2)

(C) Contractors under contract with the city for the doing of street work or laying utility lines in the public streets are hereby authorized and directed to barricade such streets where travel by the general motoring public on such streets would be hazardous to such contractor, his vehicles and employees. Such barricades shall be erected and marked in the same manner as set out in division (A). ('62 Code, § 9-4-3)

(D) Official Police Department vehicles, Fire Department vehicles, Street Department vehicles, contractors' vehicles, contractors personnel, policemen and firemen while on official business, are exempt from the provisions of this subarticle. ('62 Code, § 9-4-4)

(E) It shall be unlawful for any unauthorized person to tamper with or move any street barricade, red flag or signs marking such barricades and it shall further be unlawful for any unauthorized person to drive or operate a motor vehicle upon any barricaded public street in the city. ('62 Code, § 9-4-5)

Penalty, see § 1-1-99

**Statutory reference:**

*For authority to control and regulate obstructions, see TEX. TRANS. CODE, § 311.001*

**§ 9-10-7 TREES AND SHRUBBERY.**

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ALLEY.** That narrow public way for the accommodation of the property it reaches which serves as a property dividing line within each block.

**PARKWAYS.** All of that realty between the private property line and the public street line or boundary which belongs to the public or city by prescription, easement, dedication, deed or otherwise. ('62 Code, § 9-5-1)

(B) *Unlawful planting.*

(1) It shall be unlawful to plant, sow or otherwise cultivate plants, trees, hedges, shrubs or related things upon any alley within the city limits.

(2) Hereafter it shall be unlawful to plant, sow or otherwise cultivate plants, trees, shrubs, hedges or related things in parkways in such a manner that will constitute a hazard to vehicles and passenger traffic by obstructing passage or vision. Particular attention will be paid to street intersections.

(3) Trees, limbs, shrubs or other vegetation overhanging public parkways and streets shall be trimmed by the property owner concerned so that the lowest branch or twig shall be at least 13 feet above the sidewalk or street. ('62 Code, § 9-5-2) (Ord. 77-29, passed 8-22-77; Am. Ord. ORD-2004-26, passed 9-13-04)

(C) *Obstructions to vision.* All trees, shrubs, hedges or related things now in existence upon obstruction of passage or blocking of vision, are hereby declared to be public nuisances and will be abated by the adjoining property owner or in the alternative by employees of the city. All hedges or similar vision blocking vegetation within 30 feet of intersection will be abated or trimmed so as to eliminate vision obstruction to vehicle traffic. If the nuisance is abated by city employees the property owner will be billed for the labor, equipment and any disposal fees. Failure to pay for the abatement will result in a lien being filed against the property. ('62 Code, § 9-5-3) (Am. Ord. ORD-2004-26, passed 9-13-04)

Penalty, see § 1-1-99

**§ 9-10-8 INANIMATE OR ANIMATE OBJECTS ON PARKWAYS AND ALLEYS.**

All inanimate or animate objects or things, other than trees, shrubs, hedges and related matters located on parkways and alleys must be immediately removed by the person or persons responsible for the objects being placed upon such parkways and alleys, provided, that this section shall not apply to the garbage and trash regulations. The alleys and parkways shall not in the future be used as a depository for such objects and things.

('62 Code, § 9-5-4) Penalty, see § 1-1-99

**§ 9-10-9 WATER FLOWING UPON STREETS.**

It shall be unlawful for any person to allow any water to flow into or upon any public thoroughfare.

('62 Code, § 6-1-50) Penalty, see § 1-1-99

**§ 9-10-10 WINDOW SILLS, PORCHES OR OTHER PROJECTIONS ABOVE SIDEWALKS TO BE KEPT CLEAR.**

It shall be unlawful for any person to place or keep on any window sill, porch or other projection above the first story of any building abutting on any sidewalk any article which might do injury by falling upon any person on the sidewalk in front of such building, unless the article be securely fastened or protected by screens.

('62 Code, § 6-1-52) Penalty, see § 1-1-99

**§ 9-10-11 AWNINGS AND SIGNS.**

(A) It shall be unlawful for any person to build or keep any gallery, awning, roof or other covering to any building which will be held or supported by posts which rest on the sidewalks or streets of Kleberg Avenue or on other business streets; provided further that no post, poles or uprights of any description, except such lamp posts as are now in place or may be placed by permission of the Commission, shall ever be placed on or along Kleberg Avenue or other business streets of the city.

(B) It shall be unlawful for any person to build any gallery, awning, roof or any other covering, to any building over the sidewalks of Kleberg Avenue or other business street unless the gallery, awning, roof or other covering is at least nine feet above the sidewalks, and provided further, that the gallery, awning, roof or other covering shall not be more than seven feet wide.

('62 Code, § 4-5-2) (Ord. 2006-56, passed 10-23-06) Penalty, see § 1-1-99

***CURB CUTS AND DRIVEWAYS*****§ 9-10-20 PERMIT REQUIRED.**

It shall be unlawful for any person to construct, reconstruct, alter, repair, remove, or replace any sidewalk, driveway or other way, for the use of any character of vehicle, on or across any sidewalk, parkway, or other space between any public roadway or right-of-way and any private property without first securing a permit from the Building Inspector and constructing the improvements in accordance with the regulations set forth in this subarticle, complying with the regulations which may be provided by any other provision adopted by the Commission heretofore or hereafter, provided that the approval of the Building Inspector on a plat approving specifications for driveways shall constitute a permit for a driveway complying with the indicated specifications, which permit shall be considered valid for a period of three years from the date of the plat.

('62 Code, § 9-2-1) Penalty, see § 1-1-99

**§ 9-10-21 APPLICATION; ISSUANCE OF PERMIT.**

Application for permit shall be made in writing to the Building Inspector showing the location of such proposed improvements, together with a map, plat or a sketch drawn to scale fully describing the nature of the proposed improvements and the location thereof. In the event such application complies with the requirements and the regulations of this subarticle, and such other regulations concerning the matter as may be provided, a permit shall be issued by the Building Inspector on the form established by the Building Board of Adjustments and Appeals.

('62 Code, § 9-2-2) Penalty, see § 1-1-99

**§ 9-10-22 DRIVEWAY CONSTRUCTION REQUIREMENTS.**

(A) No driveway providing access from private property to any public right-of-way or roadway shall be constructed unless a showing is made to the satisfaction of the Building Board under § 9-10-23.

(B) Such approach and driveway shall be in accordance with the following requirements:

(1) No driveway shall have a width measured along the boundary line between the public right-of-way and the private property of more than 35 feet, except that, upon a showing under the provisions of § 9-10-23 hereof, such driveway may be not in excess of 45 feet in width.

(2) Every driveway shall be so designed and constructed as to provide for a sidewalk having a minimum width of five feet measured at right angles to the boundary line between the public right-of-way and the private property. Such sidewalk shall be constructed so as to have one edge thereof in line with existing sidewalk, if there be one, and if there be no existing sidewalk, the

sidewalk shall be so constructed as to have one edge thereof coinciding with the boundary line between the public right-of-way and the private property line, or in keeping with the general practice established by the existence of sidewalks on a majority of the property within the block where the driveway in question is to be placed.

(3) Except where the curb is a roll type curb the curb return on all driveways shall have a radius of not less than three feet and the point where the return falls tangent to the curb shall be within the property lines extended of the property which the driveway is designed to service.

(4) Sidewalks shall be constructed at an elevation so as to provide for a minimum of one-fourth inch per foot fall from the edge of the sidewalk farthest from the property line to the top of the curb; provided that where the established practice in the block of the majority of the existing sidewalks, on the plat approved by the Zoning and Planning Commission for the subdivision, provides for a roll type of curb the sidewalk shall be constructed so as the edge farthest from the property line shall be at the same grade as the top of the curb.

(5) Where the ramp section of the driveway is to be constructed, the ramp shall reach the grade of the sidewalk at a distance of not less than five feet from the outside edge of the street curb line.

(6) The grade for all curbs, sidewalks, driveways and ramps shall be fixed by the Engineer.

(7) All driveway approaches, ramps, sidewalks, and curbs constructed in connection therewith shall be constructed of concrete having a minimum of 2,500 psi in 28 days, and shall have a minimum thickness of six inches, except that sidewalks shall have a thickness of four inches, and shall have reinforcing consisting of a minimum of six inch by six inch No. 6 wire mesh.

('62 Code, § 9-2-3) Penalty, see § 1-1-99

#### **§ 9-10-23 VARIATIONS; BUILDING BOARD.**

(A) Upon the showing that unusual circumstances exist, or that a need for a driveway of greater width exists, or some variance from the requirements set forth in § 9-10-22 should be made, where such variances will not be contrary to the public interest and that literal enforcement of the provision of this subarticle will result in unnecessary hardship, the regulations may be varied by approval of the Building Board of Adjustments and Appeals provided that in no instance shall any driveway opening be in excess of 45 feet in width. Any person requesting that the regulations in this subarticle be varied because of unusual circumstances shall file a written request thereof with the Building Board setting forth the circumstances to show that literal enforcement of the provisions of this subarticle shall result in unnecessary hardship. The Building Board shall either approve or deny in writing a request for a variance of the provisions of this subarticle within a reasonable time, but in no event shall the Board withhold its decision for more than 30 days.

(B) Any person aggrieved by the decision of the Building Board under the provisions hereof shall have the right to appeal to the Commission upon giving written notice to the Commission within five days after the refusal of the application made by him for a permit to construct such driveway or other way or sidewalk.

('62 Code, § 9-2-4)

#### **§ 9-10-24 RESTRICTED CONSTRUCTION; ALTERATION.**

Driveways constructed, reconstructed, altered, repaired or replaced on property located in Class "C" Apartment, Class "L" Local Retail, Class "A" Business, Class "B" Business, Class "T" Trailer Park Districts shall be constructed in compliance with the provisions of § 9-10-4 of this article.

('62 Code, § 9-2-5) Penalty, see § 1-1-99

### ***ALLEYS, STREETS AND PAVEMENT CUTS***

#### **§ 9-10-35 PERMIT REQUIRED; FEE.**

It shall be unlawful for any person other than a municipal employee to excavate, cut, construct, reconstruct, alter, remove, repair or replace any street, avenue, alley or other public way, without first securing a permit from the Building Official. All work performed under a permit so issued shall conform to current standards and specifications as contained in this article. A permit shall be valid for a period of ten days, unless specified for a longer period, which shall not exceed 30 days. Permits may be renewed as necessary. A fee for each permit shall be collected as follows:

Driveway/curb out	\$15
Sidewalk/curb/gutter	\$10 per lot

('62 Code, § 9-2A-1) (Ord. 85027, passed 9-23-85; Am. Ord. 200022, passed 11-20-00) Penalty, see § 1-1-99

#### **§ 9-10-36 APPLICATION; ISSUANCE OF PERMIT.**

Application shall be made in writing to the Building Official showing the location with a map or plat or sketch drawn to scale showing the location of the proposed action. Should the proposed action be in compliance with all applicable regulations a permit shall be issued on a form established by the Building Official. ('62 Code, § 9-2A-2)

**§ 9-10-37 INITIATION OF WORK.**

No work shall begin until 24 hours after the permit has been issued. If the proposed action will result in the closing of the street, alley or way to traffic, the work shall not be initiated until 48 hours after the issuance of the permit. The Building Official shall notify the Police, Fire, and Sanitation Departments of any work which will result in a closed street, the time of closing and the expected duration of the closure.

('62 Code, § 9-2A-3) Penalty, see § 1-1-99

**§ 9-10-38 STREET CLOSINGS.**

Street closings shall be avoided if possible. Work shall be done only on one-half of the street at a time unless the applicant receives permission from the Building Official or his designated official to close the street. A by-pass shall be constructed if possible whenever a street is closed.

The street shall be reopened at the end of the work day unless permission has been received to leave the street closed. Boring may be required by the Building Official in lieu of street cuts, if practical, on streets designated as major arterials.

('62 Code, § 9-2A-4) Penalty, see § 1-1-99

**§ 9-10-39 BARRICADES; FLAGPERSONS.**

The applicant shall provide barricades and warning devices in accordance with the *Manual On Uniform Traffic Control Devices*. At least one flagperson shall be available while work is in progress to direct traffic.

('62 Code, § 9-2A-5) Penalty, see § 1-1-99

**§ 9-10-40 REPAIR REQUIRED.**

Repairs shall be made within 10 work days of project completion. All repairs shall be in accordance with current city standards and specifications or as specified by the City Engineer. The city may require an inspector to be present when repairs are made. A bond shall be required by all entities other than franchised utilities.

('62 Code, § 9-2A-6) (Ord. 82047, passed 11-8-82) Penalty, see § 1-1-99

## APPENDIX: REGULATIONS FOR ACCESS DRIVEWAYS TO STATE HIGHWAYS

### Section

1. General
2. Private driveways
3. Commercial and public access driveways
4. Permit to construct access driveway facilities on highway right-of-way

### § 1 GENERAL.

(A) *Applications.* Applications for permits shall be made by the owner or lessee, who shall represent all parties in interest, and such permits shall be only for the bona fide purpose of securing or changing access to his property, but not for the purpose of parking or servicing vehicles on the state highway right-of-way.

(B) *Private driveway.* A private driveway is an entrance to and/or exit from a residential dwelling, farm, or ranch adjacent to a state highway for the exclusive use and benefit of the grantee.

(C) *Commercial driveway.* A commercial driveway is an entrance to and/or exit from any commercial business, or similar type establishment adjacent to a state highway.

(D) *Public access driveway.* A public access driveway includes all approaches to a state highway from county or city maintained roads and streets, and approaches to schools, churches, cemeteries and other public places or buildings of a like character.

(E) *Limitations.* These regulations shall apply on all highways and roads under the jurisdiction of the State Highway Department; except that they shall not apply to the main traffic ways of controlled access highways such as freeways or expressways, since direct access to them is prohibited by law, and that, within the corporate limits of municipalities, they shall be subject to concurrence by the municipality.

(F) *Indemnification.* The grantee shall hold harmless the State Highway Commission and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of his permit.

(G) *Materials.* The grantee shall furnish all materials necessary for the construction of the entrances and their appurtenances authorized by the permit except that the State Highway Department shall furnish guard posts or the materials for concrete curbing where channelization is required. All materials shall be of satisfactory quality and shall be subject to inspection and approval of the State Highway Department.

(H) *Construction and reconstruction.* All new access driveways, following approval of permit, shall be constructed in conformance with the applicable regulations. Any existing access driveway structures which are destroyed or removed in the construction or reconstruction of a section of highway will be replaced or reconstructed by the State Highway Department to a design within these regulations and a condition equal to or better than the original structures.

(I) *Inspection; maintenance.*

(1) The State Highway Department reserves the right to inspect these installations at the time of construction and at all times thereafter, and to require such changes, maintenance, and repairs as may at any time be considered necessary to provide protection of life and property on or adjacent to the highway.

(2) The cost of changes, maintenance and repairs of private and commercial driveways, islands and other access driveway appurtenances on the right-of-way will be the responsibility of the grantee, except as provided under division (H) herein.

(3) Public access driveways will be maintained by the State Highway Department.

(J) *Changes.* No driveway approach or other improvement constructed on the right-of-way shall be relocated or its dimensions altered without a duly executed permit from the State Highway Department.

(K) *Signs.* The grantee shall not be permitted to erect any sign, either fixed or movable, on or extending over any portion of the highway right-of-way.

(L) *Design.* Design requirements for access driveways are as follows:

(1) (a) All parts of entrances and exits on highway right-of-way, including the radii, shall be confined within the grantee's property frontage. Frontage is that portion of the right-of-way lying between the two most distant possible lines drawn perpendicularly from the centerline of the highway to the grantee's abutting property line.

(b) In the event that two or more adjoining grantees agree to combine their property frontage for a combined access facility, it would be authorized under the applicable regulations. The frontage will then be the portion of the right-of-way lying between the two most distant possible lines of the combined frontage drawn perpendicularly from the centerline of the highway to the grantee's abutting property lines.

(2) Locations of access driveways shall be selected to provide maximum safety for highway traffic and for users of the driveway.

(3) At any intersection of a state highway with another highway, road, or street, where additional sight distance right-of-way exists, no access driveway will be permitted within the frontage thereof. At any other intersection, access driveways shall be restricted for a sufficient distance from the intersection to preserve the normal and safe movement of traffic through it.

(4) Radii for all access driveways in urban areas shall be not less than two and one-half feet, and in rural areas it shall be not less than 10 feet.

(5) Drainage in highway side ditches shall not be altered or impeded. When drainage structures are required, size of opening and other design features shall be approved by the State Highway Department.

(6) The safety zones adjacent to access driveways may be filled in provided the requirements below are fully complied with.

(a) Surface drainage shall be provided so that all surface water on the filled-in area shall be carried away from the highway roadbed in a suitable manner.

(b) The drainage opening underneath the filled-in area shall be adequate to carry the design flow of water in the highway side ditches.

(c) The filled-in area shall be sufficiently delineated by curbs, guard posts, or other satisfactory methods to prevent use of the area for parking or travel. Reflectorization of guard posts and other obstructions in rural areas is desirable.

(d) The filled-in area shall extend from the sidewalk, or where no sidewalk exists, from the right-of-way line to the shoulder line or curbed pavement as the case may be, provided that other limits may be specified by the State Highway Department to provide conformance with proposed future improvements to the existing highway section.

(e) The grade on the driveway shall be so constructed as to conform to the slope of the roadway shoulder from the edge of the travelway to the shoulder line and thence shall be sloped downward at approximately one quarter to one inch per foot for a distance necessary to place the low point of the driveway not less than eight inches below the shoulder elevation. If valley gutters are used, the lowest point of the gutter shall be a minimum of eight inches below the shoulder elevation and a valley gutter of at least four feet in width maintained.

(7) The minimum and maximum design limits herein should not be considered absolute in all instances as the State Highway Department may require a design between these limits in order to provide reasonable safety, depending upon type, speed, and volume, for highway traffic and to provide for reasonable access for the grantee.

(M) The following sketch illustrates the most desirable locations of access. Following that, the next four drawings illustrate methods employed to care for drainage under certain conditions:





**§ 2 PRIVATE DRIVEWAYS.**

(A) *Construction.* The grantee shall do all work and pay all costs in connection with the construction of access driveways and their appurtenances on the right-of-way, except that in areas outside the corporate limits of municipalities the State Highway Department will install and backfill a drainage pipe or valley across the highway ditch and will spread gravel or stone for the driveway surface, provided materials are furnished at the site as set out under the regulations in § 1(G) of this appendix.

(B) *Width.* The width shall not exceed 24 feet measured at right angles to the centerline of the driveway, except as increased by permissible radii.

(C) *Angle.* The angle of the access driveway from the highway pavement shall be 60° to 90°, except that one-way 45° angle driveways will be permitted.

(D) We do not attempt to design layouts for private property; however, the sketches for a residence in urban and rural areas illustrate the freedom in design permitted by the regulations and indicates how attractive or inviting an appearance they present:

**§ 3 COMMERCIAL AND PUBLIC ACCESS DRIVEWAYS.**

(A) *Construction.* A commercial driveway grantee shall do all work and pay all costs in connection with the construction of access driveways and their appurtenances on the right-of-way within the corporate limits of municipalities. In areas outside the corporate limits of municipalities the State Highway Department will assist by establishing flow-line grades for drainage structures, installing and back-filling of drainage pipe, establishing finished grades for driveway surfaces, help in setting guard posts or curbing to restrict traffic to driveways or such other comparable assistance which the District Engineer may agree to perform, provided materials are furnished at the site as set out under the regulations in § 1(G) of this appendix.

(B) *Width.* The width of access driveways shall not exceed 45 feet measured at right angles to the centerline of the driveway, except as increased by permissible radii.

(C) *Angle.* The angle of access driveways from the pavement shall be 60° to 90°, except that one-way entrances from divided lane highways or one-way frontage roads may be 30° to 90°.

(D) *Safety zones.* All parts of the highway right-of-way between the curb or shoulder line and the right-of-way line along the grantee's property frontage, except the areas contained in the access driveways, shall be a safety zone. Safety zones between drives shall be not less than the minimum indicated on the typical layout drawings for the grantee's property frontage. Curbs or posts shall be installed as necessary to prohibit vehicle parking and driving in safety zones. If curbs are used, they shall be concrete or masonry barrier type curbs not less than six inches in height. If posts are used, they shall be round, six inches in diameter, with domed tops, two and three-quarter feet in length; and shall be installed six feet apart, extending 15 inches above the ground, painted white, and shall have reflector buttons or patches for night visibility when feasible. The barrier line nearest the highway shall be not less than 24 feet from the center of the pavement or on line with existing curbs or established curb lines; provided the District Engineer does not require a greater distance when needed to preserve the safety and utility of the highway or provide conformance with proposed highway improvements.

(E) *Vehicle service fixtures.* The distance from the right-of-way line to the near edge of service pumps, vendor stands, tanks, or water hydrants shall be a minimum of 12 feet. To permit free movement of large vehicles and, in certain instances, to insure that they be entirely off highway right-of-way while being serviced, a greater distance is recommended.

(F) *Drive-in theater driveways.*

(1) *Design of entrances.* Normally not more than one entrance should exist for each highway, but where arrival volume is almost evenly divided by direction, individual entries for right and left turns, separated by several hundred feet, may be provided. On two-lane roads where left turns are permitted, the entrance shall not exceed 30 feet in width. On three- or more-lane highways where left turns are prohibited, the entrance lane shall not exceed 14 feet in width. On three- or more-lane highways where left turns are permitted, the entrance shall not be over 19 feet wide. Entry turn speeds of 20 miles per hour should be provided for right turn movements. Entry turn speeds of 10 miles per hour should be provided for left turn movements. Not more than one exit for each highway,

and no more than one lane shall be permitted for each direction of travel. Where left turns are prohibited, the exit shall be not more than 14 feet wide. Where left turns are permitted, the exit shall be not more than 19 feet wide with a small island in the throat. Acceleration and deceleration lanes should be used if possible. Cuts shall not be made in the median of multi-lane highways to permit left turn movement.

(2) *Signs and lighting.* The entrances and exits shall be clearly indicated by signs installed off the right-of-way by the theater grantee, and it is recommended that the grantee install adequate lighting of the entrances and exits to assist in the safe movement of traffic.

(G) The following typical access layout illustrates the latitude permitted by these regulations. The Texas Highway Department does not design layouts for private property; however, the following sketches contained in this booklet are presented to illustrate the attractive and inviting appearance of such establishments under these regulations and also provide adequate access for grantee's property:

























**SHOPPING CENTER ACCESS**



**§ 4 PERMIT TO CONSTRUCT ACCESS DRIVEWAY FACILITIES ON HIGHWAY RIGHT-OF-WAY.**PERMIT TO CONSTRUCT ACCESS DRIVEWAY FACILITIES ON  
HIGHWAY RIGHT-OF-WAY

To:

Hwy. No. \_\_\_\_\_ Permit No. \_\_\_\_\_  
Control \_\_\_\_\_ Section \_\_\_\_\_  
\_\_\_\_\_ County

Date

Dear Sir:

The Texas Highway Department hereby authorizes you to (re) construct facilities on the highway right-of-way for development of access to your property abutting Highway No. \_\_\_\_\_ in \_\_\_\_\_ County, located \_\_\_\_\_, provided you agree to and comply with the following conditions: \_\_\_\_\_

1. Design of facilities shall be as follows and/or as shown on sketch:

\_\_\_\_\_

\_\_\_\_\_

All construction and materials shall be subject to inspection and approval by the State Highway Department.

2. Maintenance of facilities constructed hereunder shall be the responsibility of the grantee, and the State Highway Department reserves the right to require any changes, maintenance or repairs as may be necessary to provide protection of life or property on or adjacent to the highway. Changes in design will be made only with approval of the State Highway Department.
3. The grantee shall hold harmless the State Highway Commission and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of this permit.
4. The grantee shall not erect any sign on or extending over any portion of the highway right-of-way, and vehicle service fixtures such as service pumps, vendor stands, tanks or water hydrants shall be located at least 12 feet from the right-of-way line to insure that any vehicles serviced from these fixtures will be off of the highway.

The State Highway Department will assist as follows:

\_\_\_\_\_

\_\_\_\_\_

This permit shall not be valid until grantee signs the statement in which he agrees to comply with the conditions herein. Mr. \_\_\_\_\_ should be contacted at least 24 hours before beginning the work authorized by this permit.

STATE HIGHWAY DEPARTMENT

By: \_\_\_\_\_  
District Engineer

I (We), the undersigned, hereby agree to accept and comply with the terms and conditions set out in this permit for construction of access driveway facilities on highway right-of-way.

SIGNED: \_\_\_\_\_

WITNESS: \_\_\_\_\_



## **CHAPTER XI: BUSINESS REGULATIONS**

### **Article**

- 1. GENERAL BUSINESS REGULATIONS**
- 2. AMBULANCE SERVICE**
- 3. ALCOHOLIC BEVERAGES**
- 4. GAMES AND AMUSEMENT DEVICES**
- 5. VEHICLES FOR HIRE**
- 6. FLEA MARKETS**
- 7. FOOD SALES AND FOOD ESTABLISHMENTS**
- 8. PHRENOLOGISTS AND FORTUNE TELLERS**
- 9. JUNK YARDS**
- 10. TAXICABS**
- 11. OIL AND GAS WELLS**
- 12. (RESERVED)**
- 13. TIRE AND APPLIANCE STORAGE**
- 14. VENDOR SOLICITATIONS**



## ARTICLE 1: GENERAL BUSINESS REGULATIONS

***Editor's Note:*** Former § 11-1-1, Occupation tax levied, was deleted by Ord. ORD-2005-02, passed 1-24-05.



## ARTICLE 2: AMBULANCE SERVICE

### Section

- 11-2-1 Definitions
- 11-2-2 Operator permit - required
- 11-2-3 Application; fee
- 11-2-4 Street use fee
- 11-2-5 Determination of suitability of vehicle and required equipment
- 11-2-6 Issuance; denial; reinspection
- 11-2-7 Term
- 11-2-8 Insurance
- 11-2-9 Ambulance driver/attendant permit - required
- 11-2-10 Ambulance driver/attendant permit application; fee; issuance; term
- 11-2-11 Further investigation; inspection of equipment
- 11-2-12 Permit renewal requirements
- 11-2-13 Changes in permit application information
- 11-2-14 Permits personal to applicant
- 11-2-15 Suspension or revocation of permit; administrative hearings
- 11-2-16 Appeals to Commission
- 11-2-17 Availability of 911 ambulance
- 11-2-18 Clearance in case of direct request
- 11-2-19 Arriving at emergency scene without clearance
- 11-2-20 Use of emergency lights or sirens without clearance
- 11-2-21 Refusal to render aid or transport patient
- 11-2-22 Emergency run report
- 11-2-23 Management of emergency scene
- 11-2-24 Unnecessary requests for service
- 11-2-25 Utilizing service without paying therefor
- 11-2-26 Exemptions
- 11-2-27 Regulations promulgated by permit officer
- 11-2-28 Penalty

#### **Statutory reference:**

*Emergency Medical Services Act, see TEX. HEALTH & SAFETY CODE, §§ 773.001 et seq.*

#### **Cross-reference:**

*Emergency management, see §§ 3-8-1 et seq.*

*Fire Department, see §§ 3-5-1 et seq.*

**§ 11-2-1 DEFINITIONS.**

For the purposes of this article only, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**AMBULANCE.** Any motor vehicle that is specially designed or constructed, and equipped and is intended to be used for and is maintained or operated, for hire, for the transportation of patients.

**AMBULANCE SERVICE.** Providing and making available to the public or to any person a motor vehicle or any personnel required by this article for transportation of an individual who is sick, injured, or incapacitated, whether in emergency circumstances or as a transfer operation, and shall include stabilizing or emergency medical services rendered to any such individual by ambulance personnel.

**DRIVER/ATTENDANT.** A trained and qualified individual responsible for driving and for the operation of an ambulance and/or the care of ambulance patients which holds a driver/attendant permit.

**EMERGENCY.** The existence of circumstances in which the element of time in transporting a person for the obtaining of medical treatment is essential to the health or life of such person, or in which rescue operations or first aid at the place of emergency may be essential to the health or life of such person.

**PATIENT.** Any person who is sick, injured or incapacitated and who becomes subject to transportation or care by an attendant or driver;

**PERMIT OFFICER.** The Chief of the Kingsville Fire Department or his designated representative.

**PERSON.** Any firm, partnership, association, corporation or individual.

**TRANSFER OPERATION.** The transportation of a sick, injured or incapacitated person in an ambulance under circumstances which do not constitute an emergency.  
(Ord. 2005-34, passed 9-12-05)

**§ 11-2-2 OPERATOR PERMIT - REQUIRED.**

It shall be unlawful for any person, as owner or agent, to be engaged in the business of providing ambulance service within the corporate limits of the city, unless the owner of the business holds a current ambulance operator permit issued pursuant to this article. It shall be unlawful for any holder of an ambulance operator permit, or his agent, to provide ambulance service by means of an ambulance which has not been approved and listed on the ambulance operator permit by the permit officer.

(Ord. 2005-34, passed 9-12-05)

2006 S-8

**§ 11-2-3 APPLICATION; FEE.**

An application for an ambulance operator permit shall be filed with the permit officer on such form as may be prescribed by said officer, and the applicant shall furnish all the following proof and information with the application:

(A) The name and address of:

(1) The applicant, including all partners, if a partnership, and all officers, if a corporation, and

(2) The names and the addresses of the managing agent or managing personnel of the business if not included in division (1).

(B) Whether any person named in (A) above has been convicted of a felony or a misdemeanor other than traffic offenses within the past ten years and, if so, when and where and under what circumstances.

(C) Whether any person named in (A) above holds or has held a permit for operation of an ambulance service from any other governmental agency or department or is engaged or has been engaged anywhere else in the business of providing ambulance service.

(D) That the applicant has been issued a permit by the Texas Department of Health, pursuant to Chapter 773 of the Texas Health and Safety Code, for each ambulance which the applicant proposes to operate.

(E) The number of ambulances which the applicant proposes to operate and the make, model, motor number, current state license number and registered owner of each ambulance owned by or in the possession of the applicant.

(F) A list of all two-way radios to be used in ambulance service, their call numbers and the vehicle (identified by motor number) to which each radio has been assigned.

(G) The location and description of the place or places from which the applicant intends to operate said ambulances.

(H) The names of all attendants and drivers presently employed by the applicant, and, respectively, their EMT registry numbers and Texas State valid license numbers.

(I) A certificate of insurance proving that there is in effect insurance.

(J) The trade or assumed name; if any, under which the applicant intends to do business if said name is different from the applicant.

(K) Operators shall submit an application accompanied by a permit fee of \$500 plus \$100 for each ambulance requested to be permitted. Permit fees and ambulance fees are nonrefundable. (Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-4 STREET USE FEE.**

(A) Operators that have been issued an ambulance operator permit to operate an ambulance upon the streets within the city shall pay the city each three-month period, as an ambulance street use fee, an amount equal to \$100 times the number of vehicles authorized by a current and valid permit; however, the maximum street use fee shall not exceed \$500 each three-month period.

(B) The number of vehicles in service by a permit holder shall not exceed the maximum number of vehicles authorized to be operated under such a permit.

(C) The annual street use fee shall be paid in four payments as follows: On or after January 1 and before January 10; on or after April 1 and before April 10; on or after July 1 and before July 10; on or after October 1 and before October 10.

(D) Street use fees are not refundable.  
(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-5 DETERMINATION OF SUITABILITY OF VEHICLE AND REQUIRED EQUIPMENT.**

Upon receipt of an application for an ambulance operator permit, the permit officer shall, within 15 days, inspect the ambulances listed in the application. Each ambulance approved must meet the following requirements at the time of inspection and at all times thereafter while being used in ambulance service:

(A) That it is suitable for the transportation of patients from the standpoint of health, sanitation and safety, in accordance with regulations promulgated under § 11-2-27.

(B) That it complies with all state laws and local ordinances relating to health, sanitation and motor vehicles generally.

(C) That it is equipped with lights, sirens and special markings to designate it as an ambulance as may be required by state law or city ordinance. In addition, each ambulance must be marked on both sides with the name or trade name, and their City of Kingsville issued private ambulance permit number, of the proposed permit holder, easily readable from a distance of at least 50 feet.

(D) That it contains necessary emergency equipment, in proper condition and ready for use, in compliance with the regulations of § 11-2-27.

(E) That it is equipped with a properly functioning two-way radio that is operated on frequencies approved for ambulance use and capable of providing direct radio communication with hospital emergency rooms and trauma centers within the city, the Kingsville Fire Department, the public ambulance service, and the central emergency dispatching system.

(F) Agrees to provide a level of service being offered by the City of Kingsville Fire Department's Ambulance Service, staffed 24/7.

(G) That ambulance company shall agree to be on a rotation list for back-up of 911 calls for the Kingsville Fire Department.  
(Ord. 2005-34, passed 9-12-05)

**§ 11-2-6 ISSUANCE; DENIAL; REINSPECTION.**

(A) Upon receipt of an application for an operator permit, the permit officer shall cause such investigation as he deems necessary to be made of the applicant and of the proposed operation and shall make a determination whether the applicant and the proposed ambulance service comply with the provisions of this article, all rules and regulations promulgated hereunder and all applicable state regulations. If it is determined that the applicant is in compliance with all such requirements the permit officer shall, within 21 calendar days of the date of such application, issue to the applicant an ambulance operator's permit. If an applicant does not comply with such requirements or if any of the applicant's ambulances do not meet the required standards, the permit officer shall notify the applicant, by certified mail, within 21 calendar days of the date of such application, of the specific deficiencies and shall allow the applicant 30 days from the receipt thereof to prove to the satisfaction of the permit officer that the deficiencies have been corrected, in which event the permit shall be issued. If such deficiencies are not corrected within said 30 days, or the applicant otherwise fails to comply with the above stated requirements, then the permit shall be denied and the application shall be deemed to have expired and to be of no further effect.

(B) If a permit is issued, the permit officer shall note on the permit the motor number of each ambulance which has been approved under § 11-2-5 and which will be allowed to be operated in the permittee's ambulance service business. The permittee may have additional ambulances approved and noted on the permit at any time by complying with the provisions of § 11-2-5 and paying a fee of \$100 without proration, per additional ambulance requested to be approved. Whenever the permittee no longer intends to use an approved ambulance as an ambulance, or ownership of the ambulance is transferred, or the ambulance becomes inoperable as an ambulance for any reason, except for a repair period not to exceed ten days, the permittee shall notify the permit officer within five days after such event and the permit officer shall remove the number of that ambulance from the approved list on the permit.

(C) A permittee that causes the removal, during the permit term, of any ambulance from the approved ambulance list on the permit, pursuant to § 11-2-6(B), may request the permit officer to reinspect the ambulance and return said ambulance to active service. The reinspection request must be



in writing and shall be accompanied by a \$25 reinspection fee. The permit officer shall reinspect the ambulance within ten days of receipt of such request and payment. An ambulance that meets the requirements of § 11-2-5 upon reinspection shall be added to the approved ambulance list on the permit.

(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-7 TERM.**

Private ambulance service operator permit shall be valid for a period of one year unless earlier suspended or revoked.

(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-8 INSURANCE.**

No ambulance operator permit shall be issued, nor shall any such permit be valid after issuance, unless the applicant or the holder of the permit provides satisfactory proof to the Director of Safety and Risk Management that the applicant has liability insurance, in the amount of not less than \$300,000 for personal injury in any one accident, and not less than \$100,000 for property damage, available to protect the interests of the city and its residents. The city shall be named as a certificate holder in all insurance policies required by this article. Each insurance policy shall require notice from the insured or insurer to the Director of Safety and Risk Management at least 30 days prior to material change, nonrenewal, cancellation or termination by the insured or insurer.

(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-9 AMBULANCE DRIVER/ATTENDANT PERMIT - REQUIRED.**

No person shall drive or cause to be operated within the City of Kingsville an ambulance while furnishing ambulance emergency service or transfer service unless such ambulance is being driven and operated by the holder of an ambulance driver/attendant permit.

(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-10 AMBULANCE DRIVER/ATTENDANT PERMIT APPLICATION; FEE; ISSUANCE; TERM.**

(A) An application for ambulance driver permit shall be made on such form as may be prescribed by the permit officer and shall contain all the following proof and information:

(1) The applicant's full name, current residence, place of residence for the five years previous to the date of said application, and the length of time he has resided in the City of Kingsville.

(2) The applicant's age (at least 18 years of age), height, color of eyes and color of hair.

(3) Whether he has ever been convicted of a felony, or has been convicted of a misdemeanor in the past five years (including a traffic offense), and if so, when and where, and for what cause.

(4) Whether he has previously been licensed as an ambulance driver or attendant, and if so, when and where, and whether said license has ever been revoked or suspended in any jurisdiction for any cause, and if so, when and for what cause.

(5) That he has a valid Texas driver's license, the number of the driver's license and whether it has ever been revoked or suspended, and if so, when and for what cause.

(6) That the applicant holds a valid certificate as an emergency medical technician-ambulance and has completed any periodic recertification training required by the Texas State Department of Health.

(7) A statement made and certified by the applicant that he/she is not addicted to drugs, alcohol or other intoxicating substances and that he/she has no physical or psychological impairment which would interfere with the performance of his/her duties.

(8) Two recent photographs of the applicant are required, one of which shall be attached by the permit officer to the permit.

(9) That the applicant is able to read and speak English.

(B) The application shall be accompanied by a nonrefundable driver/attendant permit fee of \$25.

(C) If the applicant has complied with all the requirements of divisions (A) and (B) above, the permit officer shall issue an ambulance driver/attendant permit unless the permit officer determines that the issuance of the permit would not be in the public interest because of the applicant's criminal convictions, moral character or employment history.

(D) If issued, an ambulance driver/attendant permit shall be valid for a period of one year from the date of issuance, unless earlier suspended or revoked.  
(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-11 FURTHER INVESTIGATION; INSPECTION OF EQUIPMENT.**

(A) In addition to any other powers granted under this article to the permit officer, the permit officer shall have the following powers:

(1) To make further investigation of any applicant for any permit authorized by this article, regarding arrest and convictions for criminal offenses, education and training, extent and quality of

2006 S-8

performance in previous ambulance related jobs or businesses, or any other information required to be furnished in or with the application. The Kingsville Police Department is directed to aid and cooperate in such investigations when requested to do so by the permit officer.

(2) To inspect ambulances, ambulance equipment, and the books and records of each permit holder during regular business hours, with or without prior notice to the permittee, and at any reasonable location for the purpose of determining if requirements of this article are being met.

(B) The permit officer shall have a duty to inspect the ambulances and equipment of each permittee at least once every six months. When requested by the permit officer, a police officer shall be assigned to assist in making any inspections.

(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-12 PERMIT RENEWAL REQUIREMENTS.**

The renewal of any permit issued under the provisions of this article shall require conformance with all the requirements of this article as upon original granting of the permit.

(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-13 CHANGES IN PERMIT APPLICATION INFORMATION.**

Any change in the information required in an application for a permit, or a renewal thereof, shall be reported to the permit officer within 15 days after the change occurs, unless otherwise provided in another section of this article.

(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-14 PERMITS PERSONAL TO APPLICANT.**

All permits provided for in this article shall be deemed the personal permit of the applicant and shall not be transferable. It shall be unlawful for any holder of a permit to allow any other person to use his permit.

(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-15 SUSPENSION OR REVOCATION OF PERMIT; ADMINISTRATIVE HEARINGS.**

(A) The permit officer is responsible for the regulation of the permitting of ambulance services and transfer operations within the city and enforcement of this article, all standards, rules, and regulations promulgated hereunder and applicable state provisions relating to the operation of ambulance services and medical transfer operations.

(B) The permit officer is hereby authorized to suspend for a period not longer than 30 days or revoke any permit issued under this article, after notice and hearing as provided herein, and based upon any of the following grounds:

- (1) Fraudulent conduct, false statements, or nondisclosure of a material fact in procuring the permit;
- (2) Violation of any of the requirements of state law relating to ambulance services and/or medical transfer operations;
- (3) Violation of any of the provisions of this article;
- (4) Violation of any of the standards, rules or regulations promulgated under the provisions of this article.

(C) Whenever the permit officer has reason to believe grounds exist for the suspension or revocation of a permit issued under this article, he shall cause an investigation to be made and shall, prior to any such suspension or revocation, hold an administrative hearing to determine whether any such permit should be suspended or revoked. Written notice of such hearing shall be given to the permit holder not less than ten days prior to such hearing. Notice shall be deemed sufficient upon its deposit with the United States Postal Service; as certified mail, return receipt requested; addressed to the last known address of the permittee as shown in the permittee's most recent permit application; or upon its delivery to such last known address by an employee or representative of the permit officer.

(D) At the conclusion of the administrative hearing, the permit officer shall issue such orders as are authorized to be issued by this article and warranted by the facts of the particular case for the effective administration of this article and the protection of the public health, safety and welfare. Any such order issued hereunder shall become effective not less than ten days from its date of issuance unless notice of appeal to the City Commission, as provided for generally in this code, is given within ten days of the issuance of such order.

(E) No prior notice and no administrative hearing shall be necessary under the following circumstances:

- (1) When the only administrative action taken is a formal letter of reprimand;
- (2) For enforcement action under the penal provisions of this article, § 11-2-28;
- (3) If, in the opinion of the Chief of the Fire Department, immediate action is necessary to protect the public health, safety or welfare from imminent danger; such necessity shall be certified to the City Manager prior to the imposition of any order.  
(Ord. 2005-34, passed 9-12-05)

**§ 11-2-16 APPEALS TO COMMISSION.**

An order of the permit officer under this article may be appealed to the City Commission within ten days of the date of issuance of such order and as provided in this code for appeals generally.

(Ord. 2005-34, passed 9-12-05)

**§ 11-2-17 AVAILABILITY OF 911 AMBULANCE.**

Upon receipt of a request for emergency ambulance service, the central dispatcher for the 911 ambulance service shall send an ambulance available at the time of the receipt of the request. If no 911 ambulance is available, or if the circumstances so require for the protection of human life or limb, the holder of an ambulance operator permit may be offered the opportunity to respond to the call.

(Ord. 2005-34, passed 9-12-05)

**§ 11-2-18 CLEARANCE IN CASE OF DIRECT REQUEST.**

When any ambulance operator, or his agent or employee, receives a request for emergency ambulance service from any person other than the central 911 dispatcher for the 911 ambulance service, he shall immediately notify the central 911 dispatcher.

(Ord. 2005-34, passed 9-12-05)

**§ 11-2-19 ARRIVING AT EMERGENCY SCENE WITHOUT CLEARANCE.**

No ambulance operator or his agent or employee shall go to the scene of an emergency unless clearance has been obtained from the central 911 dispatcher of the 911 ambulance service; except that whenever an ambulance operator or his ambulance service personnel unexpectedly comes across the scene of an emergency, immediate radio contact must be established with the central 911 dispatcher of the 911 ambulance service to inform the dispatcher of the location and circumstances. The central 911 dispatcher may then dispatch a 911 ambulance to the emergency or grant clearance for the transportation of the patient or patients by the private ambulance service as warranted by such circumstances.

(Ord. 2005-34, passed 9-12-05)

**§ 11-2-20 USE OF EMERGENCY LIGHTS OR SIRENS WITHOUT CLEARANCE.**

It shall be unlawful for any person to drive an ambulance within the corporate limits of the City of Kingsville using emergency lights or sirens without first obtaining a clearance for an emergency run from the central 911 dispatcher for the 911 ambulance service.

(Ord. 2005-34, passed 9-12-05)



**§ 11-2-21 REFUSAL TO RENDER AID OR TRANSPORT PATIENT.**

It shall be unlawful for any ambulance driver/attendant, after arrival at the scene with clearance from the central 911 dispatcher for the 911 ambulance service, to fail or refuse to render aid and assistance to a person who is sick, injured, or incapacitated at the location of an emergency. It shall be unlawful for any ambulance operator, his agent, or employee to refuse to carry or transport a patient at the scene of an emergency after having been dispatched thereto or cleared thereto by the central 911 dispatcher for the 911 ambulance service; provided, however, there shall be no violation of this section if the sick, injured, or incapacitated person or a relative at the scene affirmatively refuses to receive any aid or assistance or refuses to be transported to a place of treatment; provided, further, this section shall not apply when circumstances indicate beyond reasonable doubt that the person desiring transportation is not in need of immediate first aid or medical treatment.

(Ord. 2005-34, passed 9-12-05)

**§ 11-2-22 EMERGENCY RUN REPORT.**

The holder of the ambulance operator permit shall preserve the firm's ambulance patient record (APR) form for a period of two years. These forms shall be available upon request by the permit officer. The APR form used by the private firm shall contain, as a minimum, the following essential items:

- (A) Patient's name;
- (B) Patient's address;
- (C) Date call was made;
- (D) Time call was made;
- (E) Sex of patient;
- (F) Age of patient;
- (G) Location of emergency;
- (H) Type of emergency;
- (I) Name of driver;
- (J) Name of attendant;
- (K) Location to which patient was delivered;

(L) Type of care and treatment administered.  
(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-23 MANAGEMENT OF EMERGENCY SCENE.**

When an ambulance authorized to operate under this article, or an ambulance of the 911 ambulance system, is at the scene of an emergency, the attendant shall have the authority to determine the priority of assisting patients and shall supervise the treatment and handling of all patients as directed by the senior 911 ambulance service attendant present and under the general supervision of the senior Police or Fire Department employee at the scene. Police or Fire Department personnel at the scene shall have authority to manage vehicular traffic and bystanders, and to protect the public safety. Police or Fire Department personnel at the scene may assist the ambulance personnel in handling or rendering care to patients when requested by the attendant and may act as attendant or driver if requested by the attendant or if necessary to protect the life or health of the patient.  
(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-24 UNNECESSARY REQUESTS FOR SERVICE.**

It shall be unlawful for any person to request ambulance service from any 911 or private ambulance operator, or to cause such a request to be made, or to make or cause to be made a report of an emergency which would ordinarily cause an ambulance to be dispatched, knowing that such ambulance service is not needed or that such emergency does not exist.  
(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-25 UTILIZING SERVICE WITHOUT PAYING THEREFOR.**

It shall be unlawful for any person to utilize and accept emergency ambulance service without paying a reasonable fee therefore. Failure to pay for that service within 30 days after a statement of costs for such services has been mailed to the user by registered or certified mail with return receipt requested, or the parent in the event a minor is the user, in accordance with the address which is supplied to the ambulance operator or obtained from the hospital or other place of treatment where such person is delivered, shall constitute prima facie evidence of an intention to violate this section.  
(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-26 EXEMPTIONS.**

Provisions of this article which relate to permits, or which regulate the design and construction of ambulances, necessary emergency equipment or sanitation standards shall not apply to any of the following; provided, however, that all regulations and standards for personnel, equipment and operations



shall apply at all times to holders of permits under this article, whether or not such holders are engaged temporarily or partially in operations exempted by this section:

(A) Any agency of the United States Government or ambulance service provided under contract to any agency of the United States Government;

(B) Any ambulance owner or ambulance personnel assisting holders of ambulance operator permits in the case of a major catastrophe or emergency when the holders of permits cannot handle the extraordinary demand for ambulance services caused by said catastrophe or emergency;

(C) Any ambulance owner or ambulance personnel whose place of business is located outside the corporate limits of the City of Kingsville and who is engaged solely in transporting patients from some point outside the corporate limits of the City of Kingsville to some point within the city;

(D) Individuals who are employed by and/or performing their regularly assigned duties for the Kingsville Fire Department, the Kingsville Police Department, Kleberg County Hospital District, or the City 911 ambulance service.  
(Ord. 2005-34, passed 9-12-05)

#### **§ 11-2-27 REGULATIONS PROMULGATED BY PERMIT OFFICER.**

(A) Regulations may be promulgated by the permit officer to carry out the provisions of this article regarding the design and construction of ambulances, necessary emergency equipment and supplies to be carried in ambulances, and health and sanitation in the operation of ambulances and in the care of patients.

(B) The permit officer shall issue a notice of intention to promulgate or amend regulations. The notice shall contain a statement of the officer's intention to promulgate or amend the regulations, an invitation for written comments, the date before which the officer must receive written comments and the text of the regulations or section thereof which is proposed to be promulgated or amended. A copy of the notice shall be filed with the city secretary, and a copy will be distributed to each holder of an ambulance operator permit, by certified mail. The permit officer shall allow at least ten working days, from the day a notice is mailed, for the receipt of written comments. The regulations or amendments thereof shall become effective ten days after the last day allowed for the receipt of written comments, unless the permit officer alters the proposed regulations or amendment, in which case the permit officer shall issue a new notice and repeat the provisions of this subsection, but only in regard to those specific sections which are to be altered.

(C) The adoption or amendment of regulations by the permit officer may be appealed to the City Council by filing a sworn notice of appeal with the City Secretary within ten days from the date the regulation or amendment becomes effective. The regulation or amendment shall remain effective during the pendency of the appeal unless otherwise ordered by the permit officer or City Commission.

(Ord. 2005-34, passed 9-12-05)

2006 S-8

**§ 11-2-28 PENALTY.**

Any violation of the terms of this article shall be subject to a fine of not exceeding \$200 per day.

(Ord. 2005-34, passed 9-12-05)

[Next page is 21]

## ARTICLE 3: ALCOHOLIC BEVERAGES

### Section

- 11-3-1 Revocation of license
- 11-3-2 Local permit fee
- 11-3-3 Hours consumption permitted
- 11-3-4 Sales near school, church or hospital
- 11-3-5 Variances

#### **Statutory reference:**

*For authority, see TEX. ALCO. BEV. CODE, §§ 1.01 et seq.*

### **§ 11-3-1 REVOCATION OF LICENSE.**

The Commissioner shall have the power to revoke the retail beer or light wine permit or license issued by the city to any retailer of beer or light wine found guilty of a violation of any provision of the Texas Liquor Control Act. The permit may be temporarily or permanently revoked depending upon the gravity of the offense convicted of and whether or not the party charged is a first offender.

('62 Code, § 5-6-1)

### **§ 11-3-2 LOCAL PERMIT FEE.**

The owner of each permit issued by the Texas Alcoholic Beverage Commission for any premises located within the corporate limits of the city shall pay to the city a fee, which shall not exceed one-half the fee paid the State of Texas as determined by the state fee schedule as it exists or may be hereafter amended, subject, however, to such exemptions as set forth in TEX. ALCO. BEV. CODE, § 11.38 as currently enacted or hereafter amended.

('62 Code, § 5-6-3) (Ord. 82052, 11-22-82)

### **§ 11-3-3 HOURS CONSUMPTION PERMITTED.**

Any person who is the holder of a retail dealer's on premise late hours license as issued by the Alcoholic Beverage Commission of the State of Texas may also sell, offer for sale, and deliver beer and/or mixed beverages between midnight and 2:00 a.m. on any day.

('62 Code, § 5-6-4) (Ord. 83043, passed 10-17-83)

#### **Statutory reference:**

*Authority to extend hours, see TEX. ALCO. BEV. CODE, § 105.05(d)(2)*

**§ 11-3-4 SALES NEAR SCHOOL, CHURCH OR HOSPITAL.**

The sale of alcoholic beverages by a dealer whose place of business is within 1,000 feet of a church or public hospital or within 1,000 feet of a public or private school, daycare or child care facility is prohibited, unless a variance is obtained from the City Commission.

(Ord. 98007, passed 4-13-98; Am. Ord. ORD-2003-07, passed 4-28-03) Penalty, see § 1-1-99

**§ 11-3-5 VARIANCES.**

(A) The City Commission may grant a variance to the prohibition of the sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a church, public or private school, daycare or child care facility, or hospital upon application for a variance with the city and a determination by the City Commission that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the City Commission, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community. The method of measurement of the distance between the place of business where alcoholic beverages are to be sold and the church, public or private school, daycare or child care facility, or hospital shall be taken in accordance with the Texas Alcoholic Beverage Code.

(B) The City Manager, or his or her designee, shall receive applications for a variance to the prohibition of the sale of alcoholic beverages under this chapter. Once an application for a variance has been received and all necessary documentation completed, a public hearing shall be conducted on the request for a variance. The City Commission shall conduct a public hearing, announcement of which shall be published once in a newspaper of local circulation 15 days prior to such hearing before acting upon any variance matter. All property owners within 300 feet of the property on which the change is proposed shall be sent written notice not less than 15 days before the hearing date. The list of property owners shall be prepared from the last city tax roll listing all property owners who have rendered their property for city taxes. Notice is adequately served by depositing properly addressed and postage paid notice with the city post office. Property owners whose names do not appear on the city tax roll are adequately notified by the publication in a newspaper of local circulation. Majority vote of the members of the City Commission shall be necessary to approve a request for a variance under this chapter. A fee of \$250 shall accompany each application for a variance, since they require notification or publication. An applicant for a variance for on-premise consumption must: (1) either apply for a food and beverage certificate issued by the Texas Alcoholic Beverage Commission or; (2) be open six days a week (excluding national holidays), serve any combination of two out of three meals each day open (breakfast, lunch, dinner), have daily hours of operation not exceeding 16 hours, and have an area for dining that is at least as large as the area for drinking alcoholic beverages. An applicant for a variance for off-premise consumption must apply for an off-premise certificate issued by the Texas Alcoholic Beverage Commission.



(C) In the event a variance is granted by the City Commission and the establishment operating under the variance has a change in owners, officers, stockholders, corporations, entities, or names, then the variance expires with such change.

(D) A business currently licensed or with a pending application to be licensed to sell alcoholic beverages will be grandfathered under this chapter until such time that there is a change in ownership, officers, stockholders, corporations, entities or names. At that time that business will be required to apply under this chapter.

(Ord. ORD-2003-07, passed 4-28-03; Am. Ord. ORD-2003-13, passed 7-18-03; Am. Ord. ORD-2004-20, passed 8-9-04)



## ARTICLE 4: GAMES AND AMUSEMENT DEVICES

### Section

#### ***Coin-Operated Machines***

- 11-4-1 Occupation tax
- 11-4-2 Sealing of machines

#### ***Amusement Redemption Machine***

- 11-4-10 Amusement redemption machine defined
- 11-4-11 Local permit fee for amusement redemption machine premises permit

#### ***Statutory reference:***

*Tax authorized, see TEX. REV. CIV. STAT., Art 8814*

### **COIN-OPERATED MACHINES**

#### **§ 11-4-1 OCCUPATION TAX.**

There is hereby assessed against the operation of each coin-operated machine, as defined in TEX. REV. CIV. STAT., Art. 8801, in the city, an occupation tax of \$15, one-fourth of the state tax, per year per machine. The occupation tax imposed hereby shall be due and payable to the License and Permit Office of the city at the time the operator pays the annual state tax on each coin-operated machine.

(Ord. 93007, passed 4-12-93)

#### **§ 11-4-2 SEALING OF MACHINES.**

The city shall have the authority to seal any coin-operated machine for which an occupation tax is not paid. A \$5 fee will be charged for the release of any machine sealed for nonpayment of tax.

(Ord. 93007, passed 4-12-93)



**AMUSEMENT REDEMPTION MACHINES****§ 11-4-10 AMUSEMENT REDEMPTION MACHINE DEFINED.**

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

**AMUSEMENT REDEMPTION MACHINE.**

(1) A skill or pleasure coin or currency operated machine that is designed, made, and adapted solely for bona fide amusement purposes and that by operation of chance or a combination of skill and chance affords the user, in addition to any right of replay, an opportunity to receive a prize.

(2) *Excluded machines.* An **AMUSEMENT REDEMPTION MACHINE** does not include:

(a) A machine that awards the user non-cash merchandise prizes, toys, or novelties solely and directly from the machine, including claw, crane, or similar machines; nor

(b) A machine from which the opportunity to receive non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, varies depending upon the user's ability to throw, roll, flip, toss, hit, or drop a ball or other physical object into the machine or a part thereof, including basketball, skeeball, golf, bowling, pusher, or similar machines.

(3) *Prohibited machines.* "Gambling Devices" as defined by TEX. PENAL CODE Chapter 47 and as interpreted by judicial decision (Hardy v. State, No. 01- 0779, Tex. 2003 and One Super Cherry Master Video 8-Liner Machine v. State, No. 01-0673, Tex. 2003) are prohibited from use as **AMUSEMENT REDEMPTION MACHINES**. In addition to any other penalty or punishment imposed by law, violation of this section shall be cause for revocation of an **AMUSEMENT REDEMPTION MACHINE** premises permit issued pursuant to this subarticle. The city reserves the right to inspect the premises and financial records of any **AMUSEMENT REDEMPTION MACHINE** premises permit establishment in order to investigate compliance with this subarticle.

(Ord. ORD-2002-26, passed 10-14-02; Am. Ord. ORD-2003-01, passed 2-10-03; Am. Ord. ORD-2003-19, passed 9-18-03)

**§ 11-4-11 LOCAL PERMIT FEE FOR AMUSEMENT REDEMPTION MACHINE PREMISES PERMIT.**

(A) (1) *Fee.* An owner, operator, or lessee of premises on which an amusement redemption machine is made available to others shall be required to secure a permit by paying to the city an annual inspection and amusement redemption machine premises permit fee as follows:

2004 S-6

<b>NUMBER OF MACHINES LOCATED ON PREMISES</b>	<b>AMUSEMENT REDEMPTION MACHINE PREMISES PERMIT FEE</b>
1 - 3	\$ 200
4 - 10	\$ 7,500
4 - 10 (IRS 501(c)(3))	\$ 3,750
11-20	\$ 15,000
21 - 30	\$ 22,500
31 - 40	\$ 30,000
41 -50	\$ 37,500
51 - 60	\$ 45,000
61 - 70	\$ 52,500
71 - 80	\$ 60,000
Each additional 1 - 10 machines	add \$ 7,500

(2) *Expiration and renewal.* Permits issued under § 11-4-10(A) shall automatically expire on September 30 next following its issuance, except as otherwise stated herein. Existing permits which state an expiration date other than September 30 shall expire on the date stated on said permit. The city shall not refund any portion of an amusement redemption machine premises permit fee after the permit is issued, nor shall it prorate or reduce in amount any fee due to the city.

(B) *Sealing.* The city shall have the authority to seal amusement redemption machines located at an establishment for which an amusement redemption machine premises permit fee has not been secured. A \$5 fee will be charged for the release of any machine sealed for non-payment of said amusement redemption machine premises permit fee.

(C) *Posting of permit.* The permit shall be conspicuously posted inside the building.

(D) *Persons under 21 prohibited.* The presence of persons under 21 years of age on premises subject to an amusement redemption machine premises permit is prohibited and is punishable by a fine not to exceed \$500. In addition to any other penalty or punishment imposed by law, violation of this section shall be cause for revocation of an amusement redemption machine premises permit issued pursuant to this subarticle. It is an affirmative defense to prosecution under this subsection that the person under 21 years of age was a bona fide employee of the establishment subject to an amusement redemption machine premises permit.

(E) *Alcoholic beverages prohibited.* The presence of alcoholic beverages on premises subject to an amusement redemption machine premises permit that operate more than ten amusement redemption

## **Kingsville - Business Regulations**

machines is prohibited and is punishable by a fine not to exceed \$500. In addition to any other penalty or punishment imposed by law, violation of this section shall be cause for revocation of an amusement redemption machine premises permit issued pursuant to this subarticle.

(F) *Revocation of permit.* The City Commission may revoke any permit to maintain and operate premises on which an amusement redemption machine is made available to others when the licensee has been found guilty by a court of competent jurisdiction of violating any provisions of this subarticle. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the premises are being maintained and operated in full compliance with law and this subarticle. Provided, however, that an owner, operator, or lessee of premises on which an amusement redemption machine is made available to others, who is found to be in violation of this subarticle based on a finding that the number of amusement redemption machines exceeds the number for which the premises is permitted shall be required to pay an amount equal to twice the difference of the original permit fee and the permit fee required for the number of machines actually on the premises.

(G) *Limit on number of permits issued.* The city may not issue more than 20 amusement redemption machine premises permits per year for premises operating more than ten amusement redemption machines. Active permit holders who do not file for renewal or do not tender the appropriate permit renewal fee within three working days of the expiration of their existing permit year shall be deemed to have surrendered their permit and the city may then consider the next available applicant (as determined by the date and time of submission of the application) for issuance of an amusement redemption machine premises permit.

(H) *Restriction on location of premises.* The city may not issue an amusement redemption machine premises permit for use within the Kingsville Historical District. Permit holders located within the district as of the date of enactment of this subarticle are exempt from this section for so long as such permit holder continuously operates at the location, excluding interruptions in operation due to force majeure, and obtains timely annual renewal of said permit.

(I) *Relocation of premises.* Active permit holders who wish to relocate the establishment for which they are permitted must notify the city and receive an amended permit prior to relocating. The city shall comply with division (L) prior to issuing the amended permit. The city reserves the right to deny the relocation in the event that it finds significant negative impact on surrounding properties. In addition to the fees due for the number of machines as per division (A), a fee of \$200 shall be paid to the city prior to the issuance of the amended permit.

(J) *Additional machines.* Active permit holders who wish to increase the number of machines on premises for which they are permitted must obtain an amended permit from the city prior to placing the machines on the premises. The city shall comply with division (L) prior to issuing the amended permit. In addition to any additional fees due for the increased number of machines as per division (A), a fee of \$ 200 shall be paid to the city prior to the issuance of the amended permit.

(K) *Planning Department to study impact.* The City Planning Department shall establish

objective guidelines for determining the impact that an establishment seeking an amusement redemption machine premises permit will have on surrounding properties. The city reserves the right to deny the permit in

2004 S-6

## **Games and Amusement Devices**

24E

the event that it finds significant negative impact on surrounding properties. The determination that a proposed establishment seeking an amusement redemption machine premises permit will have a significant negative impact on surrounding properties shall be made by the City Manager.

The decision of the City Manager shall be made public by posting at City Hall and may be appealed to the City Commission if written notice is filed with the City Secretary within ten working days of the date of the City Manager's decision. In the event that the permit is granted, no permit shall issue during the ten working day period after the City Manager's decision in order to allow time for an appeal to be filed prior to commencement of operations. This section shall apply to new location and relocation applications considered after the date of enactment of this subarticle.

(Ord. ORD-2002-26, passed 10-14-02; Am. Ord. 2003-01, passed 2-10-03; Am. Ord. ORD-2003-19, passed 9-18-03)

2004 S-6



## ARTICLE 5: VEHICLES FOR HIRE

### Section

#### ***Animal-Drawn Vehicles***

11-5-15 Designated streets; animal-drawn vehicles prohibited on restricted streets

***Cross-reference:***

*Taxicabs, see §§ 11-13-1 et seq.*

#### **ANIMAL-DRAWN VEHICLES**

#### **§ 11-5-15 DESIGNATED STREETS; ANIMAL-DRAWN VEHICLES PROHIBITED ON RESTRICTED STREETS.**

(A) The Chief of Police is hereby authorized to designate certain streets to be used by persons so hiring horse drawn vehicles or saddle horses or mules and designating streets to be restricted from the use of such persons.

(B) It shall be unlawful for any person either driving the horse or mule drawn vehicles or riding saddle horses or mules to drive or ride on the restricted streets so designated as such by the Chief of Police or his designee.

('62 Code, § 5-8-2) (Am. Ord. ORD-2005-03, passed 1-24-05) Penalty, see § 1-1-99



## ARTICLE 6: FLEA MARKETS

### Section

- 11-6-1 Definitions
- 11-6-2 License required
- 11-6-3 Food sales regulated
- 11-6-4 Records to be kept by licensee
- 11-6-5 Secondhand stores excepted
- 11-6-6 More than one market
- 11-6-7 Purchases from children

11-6-99 Penalty

### § 11-6-1 DEFINITIONS.

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

**FLEA MARKET.** A market, out-of-doors, where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include, but are not limited to, household items, antiques, rare items, decorations, used books, used magazines, jewelry, clothing, and/or a variety of merchandise. Indoor flea markets are permitted only through special use permit in C-2, C-3 and C-4 Districts. Outdoor flea markets are permitted in I-1, I-2 and Ag Districts.

**FLEA MARKET SELLER.** A person, firm or corporation selling items or offering items for sale at a flea market.

**MARKET.** A place where goods are sold to the public.  
(‘62 Code, § 5-17-1) (Ord. 91007, passed 4-8-91; Am. Ord. ORD-2005-04, passed 1-24-05)

### § 11-6-2 LICENSE REQUIRED.

No person shall operate the business of renting space or allocating space to flea market sellers without first obtaining a license therefor. Applications for licenses shall be made to the Secretary of the Planning Division of the Management Services Department on forms to be provided by the Secretary.

Only one license shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a license under this section. The fee per calendar year for such license shall be \$100 for flea markets operating one to nine stalls and \$500 for flea markets operating 10 or more stalls.

('62 Code, § 5-17-2) (Ord. 91007, passed 4-8-91; Am. Ord. ORD-2005-04, passed 1-24-05)  
Penalty, see § 11-6-99

### **§ 11-6-3 FOOD SALES REGULATED.**

All food sales at flea markets will be regulated by the policies of the City/County Health Department and §§ 11-7-1 through 11-7-4 of this chapter.

('62 Code, § 5-17-3) (Ord. 91007, passed 4-8-91; Am. Ord. ORD-2005-04, passed 1-24-05)

**Cross-reference:**

*Food sales and food establishments, see §§ 11-7-1 et seq.*

### **§ 11-6-4 RECORDS TO BE KEPT BY LICENSEE.**

Each person required by this article to obtain a license shall keep accurate records of the names and addresses of each flea market seller, together with a brief description of the type or types of merchandise offered for sale by that seller. This information shall be reviewed by the City Manager or his designee if requested. Failure to produce this information within five working days of request will result in a \$200 per day penalty until the information is produced.

('62 Code, § 5-17-4) (Ord. 91007, passed 4-8-91; Am. Ord. ORD-2005-04, passed 1-24-05)  
Penalty, see § 11-6-99

### **§ 11-6-5 SECONDHAND STORES EXCEPTED.**

No person having a license as a secondhand store shall be required to obtain a license under this article for the same business location.

('62 Code, § 5-17-5) (Ord. 91007, passed 4-8-91; Am. Ord. ORD-2005-04, passed 1-24-05)

### **§ 11-6-6 MORE THAN ONE MARKET.**

Any person renting or allocating space to flea market sellers in more than one place of business shall be required to obtain a license for each place of business, provided that one license shall be adequate for locations that are on the same lot, adjacent lots or lots separated only by an alley.

('62 Code, § 5-17-6) (Ord. 91007, passed 4-8-91; Am. Ord. ORD-2005-04, passed 1-24-05)  
Penalty, see § 11-6-99

**§ 11-6-7 PURCHASES FROM CHILDREN.**

A flea market seller shall not purchase any items whatsoever from any person under the age of 18 years, unless such person is accompanied by the person's parent or guardian.  
( '62 Code, § 5-17-8) (Ord. 91007, passed 4-8-91; Am. Ord. ORD-2005-04, passed 1-24-05)  
Penalty, see § 11-6-99

**§ 11-6-99 PENALTY.**

Any person violating any provision of this article shall be fined not less than \$100 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.  
( '62 Code, § 5-17-9) (Ord. 91007, passed 4-8-91; Am. Ord. ORD-2005-04, passed 1-24-05)



## **ARTICLE 7: FOOD SALES AND FOOD ESTABLISHMENTS**

### **Section**

#### ***General Provisions***

- 11-7-1 License required
- 11-7-2 Duplicate licensing
- 11-7-3 Inspection required; fee
- 11-7-4 Compliance with standards; sanitary conditions required

#### ***Rules on Food Service and Retail Food Store Sanitation***

- 11-7-15 Adoption by reference
- 11-7-16 Conflicting provisions; more stringent to prevail
- 11-7-17 Permit provisions
- 11-7-18 Food handling certification required; revocation; display
- 11-7-19 Seafood peddlers

#### ***Handling of Meats***

- 11-7-30 Inspection marks required
- 11-7-31 Adoption of meat inspection regulations
- 11-7-32 Unlawful destruction of identification devices or carcasses
- 11-7-33 Permit required
- 11-7-34 Inspection; fees
- 11-7-35 Inspections by other than city
- 11-7-36 Compliance with rules and regulations required
- 11-7-37 Connection to sewer system
- 11-7-38 Appeals

#### ***Meat Inspection Regulations***

- 11-7-50 Definitions
- 11-7-51 Scope of inspection
- 11-7-52 Organization of inspectors
- 11-7-53 Official numbers and inauguration and withdrawal of inspection
- 11-7-54 Assignment of inspectors; interference with inspectors prohibited
- 11-7-55 Facility requirements; compliance required
- 11-7-56 Sanitation; minimum standards
- 11-7-57 Ante and post mortem inspections

**Kingsville - Business Regulations**

- 11-7-58 Disposal of diseased carcasses and parts
- 11-7-59 Tank rooms and tanks
- 11-7-60 Tanning and denaturing of condemned parts
- 11-7-61 Rendering of carcasses and parts passed for cooking
- 11-7-62 Inspection legend
- 11-7-63 Labeling
- 11-7-64 Reinspection of meat and meat products
- 11-7-65 Shipping inspections
- 11-7-66 Bribes
- 11-7-67 Local transportation of meat and meat products

***Fruit and Vegetable Stands; Peddlers***

- 11-7-75 Fruit and vegetable stands
- 11-7-76 Fruit and vegetable peddlers
- 11-7-77 Permit required; issuance; suspension

***Milk***

- 11-7-85 Adoption of milk code
- 11-7-86 Sale of milk regulated
- 11-7-87 Permit required; suspension or revocation; fee
- 11-7-99 Penalty

***Statutory reference:***

*State Food, Drug and Cosmetic Act, see TEX. HEALTH & SAFETY CODE, §§ 431.001 et seq.*

***Cross-reference:***

*Food sales at flea markets, see § 11-6-3*

**GENERAL PROVISIONS****§ 11-7-1 LICENSE REQUIRED.**

Any establishment selling food for human consumption within the city shall be required to possess a license. Such permit shall be posted in a conspicuous place. Only persons in compliance with this article shall be entitled to receive or retain a license. Such license may be revoked by the Health Officer after a hearing for serious or repeated violations.

('62 Code, § 8-10-1) Penalty, see § 11-7-99

**§ 11-7-2 DUPLICATE LICENSING.**

Persons or establishments possessing a food related license under the provisions of another article are deemed to have satisfied the provisions of this article.  
(’62 Code, § 8-10-2) (Ord. 83048, passed 10-17-83)

**§ 11-7-3 INSPECTION REQUIRED; FEE.**

(A) Each person required to secure a license under this article shall have passed an inspection showing compliance with the Health Code. After such inspection, and before issuance of any permit, a fee of \$100 shall be paid to the city.

(B) The licenses shall be for a specific owner or operator. Licenses are not transferable.

(C) The fee for charitable, civic, educational, or religious organizations registered with the Secretary of State or possessing an Internal Revenue Service tax exempt status when approved by the City Secretary shall be \$10 per year.

(D) Licenses shall be issued to expire on December 31 of the year in which issued.  
(’62 Code, § 8-10-3) (Ord. 89036, passed 9-11-89; Am. Ord. 200022, passed 11-20-00) Penalty, see § 11-7-99

**§ 11-7-4 COMPLIANCE WITH STANDARDS; SANITARY CONDITIONS REQUIRED.**

Establishments and food shall be kept in a wholesome and sanitary condition. Compliance with standards specified or as hereafter adopted by the Health Department shall be maintained.  
(’62 Code, § 8-10-4) (Ord. 83048, passed 10-17-83) Penalty, see § 11-7-99

***RULES ON FOOD SERVICE AND RETAIL FOOD STORE SANITATION***

**§ 11-7-15 ADOPTION BY REFERENCE.**

“Texas Food Establishment Rules,” adopted by the Texas Board of Health, a copy of which is on file in the Health Department Office, and any amendments thereto are hereby adopted and incorporated into the code of ordinances as fully as if copied verbatim herein as found in TEX. ADMINISTRATIVE CODE Chapter 25.  
(Ord. 94001, passed 1-10-94; Am. Ord. ORD-2002-18, passed 7-22-02)

## **§ 11-7-16 CONFLICTING PROVISIONS; MORE STRINGENT TO PREVAIL.**

In the case of any conflict between this code of ordinances, and the “Texas Food Establishment Rules” and any amendments thereto which are hereby adopted and incorporated into the code of ordinances as fully as if copied verbatim herein as found in TEX. ADMINISTRATIVE CODE Chapter 25 the more stringent provisions shall govern.

(Ord. 94001, passed 1-10-94; Am. Ord. ORD-2002-18, passed 7-22-02)

## **§ 11-7-17 PERMIT PROVISIONS.**

(A) It shall be unlawful for any person to operate a food service establishment, temporary food service, food processing establishment, mobile food unit, seafood peddler, and retail food store in the city who does not possess a current, valid permit from the city. Such permit shall be posted in a conspicuous place, and only persons who comply with the requirements of this subarticle shall be entitled to receive and retain such a permit.

(B) Such permit may be temporarily suspended or revoked by the Health Director or Inspector upon the violation by the holder of any of the terms of this subarticle.

(1) *Fees.* Each person required to secure a permit under this subarticle shall, before issuance of any permit, pay to the city the sum herein provided as an inspection and permit fee according to the following schedule:

Food service establishments	\$100
Mobile units	\$100
Retail food stores	\$100
Temporary food establishments	\$25
Late fee	\$50
Seafood peddler	\$100

### *(2) Expiration and renewal.*

(a) Permits issued for food establishments, mobile units, retail food stores, shall automatically expire on the 31st day of December next following its issuance, except as otherwise stated herein. Such permit shall also automatically expire if the holder thereof changes the location of his place of business, sells, transfer equity, or otherwise disposed of such business or materially changes the character of such business.

(b) Upon the expiration of a permit, and within 30 days thereafter, the person conducting the business shall obtain a renewal thereof in the same manner as an original permit, if he wishes to

continue operating the business. Failure by an establishment to pay this fee within 30 days will require such establishment to pay an additional \$25 late fee.

(3) Temporary food establishment permits shall be issued only for 14 days or less in conjunction with a single event or celebration.

(Ord. 94001, passed 1-10-94; Am. Ord. 200022, passed 11-20-00) Penalty, see § 11-7-99

#### **§ 11-7-18 FOOD HANDLING CERTIFICATION REQUIRED; REVOCATION; DISPLAY.**

(A) *Certification.*

(1) All employees and/or individuals who work or assist in food service, temporary food service, food processing establishments, retail food stores, or mobile food units must obtain food handling certification before beginning to work. A minimum of two hours of food sanitation training for each employee is required every three years to ensure employee performance of their duties in accordance with food service sanitation ordinances rules and regulations.

(2) This training shall be an approved Health Department course.

(a) A fee of \$3 will be charged for each food handler permit issued by the Health Department.

(b) A non-profit organization will be charged a fee of \$10 for members of the organization who will assist in food preparation as long as the organization is able to show Form 990 and/or documents from the State of Texas showing non-profit exempt status.

(3) A food handler's permit shall be valid for a period of three years from the date of issuance, unless valid permit is sooner revoked by the City Health Director or Inspector.

(B) *Revocation.* If inadequate hygienic performance is demonstrated by the employee and such unsatisfactory performance is a result of material violations of food service sanitation ordinances, rules or regulations, the Health Director or Inspector may revoke the food handler's permit.

(C) *Posting.* Each food handler permit shall be at all times kept posted, filed or otherwise readily available for viewing by a Health Director or Inspector.

(Ord. 94001, passed 1-10-94) Penalty, see § 11-7-99

#### **§ 11-7-19 SEAFOOD PEDDLERS.**

In addition to other applicable rules in this subarticle shall comply with the following:

(A) *Seafood supply.* Seafood shall be in sound condition, free from spoilage, filth or other type of contamination and shall be safe for human consumption.

(B) *Seafood storage.* Seafood shall be stored in a sanitized (using chlorine solution) container with sufficient effective insulation and ice or refrigeration to provide and maintain a product temperature of 45°F, or below at all times except during the necessary periods of transfer to the customer. Ice shall be obtained from an approved source. The container must be in sound condition and must remain in an enclosed area at least 18 inches off the ground or as otherwise approved by the Health Director or Inspector.

(C) *Waste disposal.* A holding tank of at least five gallon capacity must be provided for liquid waste.

(D) *Construction of peddling unit.* All units must be completely enclosed, with tight-fitting doors. The enclosed area may be screened or covered to prevent entry of flies. The interior surface must be in good condition, not rusty, with floors made of nonabsorbent material.

(E) *Equipment and utensils.* The following equipment and utensils shall be required: At least one five-gallon container filled with water from an approved source to be used for handwashing, appropriately labeled, single service towels and one spray bottle of acceptable sanitizing agent for use with scale.

(Ord. 94001, passed 1-10-94) Penalty, see § 11-7-99

### **HANDLING OF MEATS**

#### **§ 11-7-30 INSPECTION MARKS REQUIRED.**

(A) No person shall expose and offer for sale, or sell or otherwise dispose of, or have in his possession for the purpose of selling for human consumption, within the city limits, any meat of any cattle, sheep, swine or goat which does not have on each primal part of it the meat inspection brand or other mark of identification of the Meat Inspection Division, Health Department, the meat inspection brand or mark of identification of the United States Department of Agriculture, Bureau of Animal Industry or the meat inspection brand or mark of identification of such municipality whose meat inspection standards and construction standards are equivalent to that maintained by the city and recognized by the Chief Meat Inspector of the Health Department. If any carcass of any animal hereinbefore named, or primal part thereof found, offered for sale or exposed within the city, which does not bear any of the meat inspection brands or marks recognized by the Chief Meat Inspector, the Chief Meat Inspector shall take possession of and destroy such meat or exclude same from the city limits.

(B) No person shall ship, send, bring, or cause to be brought into the city, the meat of any cattle, sheep, swine or goat which does not bear on each primal part thereof the meat inspection brand or other mark of identification required by this subarticle.

('62 Code, § 8-4-1) Penalty, see § 11-7-99

**§ 11-7-31 ADOPTION OF MEAT INSPECTION REGULATIONS.**

The rules and regulations governing the sanitation of slaughterhouses and establishments where meat food products are slaughtered, sold, stored or processed and manufactured, are hereby adopted, attached hereto and shall be known as the "Meat Inspection Regulations." ('62 Code, § 8-4-2)

**§ 11-7-32 UNLAWFUL DESTRUCTION OF IDENTIFICATION DEVICES OR CARCASSES.**

It shall be unlawful for any person to forge, counterfeit, simulate or falsely represent or without proper authority to use or detach, or knowingly or wrongfully alter, deface or destroy any of the stamps, marks, brands, tags, labels, or other identification devices recognized by the Chief Meat inspector, or any cattle, sheep, swine, or goat or any carcass or any part of any carcass of any animal herein named. This section shall not apply to butchers cutting up carcasses for purpose of sale.

('62 Code, § 8-4-3) Penalty, see § 11-7-99

**§ 11-7-33 PERMIT REQUIRED.**

No person shall manufacture or process any meat product or meat food product, or have in possession, for sale, any meat product or meat food product until such person has applied for a permit to do business as herein prescribed as required for official establishments.

('62 Code, § 8-4-4) Penalty, see § 11-7-99

**§ 11-7-34 INSPECTION; FEES.**

(A) The following fees shall be charged for inspection and shall be collected by the Secretary each calendar month after invoices for such fees have been prepared by the Health Department, which department shall send a copy of each invoice to the permit holder and the Secretary.

(B) The remittance for the amount due for such fees shall be made by the permit holder to the Secretary within 10 days from the date of the invoice.

(1) All persons operating slaughterhouses or carrying on a meat slaughtering, packing or processing business, subject to the provisions herein, and whose plants are located within or without the city limits who sell meat or meat products in the city, shall be inspected under the supervision of the Health Department by a Meat Inspector of the city who has been assigned by the Chief Meat Inspector with approval of the Director of Public Health to such plant, for inspection service, the sum of \$1 per head on cattle and swine, and \$0.50 per head on small animals, sheep, and goats. Beef cattle weighing less than 400 pounds will be classed as small animals.

(2) Where such plants as those described in subdivision (1) of this division hereof operate only on a part time basis, prior arrangements for inspections on a part time basis must be made with the Chief Meat Inspector.

(3) All persons who do not engage in an exclusively retail business or a business of which its major portion is retail, being persons, whose businesses are not substantially retail, but who process meat and manufacture meat products or meat food products shall be inspected by the Chief Meat Inspector.

(a) *Overtime work of meat inspection employees.* The management of a working official establishment desiring to operate under conditions which will require the services of an employee of the city on Sunday or a holiday, or for more than four hours on Saturday or for more than eight working hours of any other day shall sufficiently in advance of the period of overtime, request the inspector in charge or his assistant to provide inspection service. It will be administratively determined from time to time which days constitute holidays.

(b) The term **PROCESSING**, as defined herein, shall have the meaning of its customary trade usage and shall include subjecting the meat to a process of curing, smoking, cooking, seasoning, flavoring, mixing, or to any combination of such processes.

(4) Mileage shall be charged for inspections outside the county at a rate of \$0.07 per mile from the city limits to and from the plant inspected.  
(‘62 Code, § 8-4-5) Penalty, see § 11-7-99

#### **§ 11-7-35 INSPECTIONS BY OTHER THAN CITY.**

Persons operating slaughterhouses carrying on a meat slaughtering or meat packing business whose plants and establishments are inspected by an inspector of the United States Department of Agriculture are hereby exempt from the payment of inspection fees to the city in view of the recognition of the meat inspection brands or marks of identification of the United States Department of Agriculture.  
(‘62 Code, § 8-4-6)

#### **§ 11-7-36 COMPLIANCE WITH RULES AND REGULATIONS REQUIRED.**

(A) No person, exposing or offering for sale, or selling in the city, any meat, meat products, or meat food products which meat, meat products or meat food products, or the container thereof, bears the meat inspected brands or other mark or identification of a municipality whose meat inspection standard is recognized by the city shall not carry on such business in the city unless the rules and regulations herein provided for are complied with; and such person must pay the actual cost of any inspections of his plant made by the city. The cost of such inspection service shall be paid to the Secretary.

(B) Processed meats and meat products shall be subject to the inspections and requirements as to brands and marks of identification as provided for in the regulations herein.  
(‘62 Code, § 8-4-7) Penalty, see § 11-7-99

**§ 11-7-37 CONNECTION TO SEWER SYSTEM.**

Any person operating slaughterhouses or carrying on a meat slaughtering, packing or processing business who desire to connect to the sanitary sewer shall provide preliminary sewage treatment of all sewage except domestic sewage, before a permit shall be issued to connect to the sanitary sewer, the nature and scope of such preliminary treatment to be approved by the City Engineer before the permit is to be granted.

('62 Code, § 8-4-8)

**Cross-reference:**

*Sewers, see §§ 5-2-1 et seq.*

**§ 11-7-38 APPEALS.**

When the action of an inspector in condemning any meat or product is questioned, appeal may be made to the inspector in charge, and from his decision appeal may be made to the Director of Health, Manager and Commission whose decision shall be final.

('62 Code, § 8-4-9)

**MEAT INSPECTION REGULATIONS****§ 11-7-50 DEFINITIONS.**

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

**ANIMAL.** Cattle, sheep, swine, or goats.

**ASSISTANT MEAT INSPECTOR.** A layman with a high school education, with at least two years experience in meat industry, who assists veterinary meat inspectors in ante mortem and post mortem inspections.

**CARCASS.** All parts, including viscera, of a slaughtered animal, that are capable of being used for food.

**CHIEF MEAT INSPECTOR.** The holder of a degree of Doctor of Veterinary Medicine from a recognized college of veterinary medicine and licensed to practice in the state.

**DIRECTOR OF PUBLIC HEALTH.** The Health Officer of the city.

**IMMEDIATE CONTAINER OR TRUE CONTAINER.** The unit, can, pot, tin, canvas, or other receptacle or covering in which any product is customarily transported from the establishment.

**KINGSVILLE INSPECTED AND CONDEMNED.** That the carcasses, parts of carcasses, meat, meat products or meat food products so marked are unsound, unhealthful, unwholesome, or otherwise unfit for human food.

**KINGSVILLE INSPECTED AND PASSED.** That the carcasses, parts of carcasses, meat, meat products, or meat food products so marked have been inspected and passed under these regulations, and were found to be sound, healthful, wholesome, and fit for human food. The term **MARK**, **STAMP** and **BRAND** shall mean the Kingsville Inspected and “passed” mark, stamp or brand.

**KINGSVILLE RETAINED.** That the article so marked is held for further examination by the inspector to determine its disposal.

**KINGSVILLE SUSPECT.** That the animal so marked is suspected of being affected with a disease or condition which may require its condemnation in whole or in part when slaughtered and is subjected for further examination by an inspector to determine its disposal.

**MEAT.** The edible part of the carcasses of cattle, sheep, swine and goats.

**MEAT BY-PRODUCTS.** Any edible part other than meat which has been derived from one or more cattle, sheep, swine, or goats.

**MEAT FOOD PRODUCT.** Any article of food, or any article intended for or capable of being used as human food which is derived or prepared, in whole or in substantial and definite part, from any portion of any cattle, sheep, swine or goats, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

**MEAT INSPECTOR.** A graduate of a recognized college of veterinary medicine and licensed to practice in the state.

**OFFICIAL ESTABLISHMENT.** Any slaughtering, meat canning, curing, smoking, salting, packing, rendering or other similar establishments or plants at which inspection is maintained under these regulations.

**OFFICIAL STATIC.** One or more official establishments included under a single supervision.

**PASSED FOR STERILIZATION, PASSED FOR COOKING or PASSED AFTER COOKING.** That the carcasses, parts of carcasses, meat, meat products, or meat food products so marked have been inspected and passed on condition that they be rendered into lard or tallow or otherwise cooked by methods approved by the Chief Meat Inspector.

**PRIMAL PARTS.** The usual sections, cuts or parts of the dressed carcass commonly known in the trade, such as sides, quarters, shoulders, hams, backs, bellies, beef tongues, and beef livers before they have been cut, shredded or otherwise subdivided preliminary to use in the manufacture of meat food products.

**PRODUCT.** Any part or all of meat, meat by-product and meat food product.

**SHIPPING CONTAINER OR OUTSIDE CONTAINER.** The box, bag, barrel, crate, or other receptacle or covering enclosing any product packed in one or more immediate or true container. ('62 Code, § 8-4-10(A))

#### **§ 11-7-51 SCOPE OF INSPECTION.**

All animals and all meat and meat products entering an establishment at which inspection is required by these regulations and all meat and meat products prepared in whole or in part, therein, shall be inspected, handled, prepared and marked as required by these regulations. ('62 Code, § 8-4-10(B))

#### **§ 11-7-52 ORGANIZATION OF INSPECTORS.**

(A) The Chief Meat Inspector shall be appointed by the Manager, subject to the approval of the Commission, and will be responsible to the Director of Public Health for all meat inspection, sanitation and reports as provided for in this subarticle. The Chief Meat Inspector will assign the Meat Inspector or inspectors to each official establishment and such meat inspectors as it is deemed necessary to carry out the provisions of this subarticle.

(B) Meat inspection is conducted under the general supervision of the Director of Public Health, the Meat Inspection Division being a public health function. All employees assigned to the work of meat inspection are to be appointed by the Manager subject to the approval of the Commission. ('62 Code, § 8-4-10(C))

#### **§ 11-7-53 OFFICIAL NUMBERS AND INAUGURATION AND WITHDRAWAL OF INSPECTION.**

(A) To each establishment granted inspection an official number shall be assigned. Such number shall be used to identify all inspected and passed meat and products prepared in the establishment.

(B) Two or more official establishments under the same ownership or control may be granted the same official number, provided a serial letter is added in each case to identify such establishment and the products thereof.

(C) Each official establishment shall be separate and distinct from any unofficial establishment in which any meat or product is handled. Inspection shall not be inaugurated in any building any part of which is used as living quarters, unless the part for which inspection is requested is separated from quarters by floors, walls, and ceilings, and the floors, walls, and ceiling are without opening directly or indirectly communicating with any part of the building used as living quarters.

(D) Inspection shall not be begun if establishment is not in a sanitary condition nor unless the establishment provides and agrees to maintain adequate facilities for conducting such inspection.

(E) (1) Each and every meat or meat food product establishment which desires to operate and do business and sell meat or meat products in the city, shall before beginning operation under this subarticle make application in writing to the Chief Meat Inspector, Health Department, of the city for a permit to do business in the city.

(2) For all future plants or modifications of existing plants, the building plans shall be complete engineering and architectural drawings showing floor plans, cross section of rooms, lighting, ventilation, drains, water connections, machinery, and layout before construction is begun.

(F) All meat and meat food processing plants who now sell meat or meat products in the city, shall comply with the provisions of this subarticle.

(G) When plans are in accordance with the terms of this subarticle, a permit in writing shall be issued by the Director of Health to the applicant for the construction of a meat and/or meat product plant, and a written permit for operation of a plant shall be issued by the Meat Inspection Division of the Public Health Department subject to inspection provided in this subarticle. The permit shall be in full force and effect until revoked for the noncompliance of this or any other health or sanitary regulation of the city, and subject to payment of all fees herein required.

(H) If any application for the construction and operation of the city inspected meat or meat food products plans is disapproved by the Director of Health and his staff, the applicant shall have the right of appeal to the Manager and Commission. The Director of Health shall make the usual inspections during construction.

(I) When an application for inspection is granted, the Chief Meat Inspector shall, prior to the inauguration of inspection, inform the proprietor or operator of the establishments of these regulations. The establishment shall adopt and enforce all necessary measures and shall comply with all such regulations.

(J) Inspections may be refused and no meat or meat products approved from any establishment which violates or falls to comply with any provisions of this subarticle.

(K) Inspectors shall report to the Chief Meat Inspector all violations and failures of these regulations.

('62 Code, § 8-4-10(D)) Penalty, see § 11-7-99

**§ 11-7-54 ASSIGNMENT OF INSPECTORS; INTERFERENCE WITH INSPECTORS PROHIBITED.**

The Chief Meat Inspector shall designate a meat inspector in charge of the inspection at each establishment, and assign to the inspector such assistants as may be necessary.

(A) For the purpose of any examination, or inspection, inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of any official establishment to which they are assigned.

(B) Each inspector will be furnished with a numbered official badge which he shall wear at all times when on duty and not allow to leave his possession. This badge shall be sufficient identification to entitle him to admittance at all regular entrances and to all parts of the establishment and premises to which he is assigned.

(C) No person shall resist, intimidate, delay, obstruct, hamper, abuse or interfere with any inspector in the discharge of any duty of his office, nor shall any person attempt by means of any threat or violence to deter or prevent any inspector from performing his duty.

(D) No city employee shall be detailed for duty at an establishment where any member of his family is employed by the establishment, nor shall any inspector in charge of other employees acting in a supervisory capacity be continued on duty as an official establishment where any member of his family is employed by an establishment under his jurisdiction. City employees are forbidden to solicit, for any person, employment at any official establishment, or by any officer, manager or employee thereof.

(E) It is a defense to prosecution under this section that the interference alleged consisted of speech, not otherwise unlawful, only.

('62 Code, § 8-4-10(E)) Penalty, see § 11-7-99

**§ 11-7-55 FACILITY REQUIREMENTS; COMPLIANCE REQUIRED.**

(A) All buildings, equipment and appurtenances to be used for the purpose of slaughtering animals shall conform to the minimum regulations set out by the State Department of Public Health, except as otherwise provided in these regulations and it is hereby provided that size and architectural features shall be modified by plans submitted to city to provide facilities adequate for proposed operations.

(B) All buildings, equipment and appurtenances presently used for slaughtering animals or facilities to be constructed in the future shall comply with the minimum requirements set out by the State Department of Public Health, except, as otherwise provided in these regulations. Modification from State Department of Public Health Standards will be made in accordance with the provisions of this subarticle.

('62 Code, § 8-4-10(F) and (H)) Penalty, see § 11-7-99

**§ 11-7-56 SANITATION; MINIMUM STANDARDS.**

Prior to the inauguration of inspection, an examination of the establishment and premises shall be made by the Director of Health and the Chief Meat Inspector and the requirements or sanitation and the necessary facilities for inspection specified.

(A) Official establishments shall be maintained in sanitary condition and to this end the requirements of these regulations shall be complied with.

(B) There shall be abundant light, both natural and artificial and sufficient ventilation for all rooms and compartments to insure sanitary conditions.

(C) There shall be an efficient drainage and plumbing system for the establishment and premises, and all drains and gutters shall be properly installed, with approved traps and vents, and there shall be a pitch of not less than one-fourth inch per foot to drainage outlet.

(D) The water supply shall be ample, clean, and potable, with adequate facilities for its distribution in the plant and its protection against contamination and pollution. Every establishment shall make known, and whenever required, shall afford opportunity for inspection of, the source of its water supply, the storage facilities and the distribution system. Equipment using potable water shall be so installed as to prevent back siphonage into the potable water system.

(E) The method and degree of treatment of the sewage shall meet and receive the approval of the State Board of Health at all times. If the establishment is located within the city limits, it shall comply with the Plumbing Code requirements for such establishments and method of initial sewage treatment shall be approved by the City Engineer before being allowed to connect to the sewer.

(F) The floors, walls, ceiling, partitions, posts, doors, and the other parts of all structures shall be of such materials, construction, and finish as will make them susceptible of being readily and thoroughly clean. The floors shall be kept watertight. The rooms and compartments used for edible products shall be separate and distinct from those used for inedible products. There shall be no connection between rooms or compartments containing inedible products and those containing edible products, except that there may be one connecting doorway between the slaughtering and viscera separating department and the tank charging room of the inedible products rendering department.

(G) The rooms and compartments in which any meat or product is prepared or handled shall be free from odors from dressing and toilet rooms, catchbasins, hide cellars, casing room, inedible tank and fertilizer rooms and livestock pens.

(H) Establishments shall be maintained free of flies, rats, mice and other vermin. The use of rat poisons is prohibited in rooms or compartments where any unpacked meat or products is stored or handled, except under such restrictions and precautions as the Chief Meat Inspector may prescribe; but their use is not forbidden in hide cellars, inedible compartments, out-buildings or similar places or in store rooms, containing canned or tierced products; so called rat viruses shall not be used in any part of an establishment of the premises thereof. The establishment and

all out-buildings shall be maintained in a rat-proof, and rat free condition.

(I) Neither dogs or cats shall be admitted into official establishments.

(J) Adequate sanitary facilities and accommodations shall be furnished by every establishment. Of these the following are specifically required:

(1) Dressing rooms, toilet rooms, and urinals shall be sufficient in number and ample in size, and conveniently located. The rooms shall be provided with windows to admit direct, natural light and have adequate facilities for artificial light. They shall be properly ventilated, and meet all requirements as to sanitary construction and equipment. They shall be separate from and have no direct openings into the rooms and compartments in which products are prepared, stored or handled. Where both sexes are employed, separate facilities shall be provided.

(2) Modern lavatory accommodations, including hot and cold water, soap, and towels shall be placed in or near toilet and urinal rooms and also at such other places in the establishment as may be essential to assure cleanliness of all persons handling products.

(3) Toilet soil lines shall be separate from house drainage line to a point outside the building and drainage from toilet bowls and urinals shall not be discharged into a grease catch basin.

(4) Properly located facilities for cleaning and disinfecting utensils and hands of all persons handling any product shall be provided.

(5) Smoking or use of any tobacco in any form will not be permitted in any portion of an establishment where meat or products are stored or handled.

(K) Equipment and utensils used for preparing, processing, and otherwise handling any meat or product shall be of such materials and construction as will make them susceptible of being readily and thoroughly cleaned and such as will insure strict cleanliness in the preparation and handling of all meat and products so far as practicable. Such equipment shall be made of metal or other impervious material. Trucks and receptacles used for inedible products shall bear some conspicuous and distinctive mark and shall not be used for handling edible products.

(L) (1) Rooms, compartments, places, equipment and utensils used for preparing, storing, otherwise handling any meat or products, and all other parts of the establishment shall be kept clean and sanitary.

(2) Sterilizing receptacles shall be constructed of rust resisting metal and shall be of sufficient size for complete immersion of the implements in water above 170°F for three minutes. Each sterilizing receptacle should be provided with a water line and overflow, and facilities for completely emptying the receptacle. If steam is not used, other means of heating the water above 170°F is necessary.

(M) Operations and procedures involving the preparation, storing or handling of any meat or products shall be strictly in accord with clean and sanitary methods.

(N) Rooms and compartments in which inspections are made and those in which animals are slaughtered or any meat or product is processed or prepared shall be kept sufficiently free of steam and vapors to enable employees to make inspections and to insure clean operations. The walls and ceiling of rooms and compartments under refrigeration should be kept reasonably free from moisture.

(O) Butchers, inspectors and others who dress or handle diseased carcasses or parts shall, before handling or dressing other carcasses or parts, cleanse their hands of grease, immerse them in a prescribed disinfectant and rinse them in clean water. Implements used in dressing diseased carcasses shall be thoroughly cleaned in boiling water or in a prescribed disinfectant, followed by rinsing in clean water. The employees of the establishment who handle any meat or product shall keep their hands clean, and in all cases after visiting the toilet rooms or urinals shall wash their hands before handling any meat or product or implement used in the preparation of the same.

(P) Aprons, frocks or other outer clothing worn by persons who handle any meat or product shall be of a material that is readily cleansed and only clean garments shall be worn. Scabbards and similar devices for the temporary retention of knives, steels and triers by workers and others at inspected establishments shall be constructed of rust resisting metal or other impervious material, and shall be of a type that may be readily cleaned, and shall be kept clean.

(Q) Such practices as spitting on whetstones, placing skewers or knives in the mouth, inflating lungs or casings, or testing with air from the mouth such receptacles as tierces, casks and the like, containing or intended as containers of any meat or product, are prohibited. Only mechanical means may be used for testing. Care shall be taken to prevent the contamination of products with perspiration, hair, cosmetics, medicants, saliva and the like.

(R) Vehicles used for transporting meat or meat products between establishments shall comply with requirements of this subarticle and kept in a sanitary condition and shall not be used for transporting live animals, manure or similar contaminating products.

(S) Secondhand tubs, barrels and boxes intended for use as containers of any meat or product shall be inspected when received at the establishment and before they are cleaned. Those showing evidence of misuse rendering them unfit to serve as containers for food products shall be rejected. The use of those showing no evidence of previous misuse may be allowed after they have been thoroughly and properly cleaned. Steaming after thorough scrubbing and rinsing, is essential to cleaning tubs and barrels.

(T) Interiors of tank cars about to be used for the transportation of any meat food product shall be carefully inspected for cleanliness even though the last previous content was edible. Lye and soda solutions used in cleaning must be thoroughly removed by rinsing with clear water. In their examinations inspectors shall enter the tank with a light and examine all parts of the interior.

(U) All catch basins on the premises shall be of such design and location and be given such attention as will insure their being kept in acceptable condition as regards to odors and cleanliness. Catch basins shall not be located in departments where the product is prepared or stored. The accumulation on the premises of establishments of any material in which flies may breed, such as hair, bones, paunch contents or manure, is forbidden. No nuisance shall be allowed in any establishment or on its premises.

(V) No establishment shall employ in any department where any meat or product is handled or prepared, any person affected with tuberculosis or other communicable disease in a transmissible stage.

(W) When necessary, inspectors shall attach a "Kingsville Rejected" tag on any equipment or utensil which is unsanitary, or the use of which will be in violation of these regulations. No equipment or utensil so tagged shall again be used until made sanitary. Such tag so placed shall not be removed by anyone other than an inspector.

(X) Inspectors in charge shall require the use of such protective coverings for products as are distributed from official establishments as will afford adequate protection for the product against dust, dirt, insects and all deleterious substances, considering the means intended to be employed in transporting the product from the establishment.

(Y) Since burlap used without any other material as a wrapping for meat deposits lint on the meat and does not sufficiently protect it from outside contamination, the use of burlap as a wrapping for meat will not be permitted unless the meat is first wrapped with a good grade of paper or cloth of a kind which will prevent contamination with lint or other foreign matter.  
( '62 Code, § 8-4-10(G)) Penalty, see § 11-7-99

#### **§ 11-7-57 ANTE AND POST MORTEM INSPECTION.**

(A) An ante mortem examination and inspection shall be made of all cattle, sheep, swine and goats about to be slaughtered in an official establishment before their slaughter shall be allowed. This inspection shall be conducted in accordance with the regulations governing meat inspection as established by the United States Department of Agriculture, Bureau of Animal Industry and recorded in CFR, Title 9, Chapter III, Subchapter A, as amended, Part 309, in its entirety, a copy of which is on file with the Secretary.

(B) A careful post mortem examination and inspection shall be made of the carcass and parts thereof of all cattle, sheep, swine and goats slaughtered at official establishments. This inspection shall be done in accordance with the regulations governing meat inspection as established by the United States Department of Agriculture, Bureau of Animal Industry and recorded in CFR, Title 9, Chapter III, Subchapter A, as Amended, Part 310, in its entirety.

(C) No carcass of any animal slaughtered in the city which has had ante mortem inspection shall be brought into an official establishment.  
( '62 Code, § 8-4-10(I), (J) and (L)) Penalty, see § 11-7-99

**§ 11-7-58 DISPOSAL OF DISEASED CARCASSES AND PARTS.**

The carcasses or parts of carcasses of all animals slaughtered at an official establishment and found at the time of slaughter or any subsequent inspection to be infected with a disease or condition shall be disposed of according to the regulations governing meat inspection as set down by the United States Department of Agriculture, Bureau of Animal Industry and recorded in CFR, Title 9, Chapter III, Subchapter A, as Amended, Part 311, in its entirety.

('62 Code, § 8-4-10(K)) Penalty, see § 11-7-99

**§ 11-7-59 TANK ROOMS AND TANKS.**

The use and operation of tanks and tank rooms will be in compliance with regulations governing meat inspection by the United States Department of Agriculture, Bureau of Animal Industry as they appear in CFR, Title 9, Chapter III, Subchapter A, as amended, Part 313, in its entirety, except as provided otherwise in this subarticle.

('62 Code, § 8-4-10(M)) Penalty, see § 11-7-99

**§ 11-7-60 TANKING AND DENATURING OF CONDEMNED PARTS.**

(A) Condemned carcasses and products of official establishments having facilities for tanking shall be disposed by tanking in accordance with the regulations governing meat inspection by the United States Department of Agriculture, Bureau of Animal Industry as they appear in the CFR, Title 9, Chapter III, Subchapter A, as amended, Part 314, in its entirety.

(B) Any meat or product condemned at an official establishment which has no facilities for tanking, shall, under the supervision of the inspector, be denatured with crude carbolic acid or other prescribed agent, or destroyed by incineration. When such meat or product is not incinerated all containers thereof shall be opened, and all meat shall be freely slashed with a knife, before denaturing agent is applied.

(C) Official establishments not equipped for the proper deposition of inedible or condemned carcasses, parts or products in accordance with these regulations or those desiring to dispose of such inedible or condemned carcasses, parts or products through reduction or rendering plants not under official supervision may do so after obtaining a written permit from the Director of Health. When applying for such a permit the applicant shall designate the name and location of such reduction or rendering plant, whereupon, if the designated plant is approved by the Director of Health, a permit will be granted. Such permit may be revoked at any time when it is found that such reduction or rendering plant is conducted in an insanitary or obnoxious manner, or if the inedible or condemned carcasses, parts, or products are not disposed of in accordance with these regulations. It shall be the duty of the inspector to supervise the removal of the inedible offal from the premises of the official establishment.

('62 Code, § 8-4-10(N)) Penalty, see § 11-7-99

**§ 11-7-61 RENDERING OF CARCASSES AND PARTS PASSED FOR COOKING.**

Carcasses and parts passed for cooking may be rendered into lard or rendered pork fat respectively, such rendering to be done in accordance with regulations governing meat inspection by the United States Department of Agriculture, Bureau of Animal Industry as they appear in CFR, Title 9, Chapter III, Subchapter A, as amended, Part 315, in its entirety.  
(‘62 Code, § 8-4-10(O)) Penalty, see § 11-7-99

**§ 11-7-62 INSPECTION LEGEND.**

Each carcass or parts which have been inspected and passed in an official establishment shall be marked at the time of inspection with the inspection legend and with the number of the establishment. In accordance with the regulations governing meat inspection by the United States Department of Agriculture, Bureau of Animal Industry, as they appear in CFR, Title 9, Chapter III, Subchapter A, as amended, Part 316, in its entirety, except the inspection legend and the number shall be separate and distinct from any other legend and number of official establishments including the Department of Agriculture Legend.  
(‘62 Code, § 8-4-10(P)) Penalty, see § 11-7-99

**§ 11-7-63 LABELING.**

When in an official establishment an inspected and passed product is placed or packed in any can, pot, tin, canvas, or other receptacle or covering constituting an immediate or true container there shall be affixed to such container or covering a label, the official Kingsville label, according to the regulations governing meat inspection by the United States Department of Agriculture, Bureau of Animal Industry as they appear in CFR, Title 9, Chapter III, Subchapter A, as amended, Part 317, in its entirety.  
(‘62 Code, § 8-4-10(Q)) Penalty, see § 11-7-99

**§ 11-7-64 REINSPECTION OF MEAT AND MEAT PRODUCTS.**

All products freshly cured or otherwise prepared, even though previously inspected and passed, shall be reinspected as often as may be necessary in order to ascertain whether they are found healthful, wholesome, and fit for human food at the time they leave official establishments according to the regulations governing meat inspection by the United States Department of Agriculture, Bureau of Animal Industry as they appear in CFR, Title 9, Chapter III, as amended, Part 318, in its entirety.  
(‘62 Code, § 8-4-10(R))

**§ 11-7-65 SHIPPING INSPECTIONS.**

Shipping inspection may be established to provide for the interstate transportation or export of portions of inspected and passed products which are according to regulations governing meat inspection by the United States Department of Agriculture, Bureau of Animal Industry as they appear in CFR, Title 9, Chapter III, Subchapter A, as amended, Part 325, in its entirety.  
(62 Code, § 8-4-10(S))

**§ 11-7-66 BRIBES.**

No inspector engaged in the performance of any duty prescribed by this subarticle or §§ 11-7-30 through 11-7-38 of this article shall accept from any person, any gift, money, or other thing of value given with the intent to influence his official action, or shall receive or accept from any person selling meat in the city, any gift, money, or any other thing of value for any purpose or intent whatever.  
(62 Code, § 8-4-10(T)) Penalty, see § 11-7-99

**§ 11-7-67 LOCAL TRANSPORTATION OF MEAT AND MEAT PRODUCTS.**

Local transportation of meat and meat products shall be in vehicles whose loading sections are totally enclosed in metal, wood or glass, and such meat or meat products shall have protective coverings which will afford adequate protection against dust, dirt, insects and all deleterious substance.  
(62 Code, § 8-4-10(U)) Penalty, see § 11-7-99

***FRUIT AND VEGETABLE STANDS; PEDDLERS*****§ 11-7-75 FRUIT AND VEGETABLE STANDS.**

All fresh fruit and all vegetables, if not kept in a refrigerator or other inclosed container, shall be kept at least 18 inches above the floor or ground of the room or place where same may be exposed for sale. All fruit and vegetables shall be kept within the place of business and no sidewalk displays shall be used unless they are properly screened in a manner approved by the Health Officer.  
(62 Code, § 8-2-1) Penalty, see § 11-7-99

**§ 11-7-76 FRUIT AND VEGETABLE PEDDLERS.**

All vehicles used for transporting or peddling food in any form, and all the contents thereof, shall always be kept in a wholesome and sanitary condition, and no person owning, using or driving such wagon or vehicle or any person peddling food in any form, who is afoot shall permit same to contain unwholesome, fermenting, or decaying fruit, vegetables or other food or food

products, and the contents of each vehicle or other container shall be securely covered and protected from flies, insects

and dirt by clean and sound wire screen 16 meshes to the inch or by some other means approved by the Health Officer. All such food and vegetable peddlers shall not sell any merchandise of any description on the streets of the city without first having obtained a permit as required herein, pertaining to the particular type of commodity sought to be peddled; provided, however, that in addition to the permit and license required in this article all such food and vegetable peddlers shall first obtain the approval of the Health Officer.

('62 Code, § 8-2-2) Penalty, see § 11-7-99

#### **§ 11-7-77 PERMIT REQUIRED; ISSUANCE; SUSPENSION.**

(A) Permits shall be issued to owners or operators of businesses after inspection by the Health Officer showing that they have complied with all provisions of this article. Such permit shall be issued to expire on December 31 of the year in which issued. After inspection, and before the issuance of any permit, a fee of \$75 shall be paid to the city as an inspection and permit fee. The permit shall be for a specific address and owner. Permits are not transferable.

(B) It shall be unlawful for any person to engage in, conduct or operate in any manner the businesses named in this article who does not possess an unrevoked permit from the Health Officer and in whose place of business such permit is not posted in a conspicuous place.

(C) Such permit may be suspended by the Health Officer or revoked after an opportunity for a hearing by the Health Officer upon the violation by the holder of any terms of this article.

('62 Code, § 8-2-3) (Ord. 89035, passed 9-11-89) Penalty, see § 11-7-99

### ***MILK***

#### **§ 11-7-85 ADOPTION OF MILK CODE.**

The production, transportation, processing, handling, sampling, examination, grading, labeling, regrading, and sale of all milk and milk products sold for ultimate consumption within the municipality, or its police jurisdiction; the inspection of dairy herds, dairies, and milk plants; the issuing and revocation of permits to milk producers, haulers, and distributors; and the fixing of penalties, shall be regulated in accordance with the terms of the unabridged form of the Milk Ordinance and Code—1953 Recommendations of the Public Health Service, a copy of which shall be on file in the office of the Secretary; provided, the words “municipality of” in the unabridged form shall be understood to refer to the City of Kingsville; provided further, that in § 7, Item 1r, of the unabridged Ordinance, either Plan A or Plan B approved by the USDA for the eradication of brucellosis shall be in effect within one year; provided further, that §§ 8, 16, and 17 of the unabridged Ordinance shall be replaced, respectively, by §§ 1-1-99 and 11-7-99 of this code.

('62 Code, § 8-3-1)

**§ 11-7-86 SALE OF MILK REGULATED.**

No milk or milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments, except certified pasteurized and grade A pasteurized; provided, that when any milk distributor fails to qualify for one of the above grades, the Health Officer is authorized to suspend his permit and/or to institute court action, or, in lieu thereof, to degrade his product and to permit its sale during a temporary period not exceeding 30 days, or in emergencies such longer period as he may deem necessary.

('62 Code, § 8-3-2) Penalty, see § 11-7-99

**§ 11-7-87 PERMIT REQUIRED; SUSPENSION OR REVOCATION; FEE.**

(A) It shall be unlawful for any person who does not possess a permit from the health authority of the city to bring into, send into, or receive into the city or its police jurisdiction, for sale, or to sell, or offer for sale therein, or to have in storage an milk or milk products defined in the Milk Code of the city; provided, that, grocery stores, restaurants, soda fountains, and similar establishments where milk or milk products are served or sold at retail, but not processed, may be exempt from the requirements of this section.

(B) Only a person who complies with the requirements of the Milk Code shall be entitled to receive and retain such a permit. Permits shall not be transferable with respect to persons and/or locations.

(C) The health authority shall suspend such permit, whenever he has reason to believe that a public health hazard exists; or whenever the permit holder has violated any of the Milk Code or whenever the permit holder has interfered with the health authority in the performance of his duties; provided that the health authority shall, in all cases, serve upon the holder a written notice of intent to suspend permit, which notice shall specify with particularity the violations in question and afford the holder such reasonable opportunity to correct such violations as may be agreed to by the parties, or in the absence of agreement, fixed by the health authority, before making order of suspension effective; provided further, that where the milk or milk product involved creates, or appears to create, on imminent hazard to the public health; or in any case of a willful refusal to permit authorized inspection; or when the bacteria counts, coliform determinations, or cooling temperatures are in violations of the applicable requirement of the Milk Code, the health authority shall immediately suspend such permit. A suspension of permit shall remain in effect until the violation has been corrected to the satisfaction of the health authority.

(D) Upon written application of any person whose permit has been suspended, or upon application within 48 hours of any person who has been served with a notice of intention to suspend, the health authority shall within 72 hours proceed to a hearing to ascertain the facts of such violation or interference and upon evidence presented at such hearing shall affirm, modify, or rescind the suspension.

(E) Upon repeated violations, the health authority may revoke such permit following reasonable notice to the permit holder and or opportunity for a hearing. This section is not intended to preclude the institution of court action as provided in the Milk Code.

(F) There is hereby established on annual fee for such permit, as defined above, the sum of \$25.

('62 Code, § 8-3-3) Penalty, see § 11-7-99

### **§ 11-7-99 PENALTY.**

(A) Any person who violates any provision of this article for which no penalty is otherwise provided shall be subject to the penalty provided in § 1-1-99.

(B) Persons violating §§ 11-7-15 through 11-7-19 of this article shall be subject to a fine of not less than \$100, nor more than \$2,000 for each violation. Each day shall constitute a separate violation. In addition to any other action taken to correct improper handling of food, or unpermitted food vending, a Health Director or Inspector may issue any person selling food or beverages a citation which shall require the person to appear in the Municipal Court within 15 days to answer to such charge. Notice of the court date shall be noticed on the citation. This citation shall provide a space thereon for the party charged to waive trial on the merits and enter a plea of guilty or nolo contendere. Notwithstanding any other provision of this article, persons charged with violation may, after entering a plea of guilty or nolo contendere in the space provided, pay a fine in the amount of \$100, or more as recommended by the City Attorney with the approval of the Municipal Court Judge for each violation, to the Clerk of the Municipal Court within 15 days. Each occasion that an individual is found selling food or beverages in violation of this article will constitute a separate offense. The above shall be in addition to the right to suspend or revoke any granted permit herein. Signing of the citation by the owner of the establishment shall only be a promise to appear in Municipal Court and is not an admission of guilt. It shall be unlawful to fail to appear in Municipal Court on the date noted on the citation. Should the owner of the establishment fail or refuse to sign the citation, the Health Director or Inspector of the City/County Health Department shall file a complaint against such owner in Municipal Court. (Ord. 94001, passed 1-10-94)

(C) Any inspector found in violation of §§ 11-7-32 and 11-7-66 of this article shall be punished by a fine not to exceed \$200. ('62 Code, § 8-4-10)



## **ARTICLE 8: PHRENOLOGISTS AND FORTUNE TELLERS**

### **Section**

- 11-8-1 Permit required
- 11-8-2 Application
- 11-8-3 Cost of permit

### **§ 11-8-1 PERMIT REQUIRED.**

It shall be unlawful for any person to pursue the occupation of phrenology, palmistry, or any other mode of fortune telling as that word implies, within the city, without first having applied for and obtained a city permit to operate, and in the practice to charge for the service either in money or other thing of value or receive or accept any donations whatsoever from customers of the person practicing phrenology or palmistry as heretofore defined.

('62 Code, § 5-2-1) (Am. Ord. ORD-2005-05, passed 1-24-05) Penalty, see § 1-1-99

### **§ 11-8-2 APPLICATION.**

Any person applying for a city permit to pursue the occupation of phrenology or palmistry shall make a written application to the City Secretary, giving his name, age and residence and the application shall then be by the City Secretary referred to the Chief of Police for their approval or rejection.

('62 Code, § 5-2-2) (Am. Ord. ORD-2005-05, passed 1-24-05)

### **§ 11-8-3 COST OF PERMIT.**

There shall be paid by the applicant for the permit, if same is approved by the Chief of Police, the sum of \$500 as an annual permit to pursue the occupation.

('62 Code, § 5-2-3) (Am. Ord. 20002, passed 11-20-00; Am. Ord. ORD-2005-05, passed 1-24-05)



## ARTICLE 9: JUNK YARDS

### Section

- 11-9-1 License required; declaration of nuisance
- 11-9-2 Application; license fee
- 11-9-3 Premises to be neat and orderly; fence required
- 11-9-4 Revocation of license

#### **Statutory reference:**

*State regulation of junkyards, see TEX. TRANS. CODE, §§ 391.121 et seq.*

#### **Cross-reference:**

*Abandoned and junked motor vehicles, see §§ 9-1-1 et seq.*

### **§ 11-9-1 LICENSE REQUIRED; DECLARATION OF NUISANCE.**

(A) Hereafter any place used or maintained by any person, partnership or corporation as a junk yard, or for the wrecking or dissembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind, or of any of the parts thereof, or for the maintenance or operation of such place for the accumulation of rubbish of any description, 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 the inhabitants, and is prohibited within the city limits, unless the same is conducted in the manner hereafter stated, following the payment of the license fee hereafter prescribed.

(B) For the purpose of this article, **RUBBISH** is defined as nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves, or similar materials. Noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600°F. to 1,800°F.).

('62 Code, § 5-12-1) (Am. Ord. ORD-2005-06, passed 1-24-05) Penalty, see § 1-1-99

### **§ 11-9-2 APPLICATION; LICENSE FEE.**

Any person, partnership or corporation desiring to use or maintain any property within the city for any of the purposes mentioned in this section, shall make written application to the Planning Administrator for a license. The 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 Planning and Zoning Commission 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 Planning Administrator upon the payment of a fee of \$500 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.

('62 Code, § 5-12-2) (Ord. 85031, passed 9-23-85; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2005-06, passed 1-24-05)

### **§ 11-9-3 PREMISES TO BE NEAT AND ORDERLY; FENCE REQUIRED.**

Any person, partnership or corporation granted a license as provided for in § 11-9-2 hereof, 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 at least eight feet high but no more than eight, and the fence shall be kept in a good condition, and no junk of any character, parts or machinery of any kind shall be allowed to remain outside such fence; provided, however, that any existing business of this character now being operated and maintained in the city shall be allowed three months within which to construct a fence of the kind and character required hereby.

('62 Code, § 5-12-3) (Am. Ord. ORD-2005-06, passed 1-24-05) Penalty, see § 1-1-99

### **§ 11-9-4 REVOCATION OF LICENSE.**

The City Commission shall have the power to revoke the license provided for herein at any time for good cause, but only after notice has been given to the owner or owners of the business of a hearing to be held not less than 10 days after the service of such notice.

('62 Code, § 5-12-4) (Am. Ord. ORD-2005-06, passed 1-24-05)

## **ARTICLE 10: TAXICABS**

### **Section**

#### ***General Provisions***

- 11-10-1 Definition
- 11-10-2 Who may operate vehicle
- 11-10-3 Engaging transportation by unlicensed taxicab unlawful
- 11-10-4 Name to be painted on cab
- 11-10-5 Appearance of driver
- 11-10-6 Use for immoral purposes prohibited
- 11-10-7 Rates to be posted; receipt for fare
- 11-10-8 Rates of fares
- 11-10-9 Refusal to pay fare
- 11-10-10 Taxicabs taxable; delinquent taxes
- 11-10-11 Decision of Commission final

#### ***Licensing Provisions***

- 11-10-20 License required
- 11-10-21 Application for license
- 11-10-22 Certificate of public convenience and necessity
- 11-10-23 Insurance policy required
- 11-10-24 Fee
- 11-10-25 Affidavit of ownership
- 11-10-26 Renewal of business license
- 11-10-27 Revocation of business license

#### ***Driver's License Requirements***

- 11-10-35 Taxicab driver's license required; application
- 11-10-36 Investigations
- 11-10-37 License nontransferable; termination
- 11-10-38 Revocation or suspension
- 11-10-39 Drivers must be licensed

#### ***Statutory reference:***

*Authority to regulate operators, see TEX. LOC. GOV'T CODE, § 215.0735*

**GENERAL PROVISIONS****§ 11-10-1 DEFINITION.**

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

**TAXICAB.** Every automobile or motor propelled vehicle used for transportation of passengers for hire over the public streets of the city; provided, however, the term shall not apply to motor buses operated within the city limits under a franchise from the city over a fixed or defined route, nor shall the term apply to motor buses regularly operated over a fixed and defined route in the city to or from points outside of the city limits.

('62 Code, § 5-10-1) (Am. Ord. ORD-2005-09, passed 1-14-05)

**§ 11-10-2 WHO MAY OPERATE VEHICLE.**

No taxicab for which a license shall have been issued shall be operated by anyone except the licensee thereof or any employee of the licensee.

('62 Code, § 5-10-7) (Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

**§ 11-10-3 ENGAGING TRANSPORTATION BY UNLICENSED TAXICAB UNLAWFUL.**

It shall be unlawful for any person knowingly to engage any transportation by motor vehicle which is operated in the same or similar manner employed by taxicab service or which comes within the purview of the taxicab regulations of this article unless such transportation so engaged shall be a duly authorized operation under license from the city; however, each and every person desiring to hire or engage a taxicab shall be permitted to select any city licensed taxicab of his choice at any place and at any time in the incorporated limits of the city.

('62 Code, § 5-10-7) (Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

**§ 11-10-4 NAME TO BE PAINTED ON CAB.**

Each taxicab operated in the city shall have plainly printed on each side thereon the name, trade name or firm name of the owner.

('62 Code, § 5-10-22) (Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

**§ 11-10-5 APPEARANCE OF DRIVER.**

Each licensed driver, when operating a taxicab, must keep clean in person and dress.  
( '62 Code, § 5-10-14) (Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

**§ 11-10-6 USE FOR IMMORAL PURPOSES PROHIBITED.**

It shall be unlawful for any person to transport or offer to transport or to aid or assist in transporting directly or indirectly, any person in, on, over or through the streets of the city, by means of a taxicab for the purpose of lawless assignation or prostitution or for any unlawful or immoral purpose.

( '62 Code, § 5-10-17) (Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

**§ 11-10-7 RATES TO BE POSTED; RECEIPT FOR FARE.**

(A) There shall be posted in a conspicuous place on the inside of each licensed taxicab, in addition to the license required by this article, a card showing the rates charged by the taxicab.  
( '62 Code, § 5-10-8) (Ord. 83058, passed 11-21-83)

(B) It shall be unlawful for the driver of any taxicab upon receiving full payment of a fare to refuse to give a receipt upon the request of any passenger making the payment. ( '62 Code, § 5-10-9)

(Am. Ord. ORD-2005-09, passed 1-14-05)

Penalty, see § 1-1-99

**§ 11-10-8 RATES OF FARES.**

After the effective date of this section, the fares, tariffs, rates, and charges to be made or exacted by taxicab owners and taxicab drivers operating vehicles for the transportation of passengers for hire in the city shall be as follows:

(A) A flat rate of \$7 per person shall be charged for travel from any point to any point.

(B) No charge for transportation of children under 10 years of age when accompanied by a fare-paying adult.

(C) No charge shall be made for the transportation of persons over 65 years of age when accompanied by a fare-paying adult.

(D) Pets and service animals will be allowed in taxicabs.

(E) The maximum number of fare-paying passengers to be allowed in a taxicab at any one time shall be five.

(F) The taxicab driver shall take the most direct route to the rider's destination.  
( '62 Code, § 5-10-21) (Ord. 83058, passed 11-21-83; Am. Ord. ORD-2005-09, passed 1-14-05)

#### **§ 11-10-9 REFUSAL TO PAY FARE.**

It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this article after having hired the same.

( '62 Code, § 5-10-10) (Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

#### **§ 11-10-10 TAXICABS TAXABLE; DELINQUENT TAXES.**

(A) It shall be the duty of every owner of every taxicab operated within the city to render for ad valorem taxes to the city all vehicles or other equipment used in such business, and to pay such ad valorem taxes to the city before they become delinquent. ( '62 Code, § 5-10-18)

(B) No permit or license thereof authorizing the operation of any taxicabs on the streets of the city shall ever be issued if any delinquent taxes are due the city upon any taxicab for which such permit or license or renewal thereof is sought. ( '62 Code, § 5-10-19)  
(Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

#### **§ 11-10-11 DECISION OF COMMISSION FINAL.**

The decision of the city on any application, motion, fact, issue or dispute submitted to or that may be determined under this article shall be binding and final. The burden of proof on any application filed under this article shall be upon the applicant.

( '62 Code, § 5-10-25) (Am. Ord. ORD-2005-09, passed 1-14-05)

### ***LICENSING PROVISIONS***

#### **§ 11-10-20 LICENSE REQUIRED.**

(A) It shall be unlawful for any person to drive or operate or cause to be driven or operated, any taxicab upon or over any street in the city unless there has been obtained by the owner of and for such taxicab a license, existing in full force and effect, duly issued by the city as hereinafter provided.

(B) No license to operate any taxicab shall be issued until the city shall declare by certificate that the public convenience and necessity require the proposed taxicab service for which application for license is made.

(C) In determining whether public convenience and necessity require the proposed taxicab service within the city, for which application may be made, the city shall take into consideration whether the demands for public convenience and necessity require proposed taxicab service within the city; the financial responsibility of the applicant; the number, kind, type and ownership of equipment, and the color scheme to be used by the applicant; the increased traffic congestion on the streets of the city which may result, and whether the safe use of the public streets of the city by the public, both vehicular and pedestrian will be unduly endangered by the granting of such additional license; and such other relevant facts as the city may deem advisable or necessary to determine the public necessity and convenience.

(D) All certificates of public necessity and convenience and all licenses issued for the operation of taxicabs under the terms of this article shall expire at 12:00 midnight, December 31, for the year in which issued, unless revoked prior thereto as provided in this article.  
(’62 Code, § 5-10-2) (Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

#### **§ 11-10-21 APPLICATION FOR LICENSE.**

(A) Every person who may hereafter desire a license to operate a taxicab in the city shall file under oath with the City Secretary a written application signed by such applicant and stating:

(1) His name and place of residence for the preceding two years, sex, age and customary occupation of the applicant, and whether any other person owns any interest in the business and the names of all persons owning any title or interest in any taxicab for which such license is required.

(2) The name, usual trade description, equipment, rated horsepower and factory number of such taxicab and the year in which the taxicab was manufactured or first issued.

(3) The kind of written insurance which the applicant desires to furnish the city.

(B) The Commission may require the applicant to furnish any additional information it may deem necessary to determine whether a certificate of public necessity and convenience shall be issued.

(’62 Code, § 5-10-3) (Am. Ord. ORD-2005-09, passed 1-14-05)

#### **§ 11-10-22 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

(A) Before a license for the operation of any taxicab in the city shall be issued under the provisions of this article a certificate declaring that the public convenience and necessity require the issuance of such license, shall be obtained from the Commission.



(B) Whenever such application is made to the Secretary under the provisions of this article for the operation of any taxicab in the city it shall be the duty of the Secretary to submit such application to the Commission or their duly appointed representative and such application shall be considered an application for a certificate of public convenience and necessity as well as an application for a license to operate a taxicab and the Commission shall make or cause to be made investigations, including any hearings deemed desirable on any application for such certificate, and shall determine whether or not the public convenience and necessity require the operation of such taxicab and whether or not the applicant is fit to conduct such business and may investigate the fitness of the officers and stockholders of any corporation making such application, and in determining whether or not a certificate should be issued the city shall give weight and due regard to, among the other requirements of this article, the probable performance and quality of the service offered by the application and the experience of the applicant in transportation of passengers.

(C) The number of taxicabs authorized to operate in the city and for which certificates of public convenience and necessity may be issued under the terms of this article shall be based upon the public convenience and necessity as found and determined by the Commission.

(D) (1) If the city finds that the public convenience and necessity require the operation of a greater or lesser number of taxicabs than that for which the certificate has been applied for, and that the applicant or owner is fit to conduct the business, and that the other requirements herein have been complied with, it shall notify the applicant of its findings. If it finds that public convenience and necessity do not require the operation of any such taxicabs or that the applicant is not fit to conduct such business it shall refuse such application and no certificate or license shall be issued to such applicant.

(2) If it be determined that the public convenience and necessity require the operation of such taxicabs and that the applicant is fit to conduct such business, the applicant shall within 10 days thereafter furnish to the city the state license number, the length of time the vehicle has been in use, the motor number thereof, the name and address of the person from whom the taxicabs were purchased and any other information required by the city. If the city finds that the applicant is the owner of such taxicabs and the same are fit and safe for the transportation of passengers and conform to the requirements of this article and to such other requirements that the city may make under the authority of this article, it shall issue or cause to be issued to the applicant the certificate herein provided for.

(E) Such certificate shall not be transferable without the consent and approval of the city, had after application and consideration as provided on original application; but the person to whom the certificate is issued may by appropriate endorsement made thereon under the direction and with the approval of the city, substitute another taxicab in the place of that for which the certificate was granted.

(F) If and when a certificate of public convenience and necessity is issued by, the city to any applicant he shall, within 30 days from its date, file this certificate with the City Secretary and the City Secretary, when further authorized by the city, shall issue a license for the operation of such taxicab as provided in this article upon payment of all fees and compliance with other provisions hereof.

('62 Code, § 5-10-4) (Am. Ord. ORD-2005-09, passed 1-14-05)

2006 S-8

**§ 11-10-23 INSURANCE POLICY REQUIRED.**

(A) Before a license shall be issued, the applicant shall pay the fees required by this article and furnish to the city and maintain in full force for each such taxicab to be licensed an insurance policy of public liability insurance issued by an insurance company authorized to do business in the State of Texas with policy limits in accordance with applicable requirements of state law, insuring the public against any loss or damage that may result to any person or property from the operation of such vehicle; provided, that the maximum amount of recovery in such policy of insurance specified shall not, for each vehicle, be less than \$50,000 for injury or death of one person and \$150,000 for injuries or deaths in any one occurrence; and not less than \$50,000 for injury to or destruction of property in any one occurrence. Each insurance policy shall require notice from the insurer to the city at least ten days before any such policy is to be terminated for any reason by the insurer or by the insured. This policy shall not contain a passenger liability exclusion. The applicant shall also have on the insurance policy for each vehicle personal injury protection in an amount of no less than \$10,000 and uninsured motorist protection in an amount of no less than the liability amount.

(B) The insurance policy shall be filed in the office of the City Secretary.

(C) Such insurance policy and an action shall survive in case of the death of the person injured for the benefit of the legal beneficiaries of such person, and such insurance policy shall not be exhausted by the first recovery, but shall be subject to successive recoveries and shall be subject to any alternations for the route or termini of such vehicle as herein provided during the time which same shall continue in effect. The policy shall further provide and operate to the benefit of any person suffering damage to his or her property through the negligent operation of the vehicle.

(D) No company shall cancel any policy or bonds herein provided, unless such company has satisfactorily settled all claims arising under the policy.

(E) The city shall not be deemed to have assumed any pecuniary responsibility for the solvency of any company or in any manner to have become liable for any sum on account of any such claim, or an account of any act or omission of any officer or officers of the city in connection with any matter relating to such taxicab, nor shall the lawful liability of the owner or driver be in any manner either limited or enlarged, by anything in connection with this article such permit or license, policy, and persons having any cause of action secured thereby, shall be authorized to sue upon such policy without impleading the city.

('62 Code, § 5-10-5) (Am. Ord. ORD-2005-09, passed 1-14-05; Am. Ord. ORD-2006-24, passed 5-10-06)

**§ 11-10-24 FEE.**

(A) In order to defray a part of the expense necessary to provide surveillance and supervision of taxicabs required under the provisions of this article and other provisions of this code regulatory thereof, there is hereby levied a fee of \$100 per annum for each taxicab so operated, which fee shall be collected



from every person owing and operating taxicabs on the streets of the city by the city before the license thereof is issued to the person to so operate the taxicabs. The fee shall be payable in advance on an annual basis and shall cover the calendar year. The fee shall not be prorated.

(B) In the event a taxicab on which the fee has been paid for then current year is sold, wrecked or destroyed, the owners thereof shall have the right to replace the taxicab with another, and upon written application to the city the fee therefor paid on the taxicab so sold, wrecked or destroyed shall be made applicable to the vehicle designated to replace such taxicab so sold, wrecked or destroyed, and the licensee shall surrender the license certificate and tag on the vehicle so sold, wrecked or destroyed before receiving a new license certificate.

(C) In case any licensee shall lose his license certificate, the licensee shall forthwith and before doing any further business, procure a duplicate license certificate from the City Secretary. There shall not in any event be any refund of inspection fees paid under this article. The fees shall be paid to the City Secretary who shall issue a receipt therefor.

('62 Code, § 5-10-23) (Ord. 85033, passed 9-23-85; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2005-09, passed 1-14-05)

#### **§ 11-10-25 AFFIDAVIT OF OWNERSHIP.**

Before any license is granted, each owner of each taxicab shall file with the Secretary an affidavit disclosing the names and addresses of all owners or persons interested in the business being operated by him, and a like affidavit shall be filed before any change in the ownership of the business is authorized under this article.

('62 Code, § 5-10-6) (Am. Ord. ORD-2005-09, passed 1-14-05)

#### **§ 11-10-26 RENEWAL OF BUSINESS LICENSE.**

Any license issued under any provision of this article must be renewed yearly. In the event the city receives any complaints on the holder of a business license under this article, then the business license holder shall appear before the City Commission for the renewal of said business license.

(Ord. ORD-2005-09, passed 1-14-05)

#### **§ 11-10-27 REVOCATION OF BUSINESS LICENSE.**

Any license issued under any provision of this article may be revoked at any time the city shall determine that the person to whom such license has been issued has violated or has failed or refused to comply with any requirement hereof.

('62 Code, § 5-10-24) (Am. Ord. ORD-2005-09, passed 1-14-05)

## ***DRIVER'S LICENSE REQUIREMENTS***

### **§ 11-10-35 TAXICAB DRIVER'S LICENSE REQUIRED; APPLICATION.**

(A) It shall be unlawful for any person to drive or operate, or cause to be driven or operated, a taxicab upon or over the streets of the city unless the driver of the taxicab shall have obtained a taxicab driver's license issued by the city. ('62 Code, § 5-10-11)

(B) Any person desiring to obtain a taxicab driver's license to operate a taxicab shall file with the Chief of Police an application therefor under oath, giving his name, age, present address, and place of employment; and whether such applicant has ever been charged with or convicted of a violation of a motor vehicle, traffic or criminal law of the city, the state, or any other state giving particulars of each offense charged.

(C) The applicant shall not be disabled by reason of defects of sight, hearing, body or limb from safely operating a taxicab. There shall also be furnished with such application for a taxicab driver's license two photographs, front and side view, and two sets of fingerprints of the applicant, and the fingerprints shall be made under the supervision and direction of the Chief of Police. A taxicab driver's license shall be \$50. ('62 Code, § 5-10-12)

(Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

### **§ 11-10-36 INVESTIGATIONS.**

(A) The city shall make such investigation as may be deemed necessary to determine the fitness of the applicant for the driver's license and, if the city finds that the applicant is qualified to drive a taxicab on the streets of the city, it shall issue or cause such license to be issued. Whenever the city shall find that any such applicant is not so qualified, it shall refuse to issue such license. In no event shall a driver's license be issued to any person under 21 years of age.

(B) No driver's license shall be issued to any person who has resided in the city for less than one year; provided, however, the city may issue a temporary driver's license to any person who has resided in the city for not less than 30 days before the filing of the application therefor and who is otherwise qualified under this article if the city shall first determine the public convenience and necessity require the issuance of any such driver's license. Any such temporary driver's license shall not be issued for a period to exceed 11 months.

('62 Code, § 5-10-13) (Am. Ord. ORD-2005-09, passed 1-14-05)

**§ 11-10-37 LICENSE NONTRANSFERABLE; TERMINATION.**

The taxicab driver's license, when issued, shall not be transferable, and except as provided in a temporary license, same shall be for a period of not to exceed one year; and each taxicab driver's license shall cease and terminate not later than December 31 of the year in which issued. ('62 Code, § 5-10-15) (Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

**§ 11-10-38 REVOCATION OR SUSPENSION.**

Upon complaint against any person holding a license hereunder filed by any person with the city, charging violation of any of the terms of this article, or any of the provisions of this code, or laws of the state, regulating motor vehicles, after giving five days notice of the ground of the complaint to such licensee against whom the complaint is made, may hear evidence with reference to such complaint, and after such hearing the city may revoke or suspend the license of any such person.

('62 Code, § 5-10-16) (Am. Ord. ORD-2005-09, passed 1-14-05)

**§ 11-10-39 DRIVERS MUST BE LICENSED.**

No owner of a taxicab shall permit any person who has not been licensed as a driver under the provisions of this article to drive or operate any such taxicab for taxicab purposes.

('62 Code, § 5-10-20) (Am. Ord. ORD-2005-09, passed 1-14-05) Penalty, see § 1-1-99

## **ARTICLE 11: OIL AND GAS WELLS**

### **Section**

#### ***General Provisions***

- 11-11-1 Definition
- 11-11-2 Limiting wells
- 11-11-3 Drilling in streets; pipeline easements
- 11-11-4 Agreement with operator

#### ***Permit Provisions***

- 11-11-15 Permit required
- 11-11-16 Application fee; plats; surety bonds
- 11-11-17 Notice of application posted; form of notice; hearing
- 11-11-18 Outline of settlement
- 11-11-19 More than one applicant for same unit
- 11-11-20 Rejection of permit application
- 11-11-21 Permit termination
- 11-11-22 Permit limitations

#### ***Storage and Operating Rules***

- 11-11-35 Compliance required
- 11-11-36 Construction and location of tanks
- 11-11-37 No smoking signs required
- 11-11-38 Weeds and trash prohibited
- 11-11-39 Open earthen storage prohibited
- 11-11-40 Venting when gas hazard exists
- 11-11-41 Burial of pipelines
- 11-11-42 Standard practice and procedures; blowout preventers; other control equipment
- 11-11-43 Wellhead assemblies and Christmas trees required
- 11-11-44 Placement of boiler; electric generator restricted
- 11-11-45 Fire hazard control
- 11-11-46 Fencing required
- 11-11-47 Portable slush tanks for mud or water
- 11-11-48 Motive power for operations

- 11-11-49 Disposal of salt water or other impurities
- 11-11-50 Protection of fresh water sands; casing and cementing method
- 11-11-51 Commission may waive provisions

### ***Testing Permits, Fees, Hours of Operation***

- 11-11-60 Permit required
- 11-11-61 Permit application, fee procedure
- 11-11-62 Conditions for permit
- 11-11-63 Term of the permit
- 11-11-64 Hours of operation
- 11-11-65 Lands, streets, right-of-way and easements
- 11-11-66 Notification
- 11-11-67 Inspection
- 11-11-68 Bonds, insurance and indemnity

#### **Cross-reference:**

*Oil and gas wells, see § 13-1-4*

## **GENERAL PROVISIONS**

### **§ 11-11-1 DEFINITION.**

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

**PERSON.** Any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator and fiduciary or representative of any kind.  
(’62 Code, § 4-8-1)

### **§ 11-11-2 LIMITING WELLS.**

(A) It shall be unlawful to complete more than one well to each oil reservoir on each “40-acre oil unit,” as such phrase is later defined herein.

(B) It shall likewise be unlawful to complete more than one well to each non-associated gas reservoir on each “640-acre gas unit,” as such phrase is later defined herein, subject to the following:

(1) In the event a well is lost or abandoned, the permittee may, subject to the provisions of § 11-11-21 hereof, relocate the well on the unit involved and drill and complete such relocated well under the permit for the replaced well by filing a plot and certificate showing the abandonment of the well to be replaced and the location of the substitute well;

(2) Nothing herein contained shall be construed as prohibiting multiple completions in the same well bore when authorized by the rules of the Railroad Commission of Texas.

(3) In the event the spacing regulations of the Railroad Commission of the State permit the drilling in any oil reservoir or nonassociated gas reservoir to a greater density than the density of one well to the 40 acre oil units or one well to the 640 acre gas units, then additional wells may be drilled in the various units to the extent that the units may be developed in accordance with such spacing regulations, and in the event additional wells are drilled, same shall be drilled in accordance with the provisions hereof.

('62 Code, § 4-8-3) Penalty, see § 1-1-99

### **§ 11-11-3 DRILLING IN STREETS; PIPELINE EASEMENTS.**

(A) It shall be unlawful to drill any well for oil or gas within any of the streets or alleys of the city, or to block or encumber or close up any street or alley in any drilling or producing operations except by special permit by order of the City Commission and then only temporarily.

(B) In order to enable the holder of each permit to remove oil, gas, water or other products from each drilling unit within the city limits, the holder of each permit issued under this article for the drilling and operation of a well for oil or gas in the city is hereby granted rights of way and easements on, over, under, along or across the city streets, sidewalks, alleys and other city property in the city for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued under any permit issued pursuant to this article; provided, however, permittees shall not interfere with or damage existing water, sewer, or gas lines, the facilities of public utilities, or any other improvement or facility located on, under or across the course of such rights-of-way. All crossings for pipelines under all paved or black-topped streets shall be bored or lapped, whenever required by the city.

('62 Code, § 4-8-4) Penalty, see § 1-1-99

### **§ 11-11-4 AGREEMENT WITH OPERATOR.**

(A) The permittee in any drilling unit, or his assigns, shall be only one person and such person shall be known as the operator thereof for oil or gas, and shall be held primarily accountable under the provisions of this article.

(B) The interests of persons other than the operator who hold oil and gas leases or equivalent contracts in any drilling unit shall be treated as part of the total working interest of the block, and such other persons holding such interests shall each make the following election with operator prior to the time a well is commenced on the block; either:

(1) To agree in writing with operator to contribute their share of all costs and expenses, properly allocated to the well and drilling unit by operator in accordance with accepted accounting practice, currently each month in the proportion that the number of square feet in area held by them or



each of them in the drilling unit bears to the total number of square feet embraced in the unit; and to execute a bond or deposit securities to be held in escrow by such depository as the City Commission may designate to secure such agreement; the bond or securities to be in an amount at any given time sufficient reasonably to protect the interests of the operator under such agreement; and thereupon the persons so acting shall be entitled to participate in the total working interest under the unit; and the persons so acting shall have the right, upon reasonable notice given to the operator, upon the furnishing of storage tanks or facilities for handling the same, and upon the payment of, or securing the payment of, their share of the royalty interests and any overriding royalty or oil payment interests thereof, to receive in kind their proportionate share of oil or gas produced and saved from the well in the drilling unit and allocated to the working interest of sold well; or

(2) If such other persons, or any one of them, fails to elect under Option 1 of § 11-11-18 prior to the time operator commences drilling such well, then he or they shall be deemed to have elected to agree that operator be entitled to reimburse himself currently each month from such other persons proportionate share of the proceeds of sale or production in kind for twice the amount of such other persons' proportionate part of the costs and expenses as set out in Option 1 of § 11-11-18. Provided, however, that operator and such other persons, or any one of them, shall be able to alter the obligations as set out in this section by an agreement made by them in writing; provided such agreement is not repugnant to other rules and regulations set out in this article.

(C) Such other persons, as described in this section, shall have 10 days after receiving written notice of intention of operator to commence drilling operations, within which to make the election set out in this section; and such other persons may advise the operator as to drilling or operating the well on the drilling unit, but final authority and responsibility therefor shall rest solely on operator.

('62 Code, § 4-8-9)

### ***PERMIT PROVISIONS***

#### **§ 11-11-15 PERMIT REQUIRED.**

From and after the effective date of this article, it shall be unlawful for any person to drill or commence to drill a well for oil or gas within the limits of the city or to work upon or assist in any way in the prosecution of the drilling of any such well, except as provided in § 11-11-22, hereof, unless a permit for the drilling, completion and operation of such well has first been issued by authority of the City Commission of the city, to the permittee, in accordance with the provisions of this article.

('62 Code, § 4-8-2) Penalty, see § 1-1-99

#### **§ 11-11-16 APPLICATION FEE; PLATS; SURETY BONDS.**

(A) An application for a permit to drill, complete and operate a well for oil or gas shall be in

writing, signed by the applicant or by some person duly authorized to sign on his behalf. The application

2004 S-6

shall be filed with the City Secretary and accompanied with a deposit of \$500 cash as a fee to the city. If the application is for a permit to drill an oil well, the application shall be accompanied by a plat designating the oil unit. If the application is for a permit to drill a gas well, the application shall be accompanied by a plat designating the gas unit. If the application is for a permit to drill a well which may be multiply-completed, i.e. one or more completions as anticipated oil completions and one or more completions as anticipated gas completions, the applicant shall be accompanied by a plat designate both oil unit(s) and gas unit(s). Each such unit shall consist of contiguous acreage and shall be in as nearly the shape of a square or a rectangle as is reasonably practical, taking into consideration, however, such matters as existing property and lease lines, boundaries of previously designated oil or gas units, natural boundaries, availability of drill sites and other pertinent factors. None of the acreage included in an oil unit shall have previously been included in a prior oil unit which has been designated under the provisions hereof and none of the acreage included in a gas unit shall have previously been included in a prior gas unit which has been designated under the provisions hereof. Issuance of the permit shall constitute approval of each designation of unit, and the City Secretary shall maintain a map of the city showing designated oil units and designated gas units.

(B) Each such application shall state the particular lot and location in the unit where the proposed oil or gas well is to be located, and shall have attached to it a description of the oil and gas leases or drilling contracts with the owners of land covering the lots, blocks or tracts in the drilling unit over which the applicant has control of oil rights or gas rights, to the end that the application will show what proportion and what parts of the drilling unit the applicant owns in fee or holds under lease or drilling contract from the owners. The application shall also be accompanied by a plat or map of the drilling unit, showing the designation of the lots, blocks or tracts owned or controlled by the applicant and showing the proposed site of the well.

(C) In the event a permit be issued by the City Commission under the terms of this article for the drilling and operation of a well, no actual drilling operations shall be commenced until a surety bond, duly executed by permittee, as principal, and by a reliable surety company authorized to do business in the state, as surety, in the amount and upon the conditions prescribed in this division shall be filed and approved in writing by the City Secretary of the city or until an instrument executed by the surety as hereafter prescribed is filed with and approved (in writing) by the City Secretary which makes drilling and operation of such well subject to the terms and conditions of two surety bonds (totalling \$200,000 in the aggregate) previously filed by permittee hereunder. Applicant's bond to be filed hereunder shall be in the sum of not less than \$100,000, and shall run to the city for the benefit of the city and all persons concerned conditioned that the permittee will comply with the terms and conditions of this article in the drilling and operation of the well; that the permittee will promptly restore the streets and sidewalks and other public property of the city which may be disturbed or damaged in the operations to their former conditions, as near as practicable; that the permittee will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the drilling or producing operations, and will grade, level and restore the property to the same surface condition, as near as practicable, as existed when operations for the drilling of the well were first commenced; and that the permittee will promptly pay and discharge any liability imposed by law for damages on account of injury to property, either public or private, or bodily injury, including death, received or suffered by any person whomsoever and resulting from the drilling operations, production and maintenance of the well, equipment, facilities or appurtenances thereto; and that the permittee will indemnify and hold the city harmless from any and all

2004 S-6

liability growing out of or attributable to the granting of such permit. Any such bond filed by a permittee hereunder shall become effective on or before the date filled with the City Secretary and remain in force and effect until the expiration of the term of the permit issued; subject, however, to the right of the surety company to cancel same after 30 days written notice of such intention has been given to the City Secretary, but the privilege of cancellation shall not affect any liability which may have arisen hereunder up to the time the bond is actually cancelled. Permittee, in the event of cancellation of the surety bond above provided for, shall automatically suspend his right to operate under his permit until such time as permittee shall furnish another bond as required by this article.

(D) If in accordance with the provisions of this section, a permittee has filed with the city two \$100,000 surety bonds to cover the drilling and operation of wells under this article, the permittee may drill and operate an additional well or wells hereunder without filing any additional surety bond as specified above, provided the permittee files with the City Secretary and instrument (and obtains written approval thereof by the City Secretary) duly executed by the surety company named as surety, in each of the permittee's bonds on file with the city, agreeing that such bonds are in full force and effect in the aggregate sum of \$200,000 and that the terms and conditions of each bond shall thereafter likewise apply to the drilling and operation of the additional well or wells named therein.

('62 Code, § 4-8-5) (Ord. 85035, passed 9-23-85)

#### **§ 11-11-17 NOTICE OF APPLICATION POSTED; FORM OF NOTICE; HEARING.**

Notice of the filing of each application for permit shall be given by the applicant as follows:

(A) At least 10 days prior to the date of hearing on the application, a copy of notice in the form hereinafter prescribed shall be sent by registered mail to each owner and lessee of lots, blocks and tracts in the drilling unit not owned by or under lease to the applicant, addressed to the last known address of such land and lease owners if known to the applicant; and a copy of such notice shall likewise be posted at three public places in the city at least 10 days prior to the date of such hearing. Such notice shall state the lot and block number on which the applicant is asking for a permit to drill and the date and place of hearing, and shall be in words and figures as follows:

Notice is hereby given that \_\_\_\_\_, acting under and pursuant to the terms and provisions of AN ORDINANCE REGULATING THE DRILLING, COMPLETION AND OPERATION OF OIL AND GAS WELLS WITHIN THE LIMITS OF THE CITY OF KINGSVILLE, TEXAS, AND PROVIDING FOR THE PUBLIC SAFETY IN CONNECTION THEREWITH, being Ordinance No. \_\_\_\_\_, did, on the day of \_\_\_\_\_, 19 \_\_, file with the City Secretary of the City of Kingsville an application for a permit to drill a well for oil or gas upon Lot No. \_\_\_\_\_, Block No. \_\_\_\_\_, Kingsville, Texas, in (Oil) (Gas) Unit shown on plat attached hereto. A hearing upon such application will be held in the office of the City Secretary of the City of Kingsville, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, at \_\_\_\_m.

(B) Proof of notice shall be made by the applicant by filing with the City Secretary an affidavit containing a copy of the notice and stating the date on which such notice was posted at three public

places in the city and an affidavit of the applicant showing the date and persons to whom and the addresses to which the notice was mailed by the applicant.

('62 Code, § 4-8-6)

#### **§ 11-11-18 OUTLINE OF SETTLEMENT.**

(A) In the event an application for a permit for the drilling, completion and operation of a well either for oil or gas shall be made by any person not owning or not holding leases of oil or gas rights or drilling contracts from the owners of all lots, blocks or parcels of land included in or embraced within a drilling unit a permit shall be issued to such applicant, heirs, successors and assigns.

2004 S-6  
74B

## **Kingsville - Business Regulations**

(B) Division (A) is based upon the following conditions in addition to such other conditions as may be provided for in other sections of this article, to-wit:

(1) The applicant shall be free to enter into such contracts and agreements with the owners of such other lots, blocks or tracts as he may be able to make. If agreements are not reached with all owners of lots, blocks and tracts within the drilling unit, then the owner or owners of any given lot or lots, block or blocks, tract or tracts, shall have the right or option, by notice to the permittee given in writing within 30 days after the issuance of a permit for a well on the drilling unit involved, either:

(a) *Option 1.* To treat his interest as a working interest and contribute toward the actual cost and expense of drilling, completing and operating the well with all necessary appurtenances currently each month in the proportion that the number of square feet in area owned by him in the drilling unit bears to the total number of square feet embraced in the unit, and thereupon receive the same proportion of the oil produced and saved from such well, or its value at the well, at the option of the permittee, and a like proportion of gas well gas and casinghead gas produced, saved and utilized or sold, or the value of same at the well, at the option of the permittee; or

(b) *Option 2.* To treat his interest as a royalty interest and receive, deliver free of cost in the pipeline to which the well may be connected, a share of all oil produced and saved from such well equal to one-eighth of the proportion of the whole quantity of oil so produced and saved that the number of square feet in the area owned by him bears to the total number of square feet in such drilling unit, or at the election of permittee to receive such proportion of the value at the well of the oil so produced, and to receive a like proportion of the gas well gas and casinghead gas produced, saved and utilized or sold, or at the election of permittee, the market value at the well of such proportion of gas well gas or casinghead gas produced and sold or used off the premises, or for gas sold at the well, such proportion of the amount realized from such sale.

(2) If any owner does not exercise the right and option above provided, and give notice to the permittee within the period above provided, the obligation shall then be upon the permittee, his heirs, successors and assigns, to make settlement with such owner on the terms provided in Option 2 above, providing for the payment of a one-eighth (if the owner of a lot or lots, block or blocks, tract or tracts shall exercise Option 1 above and treat his interest as a working interest, as therein provided, the permittee shall be entitled to reimburse himself for such owner's proportionate part of the costs out of such owner's proportionate part of the oil, gas well gas and casinghead gas, or value thereof, before making deliveries of products or settlement for the value thereof.

(3) If Option 1 is exercised by the owner of any lot or lots, block or blocks, tract or tracts, such owner shall, within the time provided for notice of his election above set forth, file with the City Secretary a bond or other obligation executed by such owner as principal and by an authorized surety company as surety, in which such principal and surety agree, bind and obligate themselves to pay to the permittee, his heirs, successors and assigns currently each month that proportion of the actual and necessary costs and expenses involved in the drilling, completion and operation of such well that the number of square feet embraced within the lot or lots, block or blocks, tract or tracts of such owner bears to the total number of square feet in such drilling block,

such bond to be approved by the Mayor and held by the City Secretary for the benefit of the beneficiaries therein.

(4) Permits shall be issued in all such cases and shall be subject to the provisions of § 11-11-22 hereof and upon the condition that the permittee, his heirs, successors and assigns, shall make settlement in accordance with the provisions hereof.  
(‘62 Code, § 4-8-7)

#### **§ 11-11-19 MORE THAN ONE APPLICANT FOR SAME UNIT.**

In case there should be filed with the City Secretary and pending at the time applications made by more than one applicant for permits to drill to the same reservoir on any single drilling unit within the limits of the city, that application shall be granted, if otherwise sufficient, which shall be made by the person holding the greater area of ground within the drilling block by ownership in fee or by lease or other contract authorizing the drilling and operation on land for oil and gas.  
(‘62 Code, § 4-8-8)

#### **§ 11-11-20 REJECTION OF PERMIT APPLICATION.**

The City Commission shall have the power, and reserves the authority, to refuse an application for a permit when by reason of the location of the proposed well and the character and value of the permanent improvements already erected on the drilling unit in question or adjacent thereto, and the use to which the land and surroundings are adapted for civic purposes, or for sanitary reasons, the drilling of an oil or gas well will be a serious disadvantage to either the health, safety, morals or welfare of the city and its inhabitants; but when a permit shall be refused for any of these reasons, but not otherwise, the deposit in cash as a fee made with the application shall be returned to the applicant. Except as hereinbefore provided, if an application be found by the City Commission to comply in all respects with the terms of this article, the City Secretary shall issue a permit for the drilling, completion and operation of the well applied for. The granting and issuance of a permit for a well on a drilling unit as provided in this article shall automatically operate as a rejection and denial of all other pending application or applications for a well or wells to be completed in the same reservoir upon the drilling unit involved, or any portion or portions thereof.  
(‘62 Code, § 4-8-10)

#### **§ 11-11-21 PERMIT TERMINATION.**

No permit shall be granted or issued for the drilling of a well except upon ground owned by the applicant or held by him under oil and gas lease or drilling contract from the owner, giving the owner's permission or authority to drill a well thereon; and when a permit shall have been issued, the same shall terminate and become inoperative without any action on the part of the City Commission unless within 180 days from the date of issue actual operations for drilling of the well shall have been commenced; and after the operations for drilling of the well shall have commenced, the cessation of operations for drilling prior to the completion of the well for a period of six months shall operate to terminate and cancel the permit (save as otherwise provided with respect to the relocation of such well according to § 11-11-2 hereof) and the well shall be considered as abandoned for oil purposes of this article and it shall be unlawful thereafter to

continue the operation or drilling of such well without the

issuance of another permit; provided that if the well shall be completed as a well capable of production and shall thereafter cease to be capable of production, the permittee shall have the right to conduct reworking operations on the well within six months after it becomes incapable of production without having to procure a new permit. If and when any permit shall terminate and become inoperative as in this section provided, or if and when permittee or his assigns shall file with the City Commission written notice of his or their election to surrender his or their permit and abandon the premises covered thereby, then if no claims under the bond or bonds, undertaking or undertakings shall have been filed within 90 days thereafter, the City Secretary shall return the bond or bonds, undertaking or undertakings and/or the security or securities therefore furnished by the permittee in connection with such permit; and if claims are filed within such time, upon the satisfaction or defeat of such claims, such bond or bonds undertaking or undertakings and/or security or securities shall thereupon be returned to the permittee or his assigns. ('62 Code, § 4-8-11)

#### **§ 11-11-22 PERMIT LIMITATIONS.**

Neither this article nor any permit issued hereunder shall be interpreted to grant any right or license to the permittee to enter upon or occupy in any respect in drilling or production operations any land except by the written consent of the owner; nor shall it limit or prevent the free right of any lot owner to contract for the amount of royalty to be paid with respect to his own land or other consideration therefor, or for damages, rights or privileges with respect thereto. Nothing contained herein shall be interpreted to require a permit for the reworking, deepening or plugging back of any well or completing of any well for the sole purpose of injection of water, gas or other substances.  
( '62 Code, § 4-8-12)

### ***STORAGE AND OPERATING RULES***

#### **§ 11-11-35 COMPLIANCE REQUIRED.**

In operations under a permit the permittee or his assigns must observe the following rules, and the failure to observe same shall be unlawful.  
( '62 Code, § 4-8-13) Penalty, see § 1-1-99

#### **§ 11-11-36 CONSTRUCTION AND LOCATION OF TANKS.**

(A) All permanent oil tanks or battery of tanks must be either constructed beneath the surface of the earth with suitable landscaping so as to render it aesthetically compatible with the improvements in the general vicinity, or in the alternative same may be erected above ground provided it is surrounded by screen of such height so that same shall not be visible at ground level in the surrounding area. All permanent oil tanks or battery of tanks which are constructed above ground must, in addition to the screen provided above, be surrounded by a dike of at least the capacity of the tank or battery of tanks.

(B) No oil tank shall be placed nearer than 1,000 feet to any residence, church, hospital, school (either public or private) power plant, or other public buildings of any description without the permittee having first secured the written permission of the owner or owners of such property and/or buildings.

(C) No field working tank having a capacity of 10,000 barrels or more shall hereafter be built nearer than 200 feet (measured from shell to shell) to any other like tank or tanks.  
(‘62 Code, § 4-8-13(A)-(C)) Penalty, see § 1-1-99

#### **§ 11-11-37 NO SMOKING SIGNS REQUIRED.**

Printed signs reading “DANGEROUS, NO SMOKING ALLOWED,” or similar words, shall be posted in conspicuous places near each producing well, tank battery, and the like.  
(‘62 Code, § 4-8-13(D)) Penalty, see § 1-1-99

#### **§ 11-11-38 WEEDS AND TRASH PROHIBITED.**

All permittees' premises shall be kept clear of high grass, weeds and combustible trash, within the fenced enclosure around an oil tank, tanks or producing wells, or, if there be no fenced enclosure, within a radius of 25 feet around an oil tank, tanks or producing well.  
(‘62 Code, § 4-8-13(E)) Penalty, see § 1-1-99

#### **§ 11-11-39 OPEN EARTHEN STORAGE PROHIBITED.**

Open earthen storage for oil is prohibited.  
(‘62 Code, § 4-8-13(F)) Penalty, see § 1-1-99

#### **§ 11-11-40 VENTING WHEN GAS HAZARD EXISTS.**

All oil tanks, where there is a gas hazard, shall be gas tight and provided with proper gas vents.  
(‘62 Code, § 4-8-13(G)) Penalty, see § 1-1-99

#### **§ 11-11-41 BURIAL OF PIPELINES.**

All oil and gas pipelines laid upon or across a public road or highway must be buried to a reasonably safe depth.  
(‘62 Code, § 4-8-13(I)) Penalty, see § 1-1-99

**§ 11-11-42 STANDARD PRACTICE AND PROCEDURES; BLOWOUT PREVENTERS; OTHER CONTROL EQUIPMENT.**

(A) Standard operating procedures under the applicable rules and regulations of the Railroad Commission of the State of Texas as well as those ordinary practices adhered to by prudent operators in this area shall be followed in:

- (1) The setting and cementing of surface casing and oil strings.
- (2) The testing of surface pipe and oil strings.

(B) Two fluid-operated blowout preventers shall be used for all drilling or completion operations involving the use of drill pipe, casing or tubing after surface casing has been set. The mechanical operation of blowout preventers shall be tested at reasonable intervals and in addition they shall be tested with pump pressure frequently enough to insure good working order at all times.

('62 Code, § 4-8-13(J) and (K)) Penalty, see § 1-1-99

**§ 11-11-43 WELLHEAD ASSEMBLIES AND CHRISTMAS TREES REQUIRED.**

All wells shall be equipped with wellhead assemblies and Christmas trees of working and test pressures as provided in applicable rules and regulations of the Railroad Commission of the State of Texas and in addition shall conform with standard practice and procedures used by prudent operators in this area.

('62 Code, § 4-8-13(K)) Penalty, see § 1-1-99

**§ 11-11-44 PLACEMENT OF BOILER; ELECTRIC GENERATOR RESTRICTED.**

No boiler or electric lighting generator shall be placed or remain nearer than 150 feet to any producing well or oil tank.

('62 Code, § 4-8-13(M)) Penalty, see § 1-1-99

**§ 11-11-45 FIRE HAZARD CONTROL.**

(A) Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 100 feet from the vicinity of wells, tanks and pump stations. All waste shall be burned or disposed of in such manner as to avoid creating a fire hazard or polluting streams and fresh water strata.

(B) No open flame shall be placed inside the derrick of a well showing oil or gas.

('62 Code, § 4-8-13(N) and (H)) Penalty, see § 1-1-99

**§ 11-11-46 FENCING REQUIRED.**

All producing wells, pits and tank batteries shall be protected with a six foot woven fence having a barbed wire guard at the top and a gate with lock.  
( '62 Code, § 4-8-13(O)) Penalty, see § 1-1-99

**§ 11-11-47 PORTABLE SLUSH TANKS FOR MUD OR WATER.**

Only portable slush tanks for mud or water shall be permitted in connection with the drilling and reworking operations. The tanks and their contents shall be removed from the premises and the drilling site within 10 days after completion of the well.  
( '62 Code, § 4-8-13(P)) Penalty, see § 1-1-99

**§ 11-11-48 MOTIVE POWER FOR OPERATIONS.**

Motive power for all operations after completion of drilling operations shall be electric or properly muffled gas or gasoline engines. All pumping wells shall be equipped with electric motors gas lift facilities, or properly muffled gas or gasoline engines.  
( '62 Code, § 4-8-13(Q)) Penalty, see § 1-1-99

**§ 11-11-49 DISPOSAL OF SALT WATER OR OTHER IMPURITIES.**

Permittee shall make adequate provisions for the disposal of all salt water or other impurities which he may bring to the surface, such disposal to be made in such manner as not to contaminate the fresh water supply, present or prospective, or to injure surface vegetation.  
( '62 Code, § 4-8-13(R)) Penalty, see § 1-1-99

**§ 11-11-50 PROTECTION OF FRESH WATER SANDS; CASING AND CEMENTING METHOD.**

(A) In order to protect the fresh water sands which are the source of water supply for this city, the casing program of all wells drilled hereafter in this city not otherwise excepted from the terms of this article shall include surface casing of new or reconditioned pipe. Fresh water sands to be protected are herein defined as those above a minimum depth of 850 feet or greater as stipulated by the Texas Water Commission or Texas Railroad Commission in the event special field rules are adopted. To protect fresh water, a permittee shall set surface casing to the depth stipulated by the Texas Water Commission or the Texas Railroad Commission, in the event special field rules are adopted, but in no instance to a depth less than 1,150 feet and cement with sufficient cement to fill the annulus from the casing set depth to the surface and provide return of uncontaminated cement at the surface.

(B) Cementing shall be by pump and plug method. Cement shall be allowed to stand a minimum of 12 hours under pressure and 24 hours before drilling plug or initiating test. After cementing, the surface casing shall be tested by pump pressure of at least 750 pounds per square inch. If at the end of 30 minutes the pressure shows a drop of 150 pounds per square inch, or more, the casing shall be condemned. After the corrective operations the casing shall again be tested in the same manner.

(C) It is controllingly provided, however, that in the event a permittee can establish to the satisfaction of the City Commission that the fresh water sands can be adequately protected by use of other means or measures, any or all of the foregoing requirements may be waived by the City Commission.

('62 Code, § 4-8-13(S)) Penalty, see § 1-1-99

#### **§ 11-11-51 COMMISSION MAY WAIVE PROVISIONS.**

Any and all the provisions of this article may be waived by the City Commission upon a showing by the permittee to the satisfaction of the City Commission that the planned manner of operation by the permittee or the equipment to be used by the permittee will adequately protect the public health, safety and welfare.

('62 Code, § 4-8-13(T)) Penalty, see § 1-1-99

### ***TESTING PERMITS, FEES, HOURS OF OPERATION***

#### **§ 11-11-60 PERMIT REQUIRED.**

It shall be unlawful for any person or entity to conduct any exploration activities within the city for oil, gas, and/or other materials by the use of vibrating machines, or any other means not herein specified, without first obtaining a permit from the city.

(Ord. ORD-2002-30, passed 11-13-02) Penalty, see § 1-1-99

#### **§ 11-11-61 PERMIT APPLICATION, FEE PROCEDURE.**

(A) Application for a permit hereunder shall be made with the City Manager or his or her designee. Such application shall contain the name of the applicant, address of the applicant, type of geophysical method of subsurface exploration to be used, and the purposes for such exploration with the location and use with a map attached designating the points of use and test sites.

(B) Every application shall be signed by the applicant or some person duly authorized to sign on his or her behalf and shall be accompanied by a non-refundable fee of \$500 for the basic permit plus \$1,000 per linear mile for mobile vibratory units and/or receiver testing lines within the city limits.

(Ord. ORD-2002-30, passed 11-13-02)

2004 S-6

**§ 11-11-62 CONDITIONS FOR PERMIT.**

All approved permits shall be subject to the following conditions unless waived by the City Commission:

(A) The work to be performed under this permit shall be restricted to be performed between the dates requested on the permit. Additional dates shall require approval from the City Manager.

(B) The applicant shall furnish a map or plat which indicates the exact location and length of the seismic survey. The map shall be sufficient to enable the city to locate the applicant's operations hereunder. The applicant shall limit his or her use of the subject premise to the area indicated for the lines except for the purposes of direct ingress and egress to the seismic line area. If, during the course of operations, any line or test site must be relocated to maintain compliance with the terms and conditions set forth herein or to ensure the safety of the general population, the permittee shall notify the City Manager or his or her designee within 24 hours prior to relocation.

(C) Permittee shall employ, at his or her expense, an independent Vibro-Tech Engineer selected by the city, to monitor vibratory operations within the city limits to ensure work is performed in a manner not to damage the city's waterlines, sewer lines, sewer manholes, lift stations, water towers, booster stations, storm drainage line, drainage structures, roadways, water wells, landfill and public/private structures.

(D) Permittee shall not conduct vibrous operations on or over any property for which the applicant has not first secured the permission of the surface property owner.

(E) Permittee shall not conduct vibrous operations within 25 feet of a residential or non-residential building without the consent of the building owner or without prior written consent of the city.

(F) Vibrating over water, gas, or sewer pipe lines shall not be allowed; nor within 25 feet of such lines, nor shall it be allowed within 300 feet of any sewer lift station without prior written consent of the city.

(G) No shot holes, dynamite, or charges shall be placed within or detonated within the city limits or within 1,000 feet of the city limits without prior written consent of the city.

(H) No vibrating or vibrous operations shall be conducted by the permittee within 1,000 feet of water wells and water towers/booster stations without prior written consent of the city.

(I) Permittee shall pay for any actual damages resulting from permittee's activities, including but not limited to land, fences, streets, roads, water lines, sewer lines, storm drainage lines, drainage structures, water wells, and any other damages incurred resulting from permittee's activities.

(J) Seismographic surveys shall be by vibrosis technique only.

(K) Vibratory work shall not be conducted on paved city streets unless the applicant obtains the prior written consent of the city.

(L) During permitted activities, when necessary, the permittee shall provide protection for the traveling public with flagmen. Permittee shall, at its expense, hire the Police Department to escort vibratory equipment and assist geophysical cable road crossing crews with traffic control when necessary, as deemed with input from the city.

(M) Permittee shall not lay any line or cables across any public road without prior consent of the city.

(N) Permittee shall not conduct any vibrous operations within 150 feet of a drainage or irrigation structure without written prior consent of the city.

(O) No shrubs, trees, or established vegetation on any public facility will be disturbed or removed unless authorized by the city.

(P) No vibratory work shall be conducted on road shoulders, back slopes or ditches that are wet or soft.

(Q) Damage caused to any public road facilities, water lines, sewer lines, storm drainage lines, drainage structures and water wells, by permittee's seismic operations, shall be repaired or replaced by the city and the permittee will be billed for any such expenses in connection therewith.

(R) Each permit shall provide that if any dispute arises as to any terms and conditions of the permit, permittee shall stipulate that the venue for all purposes shall be in Kleberg County Texas, and if it becomes necessary to file suit to recover any damages caused by permittee's operations thereunder, permittee agrees to pay any reasonable attorney's fees, together with court costs, if the city is successful in recovering damages.

(S) Using industry standard equipment and techniques, a third party seismology engineer shall monitor and record during operations all pertinent locations to ensure that no structure, water well, susceptible underground utilities or underground hazardous waste storage disposal site is subject to a peak particle velocity greater than 0.5 inches per second. If the peak particle velocity is greater than 0.5 inches per second, the third party engineer shall notify the City Engineer and cease all operations until corrections are made. Permittee shall maintain all documentation of monitoring activities for a period of at least two years and make said documentation available upon request for inspection by the city.

(T) Permittee shall obtain water well, underground hazardous waste storage/disposal sites, and water, sewer, oil, gas, and chemical pipeline location maps and conduct all engineering calculations necessary to confirm that all operations meet standards established by the governing engineering codes and criteria. Information obtained by the permittee shall be used by the surveying teams and operations manager to ensure compliance with the terms and conditions of

this permit and that safe operating distances are maintained. If requested by the permittee, the city shall make available at permittee's expense for inspection and copying maps, if any, prepared by or on behalf of the city which indicate

2004 S-6

82B

### **Kingsville - Business Regulations**

subsurface structures or facilities, provided, however, permittee's reliance on any information furnished by the city, its agents, representatives, and employees, whether written or oral, shall be at the sole risk of the permittee and the following disclaimer shall apply to any and all such information:

"Permittee acknowledges that the city has not made any independent investigation or verification of information regarding subsurface structures and facilities furnished to permittee and makes no representation or warranties as to the accuracy or completeness of such information. Permittee expressly acknowledges that the city makes no warranty or representation, express or implied or arising by operation of law, including, but not limited to, any warranty at fitness for a particular use or purpose of such subsurface information."

(U) All city owned structures within 250 feet of testing operations, including but not limited to susceptible underground utilities (water mains, sewer mains, etc.) shall have pre- and post-damage inspections by the permittee. Permittee shall pay the city for all damage to city-owned structures within 30 days of receipt of invoice.

(Ord. ORD-2002-30, passed 11-13-02)

### **§ 11-11-63 TERM OF THE PERMIT.**

(A) The term of the permit shall be 180 days beginning on the date of issuance of the permit to the permittee. Work shall be completed within 120 consecutive calendar days. The date of the commencement of operations shall occur upon commencement of actual geophysical/seismic testing operations and shall not include surveying conducted prior to such date. Once operations have commenced, in the event the permittee is rendered unable, wholly or in part, by force majeure to complete operations within said 120 consecutive calendar days, the time for completion shall be extended for the period of time such operations are affected by such force majeure but for no longer period. As soon as reasonably possible after the force majeure, the permittee shall give notice and full particulars of such force majeure to the city. Such cause, as far as possible, shall be remedied with all reasonable diligence.

(B) The term "force majeure" as used herein, shall mean acts of God, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any civil or military authority other than the city, (provided that acts of the city relating to storms, fires, floods, droughts, hurricanes, or explosions may be considered acts of force majeure), insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, breakage or accidents to machinery, pipelines, or canals, or any other inability, similar to those enumerated, which are not within the control of the permittee and which permittee could not have avoided by the exercise of due diligence and care.

(Ord. ORD-2002-30, passed 11-13-02)

## **§ 11-11-64 HOURS OF OPERATION.**

Vibrous testing may be conducted from 8:00 a.m. until 5:00 p.m. local time, on Monday through Friday, provided no testing may be conducted on any city holiday or non-work day, this limitation shall

2004 S-6

### **Oil and Gas Wells**

82C

not include routine maintenance of equipment. During and throughout all testing periods, permittee shall provide an employee at City Hall or other designated location who will undertake to answer any questions, concerns, or complaints from citizens and keep a log of same. Testing operation shall not interfere with normal school bus traffic flow.

(Ord. ORD-2002-30, passed 11-13-02)

## **§ 11-11-65 LANDS, STREETS, RIGHT-OF-WAY AND EASEMENTS.**

(A) Permittee shall restore any lands or rights-of-way used in its operations to original condition, free of damage, including ruts or any injury to vegetation. Any costs incurred by the city for restoration will be reimbursed to the city at full cost by permittee. Such costs will be paid within 30 days of receipt of invoice.

(B) Permittee shall ensure that its operations will not interfere with the free and safe flow of traffic. When operations are immediately adjacent to the pavement, all equipment shall be parked and/or operated in one lane of traffic.

(C) Permittee shall notify the City Engineer of any equipment to be operated on city streets that will exceed the maximum load limit of 52,000 pounds and will obtain any special permitting required.

(D) Cables placed on the pavement within rights-of-way must be arranged so they do not interfere with traffic flow or create hazardous conditions or rumble strip effect. All cables must be securely anchored to the roadway with materials that will not damage and/or puncture the pavement. Nails, spikes, and similar materials used for anchors shall not be placed inside the pavement edge.

(E) Operations under this permit shall be barred when the City Engineer determines that the ground conditions are such that operations would cause extensive rutting in the rights-of-way or easements. In addition, operations will be barred when ground conditions would cause the tracking of mud, gravel, rock, or debris onto the roadway surface of any right-of-way or other city improvements. In the event that mud, gravel, rock or debris is inadvertently tracked onto roadways in a manner that creates a safety hazard or potential for damage to vehicles, the operator shall immediately cease operations and clean the roadway of all mud, gravel, rock, or debris. The time for completion of operations shall be extended by one day for each full day operations are barred under the provisions of this division.

(Ord. ORD-2002-30, passed 11-13-02)

## **§ 11-11-66 NOTIFICATION.**

Notices shall be published in the official newspaper of the city in the manner and order set forth:

(A) The city shall publish notice in the official newspaper of the city 15 days prior to the start of any cable or vibratory testing. The notice shall be published again three days prior to starting the work. The notices to be published shall appear in the official newspaper of the city in the classified section under legal notices and in the general text of the newspaper. The notices will detail the approximate

2004 S-6  
82D

### **Kingsville - Business Regulations**

dates and times (starting and ending) and identify the general location of the work to be performed. The notices shall include the company's name, name of local contact and local phone number. The City Engineer shall be notified when the notice has been placed with the newspaper and the dates it will be published.

(B) Initial notification of pending work and the availability of pre-and post-test inspections of all adjacent structures shall be provided to all property owners and/or residents a minimum of ten working days prior to working in their respective areas. Permittee shall notify each owner, resident, and/or business located within 250 feet of its planned operations 24 hours to 48 hours prior to performing the actual work. Permittee shall offer, in writing to each owner, resident, and/or business within 250 feet of any vibrosis operation, and shall provide, if requested, pre and post damage inspections for all structures, including appropriate testing and lab tests for water wells. All damage inspections shall be performed within five days of testing operations in the respective areas. All complaints arising from permittee's actions shall be resolved between the permittee and complainant. Permittee shall maintain records of such inspections for a period of two years and shall make such records available, in whole or part, upon request by the city.

(C) On or before 1:00 p.m. on Friday of each week that testing is conducted, permittee shall furnish to the City Engineer or designee a schedule of the upcoming week's test plans and test sites.

(D) All vibrosis operations shall be conducted a minimum distance of 25 feet from any structure.

(E) Permittee shall maintain, for a period of two years, and make available upon request to the city, a complaint log and the daily log of vibrosis tests showing date, location, drive level, operator, and all other related information which includes seismic and pre and post test survey, but not acquired seismic data.

(Ord. ORD-2002-30, passed 11-13-02)

### **§ 11-11-67 INSPECTION.**

When deemed necessary by the City Engineer, any and all vibratory testing to be performed on the city right-of-way shall be observed and inspected by a city representative. The applicant must contact the City Engineer 24 hours in advance of any vibratory testing and if deemed necessary, a representative shall be scheduled to be present for monitoring purposes. The

expense of such inspection services shall be billed to the applicant and such amounts shall be reimbursed to the city.

(Ord. ORD-2002-30, passed 11-13-02)

## **§ 11-11-68 BONDS, INSURANCE AND INDEMNITY.**

(A) The Permittee and/or its contractors shall submit to the city a performance bond in the amount of \$500,000 from a surety authorized to do business in the State of Texas. The performance bond shall be valid for a period of 365 days from the date that the permit is issued. The bond shall provide, but

2004 S-6

### **Oil and Gas Wells**

82E

not be limited to, the following condition; there shall be recoverable by the city, jointly and severally from the principal and surety any and all damages, loss, or costs suffered by the city in connection with

permittees's geophysical operations within the city. The bond shall contain the following endorsement; "it is hereby understood and agreed that this bond may not be canceled by the surety company until 60 days after receipt by the city, by registered mail, or written notice of such intent to cancel or not to renew the rights to the city with respect to the bond are in addition to all other rights of the city and no action, proceeding or exercise of a right with respect to such bond shall affect any other rights of the city."

(B) Prior to conducting any operations hereunder, the permittee and/or its contractors shall furnish a certificate of insurance, which must be with a reputable company authorized to do business in Texas, to the city showing liability insurance coverage covering commercial, personal injury, general, and pollution liability in amounts not less than \$1,000,000 per person, \$3,000,000 per occurrence, and \$1,000,000 property damage. Permittee shall maintain said certificate of insurance in full force and effect for the entire permit period.

(C) Permittee hereby agrees to protect, indemnify, defend, and hold the city, its officers, employees, agents, and representatives harmless from and against all claims, demands, and causes of action of every kind and character for injury to, or death of any person or persons, damages, liabilities, losses, and/or expenses, occurring or in any way incident to, arising out of, or in connection with its or its contractors' agents', or representatives' operations under this permit, including attorneys fees and any other costs and expenses incurred by the city in defending against such claims, demands, and causes of action.

(D) Within 30 days of receipt of same, permittee shall notify the city, in writing, of each claim for injuries to, or death of, persons or damages or losses to property occurring or in any way incident to, arising out of, or in connection with its or its contractors' agency's or representatives' operations conducted under this permit. At the city's discretion, the city may conduct an independent investigation, monitor, and review the processing of any such claim to ensure that such claim is handled as required herein.

(E) Any permit granted hereunder may be revoked upon breach of any term or condition contained herein or the permit.

(F) Notwithstanding anything contained to the contrary, a permit shall not be effective unless and until a copy of the permit signed by an authorized officer of the permittee, the performance bond, and the certificates of insurance have been filed with the City Secretary.  
(Ord. ORD-2002-30, passed 11-13-02)



**ARTICLE 12: (RESERVED)**

[Text continues on page 127]



## ARTICLE 13: TIRE AND APPLIANCE STORAGE

### Section

- 11-13-1 License required; declaration of nuisance
- 11-13-2 Application; license fee
- 11-13-3 Premises to be neat and orderly
- 11-13-4 Revocation of license

### § 11-13-1 LICENSE REQUIRED; DECLARATION OF NUISANCE.

(A) Hereafter any outdoor/open place used or maintained by any person for tire, used automobile parts, or used appliance storage of any kind, to include any and all types of commercial and industrial equipment and machinery, or for storing or disposing of tires, used automobile parts, or appliances of any kind, to include any and all types of commercial and industrial equipment and machinery, or of any of the parts thereof, or for the maintenance or operation of such place for the accumulation of rubbish of any description, is hereby declared to be a public and common nuisance.

(B) For purposes of this article:

- (1) **APPLIANCE** is defined as a device sold or used for household or commercial purposes.
- (2) **OUTDOOR/OPEN** is defined as can be seen from the roadway or alleyway.

(C) The nuisance is obnoxious and offensive to the inhabitants of the city because of its interference with the comfortable enjoyment of life and property by the inhabitants, and is prohibited within the city limits, unless the same is conducted in the manner hereafter stated. (Ord. 97042, passed 12-8-97; Am. Ord. ORD-2001-04, passed 2-26-01; Am. Ord. ORD-2005-07, passed 1-24-05)

### § 11-13-2 APPLICATION; LICENSE FEE.

Any person desiring to use or maintain any property within the city, for any of the purposes mentioned in § 11-13-1, shall make written application to the Planning Secretary for a license. The application shall set forth the name and address of the applicant, and a legal description of the property or the premises upon which the business is to be conducted. If the application is granted, a license to operate such business shall be issued by the Planning Secretary upon the payment of a fee of \$100 per

annum. Any license so issued shall expire on January 1st next succeeding the date of its issuance, but may be renewed from year to year in like manner as is provided for in the original license.

(Ord. 97042, passed 12-8-97; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2001-04, passed 2-26-01; Am. Ord. ORD-2005-07, passed 1-24-05)

### **§ 11-13-3 PREMISES TO BE NEAT AND ORDERLY.**

Any person granted a license as provided for in § 11-13-2 hereof, 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 in a weatherproof structure. No tires, used automobile parts or appliances of any kind shall be allowed to remain outside the structure. However, any existing business of this character now being operated and maintained in the city shall be allowed two months within which to construct a building of the kind and character required hereby. For the purpose of this section only, **STRUCTURE** shall mean any construction containing four sides and a rain-resistant roof covering; it shall not require a foundation.

(Ord. 97042, passed 12-8-97; Am. Ord. 98017, passed 9-10-98; Am. Ord. ORD-2001-04, passed 2-26-01; Am. Ord. ORD-2005-07, passed 1-24-05) Penalty, see § 1-1-99

### **§ 11-13-4 REVOCATION OF LICENSE.**

The City Commission shall have the power to revoke the license provided for herein at any time for good cause. The license shall be revoked after notice of a City Commission hearing to be held, not less than ten days after the service of such notice has been given to the owner or owners of the business.

(Ord. 97042, passed 12-8-97; Am. Ord. ORD-2001-04, passed 2-26-01; Am. Ord. ORD-2005-07, passed 1-24-05)

## **ARTICLE 14: VENDOR SOLICITATIONS**

### **Section**

- 11-14-1 Purpose and findings
- 11-14-2 Definitions
- 11-14-3 Applicability; affirmative defenses
- 11-14-4 Permit required
- 11-14-5 Permit application; filing
- 11-14-6 Health permit required for food and beverage business
- 11-14-7 In emergencies, bond required for peddlers, commercial solicitors and itinerant merchants
- 11-14-8 Permit: duration and fees, renewal, denial or revocation, appeal
- 11-14-9 Commercial solicitors engaged in interstate commerce; certificate of registration in lieu of permit
- 11-14-10 General regulations for vendors
- 11-14-11 Special regulations for sidewalk vendors
- 11-14-12 Special regulations for street vendors
- 11-14-13 General regulations for peddlers, commercial solicitors and itinerant merchants
- 11-14-14 No solicitation in the streets or right-of-ways
- 11-14-15 Duty of police to enforce
- 11-14-16 Charitable solicitation
  
- 11-14-99 Penalty

### **§ 11-14-1 PURPOSE AND FINDINGS.**

(A) The City Commission makes the following findings:

(1) Vendors, peddlers, commercial solicitors and itinerant merchants engage in legitimate and honorable commercial activities that enhance the convenience of the consuming public and promote an active and healthy economic environment.

(2) The nature and characteristics of such commercial activities require the reasonable regulation of their time, manner and place.

(3) The streets, sidewalks and other public ways and recreational areas are primarily to promote public leisure activities and the smooth flow of vehicular and pedestrian traffic.

(4) The reasonable regulations enacted hereby do not prohibit or inhibit free expression of religious, political or other ideas and beliefs, but regulate commercial activities and conduct for the public purposes expressed below.

(5) The regulations herein applicable to interstate commerce transactions are not over-burdensome, but are merely measures necessary to protect the public health, safety and welfare. It is the definite intent of this Commission to promote, preserve and protect free enterprise and interstate commerce.

(B) Through the reasonable regulation of vendors, peddlers, itinerant merchants, commercial solicitors, and outdoor and transient commercial activities in and upon public streets, sidewalks, parks, beaches and other recreational areas, the purpose of this article is to accomplish the following objectives:

(1) Protect the public health, safety and welfare, and promote the use and enjoyment of public parks, beaches and other public recreation areas in an attractive environment.

(2) Avoid urban congestion and promote the smooth and safe flow of vehicular and pedestrian traffic.

(3) Enhance and protect the quality and attractiveness of the environment.

(4) Protect the use and enjoyment of the people in their homes and private businesses.

(5) Protect the public from fraudulent, illegal, unsafe or unhealthful commercial activities, products and services.

(6) Preserve the character and quality of residential, recreational, commercial and business areas and property.

(7) Promote and enhance the quality of commercial activities within the city.  
(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

## **§ 11-14-2 DEFINITIONS.**

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

**BUSINESS.** Any marketing activity conducted for the sale or rental of goods or services for private profit on any premises in this city.

**CHARITABLE PURPOSE.** Any purpose, whether actual or purported, which an ordinary citizen reasonably could classify as charitable, benevolent, philanthropic, patriotic, religious, social service, welfare, educational, cultural, artistic, or for a public service or association of public servants.

**COMMERCIAL SOLICITOR.** Any person without a permanent business establishment within the city, who takes or offers to take orders for the future delivery of any goods or services, by means of going upon private premises, from house to house or place to place, without the prior expressed request or consent of the owner or occupant thereof.

**ITINERANT MERCHANT.** Any person without a permanent business establishment within the city, who engages in a temporary business of selling, offering for sale, renting or offering for rent any goods or services from a permanent, established structure. Temporary association with an established resident business or person shall not excuse an **ITINERANT MERCHANT** from the terms of this article.

**PEDDLER.** Any person without a permanent business establishment within the city who sells, offers for sale, rents or offers for rent any goods or services, by means of going upon private premises from house to house or place to place, without the prior expressed request or consent of the owner or occupant thereof, and who makes delivery at or near the time of any such transaction.

**PERMANENT BUSINESS ESTABLISHMENT.** A building or part of a building or space within a building owned or occupied for use in the operation of an ongoing commercial or industrial enterprise, which has been or is intended to be conducted for more than 45 days and for which use a certificate of occupancy has been issued by the city.

**PERSON.** Any individual, firm, company, corporation, organization, partnership, association or other legal entity.

**VENDING UNIT.** Any vehicle, stand, cart, craft, or other equipment or device used by a vendor for the storage or display of goods for sale or rent, or in the actual rendering of services.

**VENDOR.** Any person who engages in the business of selling, offering for sale, renting or offering for rent, and delivering from stock at or near the time of sale or rental any goods or services from any vehicle, cart, stand, or other equipment or device or from his person, from, in or upon any public street, alley, sidewalk, park, beach or any other public way or premises or from, in or upon any private premises; and outside a permanent, established structure.  
(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

2005 S-7

**§ 11-14-3 APPLICABILITY; AFFIRMATIVE DEFENSES.**

This article shall not apply to the following persons, businesses or conduct or under the following conditions; provided, however, that it shall not be necessary in the prosecution of any violation of this article to negate any of such exceptions or exemptions herein expressed; but the pleading and proof of the same shall be an affirmative defense in any such prosecution:

(A) Licensed auctions or auctioneers.

(B) Newspaper vending machines upon any sidewalk or sidewalk area along any arterial or collector street, provided, however, that such newspaper vending machine operations shall comply with the following:

(1) No such vending machine shall be located in such a way as to create a safety hazard or an impediment to pedestrian or vehicular traffic.

(2) No such vending machine shall be located within 20 feet of any intersection.

(3) Such vending machines shall be confined to an area extending no more than two feet into any sidewalk walkway.

(4) Such vending machine vendors shall notify, in advance, the record owner of adjoining property of the placement of any such vending machine.

(5) Such vendors shall at all times keep the area of every such vending machine free of litter and trash.

(6) Such vending machines shall be maintained in first-class working condition and shall be kept currently stocked with publications.

(7) Such vending machines shall be free from all advertising except that which identifies the publication.

(8) Prior to installation, such vendors shall submit to the city building division proof of the adequacy of the wind-design capacity of the anchoring system for each such vending machine. Such proof shall show the anchoring system is consistent with the hurricane precautions required by applicable building codes.

(9) By placement of any such vending machine, the vendor agrees to hold harmless the city from any and all claims or causes of action for damages whatsoever that might arise, either solely or in part, from the placement of such a vending machine. To effectuate such an agreement, an indemnity

agreement shall be executed between such vendor as indemnitor and the city as indemnitee. Every such vendor shall maintain on file with the Police Department a certificate of insurance evidencing public liability insurance in the amount of \$1,000,000, naming the city as an additional insured, and providing that no cancellation of such policy of indemnity insurance shall be effective without prior written notice to the city.

(10) Every such vendor shall maintain an agent in the city, who may be reached at a listed telephone number during normal business hours to receive and handle complaints, and respond to inquiries. The name, address and local telephone number of such agent shall be filed with the office of the Police Department.

(C) Ordinary commercial travelers or salespersons, transacting business only at wholesale, or with dealers in such goods or in goods or services for use in other manufacturing or commercial purposes.

(D) Sales conducted pursuant to statute or by order of any court.

(E) Persons or transactions associated with bona fide trade shows, exhibits, expositions or conventions, where all purchases, sales or exchanges are made in connection with, and within the confines of, the trade show, exhibit, exposition or convention site.

(F) Individual, one-time-only sales of personal property items sold by the owner thereof at his private residence or business.

(G) Garage sales, which for purposes of this article shall mean and include all general sales, open to the public, conducted from or on a residential premise for the purpose of disposing of personal property. This includes, but is not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," or "rummage" sale, of which no more than six are held at or by any one residence and/or family household during any calendar year, each of such sales being limited in time to no more than three consecutive days or two consecutive weekends (Saturday and Sunday). Sales of the type, but in excess of the number or duration provided for herein, are business operations outside the intent of this exemption.

(H) Temporary promotional events held in connection with a permanent, established business.

(I) Organized community and festival events held by authority of agreements or special permits issued by the city; or held upon public premises, in or upon public parks or beaches, under the auspices or sponsorship or within the regular administration of the parks and recreation department of the city or county.

(J) Sidewalk sales held by adjoining or abutting businesses and otherwise in compliance with the provisions of this code.



(K) Authorized contractual concessions permitted upon city proprietary premises by agreement, lease or contract with the city duly authorized by the City Commission.

(L) Delivery services of permanent, established businesses in the city; including industrial catering services providing regular food delivery for employees of industry, business and construction sites, and which operate on site and by agreement with or invitation of such industries or businesses.

(M) Lemonade stands and the like conducted and operated entirely by children under the age of 16, and upon the private residential premises of such children.  
(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

#### **§ 11-14-4 PERMIT REQUIRED.**

(A) No person shall engage in the business of selling, offering for sale, renting or offering for rent any goods or services, as a vendor, peddler, commercial solicitor or itinerant merchant within the city, without first obtaining a permit therefor in accordance with the terms and provisions of this article.

(B) Persons or operations promoting or supporting a charitable purpose shall also first obtain a permit subject to § 11-14-16.  
(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04) Penalty, see § 11-14-99

#### **§ 11-14-5 PERMIT APPLICATION; FILING.**

(A) No permit required by this article shall be issued, except upon a sworn application duly filed with the City Manager, or with such permit officer as he or she may designate to administer the provisions of this article.

(B) Every application for a required permit shall contain the following:

(1) If applicable, the name of the applicant, a certified copy of any assumed name certificate and/or corporate or other legal organization charter of record, together with proof of the individual's authority to act in behalf of such entity.

(2) The business address and phone number of the applicant.

(3) The name, home address and phone number of any individuals who will engage in the business operations in the city.

(4) A description of the type of goods or services to be offered for sale or rental.



(5) A description of the proposed location of the business for which the permit application is filed, including proposed routes for mobile street vendors that show compliance with all site regulations of this article.

(6) The license number of any motor vehicle to be used in the operation of the business in the city.

(7) An identification card no larger than three inches by three inches, displaying a photograph (or together with an additional photograph identification card, such as a current driver's license to be used with the identification card-required hereby) for each individual representative of the applicant who will be engaged in the business for which application for a permit is made. The identification card required hereby shall contain the name of the individual representative, the permanent residence address of the individual representative, the local address and phone number, if any, of the individual representative, and the name and address of the applicant as shown on the application for a permit.

(8) For purposes of this article, every individual who conducts business for an applicant is a representative of such applicant (whether acting as employee, agent, independent contractor, franchisee or otherwise for other business purposes), and the applicant shall be responsible for compliance with this article by every such individual representative.

(9) A description and photograph, or drawing with construction plans and specifications, of any vending unit to be used in the business for which the permit application is filed.

(10) Proof of a general comprehensive business liability insurance policy, issued by an insurance company authorized to do business in the state, protecting and indemnifying the applicant and the city from all claims for damages to property and for bodily injury, including death, which may arise from operations under or in connection with the requested permit. Such insurance shall name the city as an additional insured, shall provide that no termination or cancellation will be effective without prior written notice to the city, and shall provide liability protection in the following minimum amounts: \$100,000 per person, \$300,000 per occurrence for bodily injury, and \$50,000 per occurrence for property damage. An indemnity agreement protecting and indemnifying the city against all such claims may be substituted for the insurance policy herein required in the case of parade vendor permits valid only for such parade event and issued under the provisions of § 11-14-11.

(11) Proof of state sales tax certificate, if applicable, and compliance with all other applicable state and federal requirements for the particular business for which a permit is requested.

(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

2005 S-7

**§ 11-14-6 HEALTH PERMITS REQUIRED FOR FOOD AND BEVERAGE BUSINESSES.**

No permit authorized to be issued under this article shall be issued to any person for the purpose of selling or offering for sale any food or beverage, unless the applicant shall have first obtained all health permits, certificates and inspections required by the city health code for the particular type of business for which the permit is requested.

(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

**§ 11-14-7 IN EMERGENCIES, BOND REQUIRED FOR PEDDLERS, COMMERCIAL SOLICITORS AND ITINERANT MERCHANTS.**

(A) Upon the declaration of a state of emergency or of a disaster in the city, as authorized in this code, every permit issued under this article for a peddler, commercial solicitor or itinerant merchant to engage in the selling, renting or offering for sale or rent any goods or services used or useful in connection with such emergency or disaster relief shall be immediately suspended. The permitting officer is hereby authorized to determine whether each particular permit issued by him or her is within the class of permits suspended, and is further authorized to reinstate suspended permits upon compliance by the permittee with the bonding requirements herein. Applicants for new or renewal permits during the period of the emergency or disaster shall be subject to the same bonding requirements as suspended permittees.

(B) Prior to the issuance or renewal or reinstatement of any permit under division (A) for a peddler, commercial solicitor or itinerant merchant, the applicant therefor shall provide a bond in the sum of not less than twice the maximum amount of any single transaction, as determined by the permitting officer; payable to the city for the use and benefit of any person aggrieved by the failure of such peddler, commercial solicitor or itinerant merchant to fully comply with the conditions thereof. The bond shall be executed by the applicant, as principal, with a good and sufficient surety, upon which service of process may be made within the state. The bond shall be conditioned that the principal shall comply with all of the provisions of city ordinances and state statutes. It shall also be conditioned that the principal will pay all damages growing out of the violation of any such ordinance or statute; the principal's wrongful, fraudulent or illegal conduct; or arising out of any misrepresentation or deception practiced on any person transacting business with such principal, his or her agents or employees, either at the time of such transaction or through any advertisement or representation prior to or after such transaction. It shall be further conditioned that no payment under such bond shall reduce the liability of the principal and surety under the bond for damages related to any separate violation or transaction. The bond shall remain in full force and effect for the duration of the permit authorized under this article, and for two years thereafter. Action on the bond may be brought in the name of the city to the use and benefit of the aggrieved person.

(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)



**§ 11-14-8 PERMIT: DURATION AND FEES, RENEWAL, DENIAL OR REVOCATION, APPEAL.***(A) Duration and fees.*

(1) Except as otherwise provided in this article, permits granted under this article shall be issued in 30-day increments, with a maximum period of validity of 90 days.

(2) The fee for a permit under this article shall be \$25 per 30-day increment.

(3) An annual permit may be issued to a year-round business in lieu of the permit provided for in division (A)(1) above, and the fee for such annual permit shall be \$275.

(4) Each vending unit and each distinct location of an itinerant merchant business shall be separately permitted.

(5) As a condition of each permit issued under this article, each individual engaged in the permitted business shall be provided with a separate identification card that shall be valid for the duration of the permit. Each such identification card shall be provided by the applicant, as required under § 11-14-5, and upon the permit's issuance, shall have placed upon it the stamp of approval of the permitting officer.

*(B) Renewal.*

(1) Permits issued under this article may be renewed by filing a written request therefor, which shall correct and update any information required in the original application to accurately reflect current facts and information. Such renewal requests shall be accompanied by the required fees, and shall be processed like original permit applications.

(2) No permit issued under this article shall be transferable or assignable.

(3) Within five working days of the receipt of a completed application for a permit under this article, the permit officer shall issue the requested permit or shall notify the applicant, in writing, of its denial and the reason for that denial.

(4) Every permit issued under this article shall state: the number of the permit, its dates of issue and expiration, its fee amount, the type of business authorized and the goods or services to be offered, the location where said business may be carried on, the name of the business, and the names of the individuals authorized to conduct its actual business operations.

(C) *Denial or revocation.*

(1) Any permit may be denied or revoked for any of the following causes:

- (a) Fraud or misrepresentation contained in the application for the permit.
- (b) Fraud or misrepresentation made in the course of carrying on the permitted business.
- (c) Conduct of any business in violation of any of the terms of this article or of any city ordinance.
- (d) Activities or conduct in violation of any state statutes or federal law governing the transaction or product of the business.
- (e) The revocation of two or more of the applicant's permits, in the calendar year prior to the application for a permit, because of fraud or misrepresentation, either in a previous application or in the course of carrying on the permitted business.

(2) Notice of any such denial or revocation of a permit shall be given in writing. It shall set forth specifically the grounds of such denial or revocation. Such notice shall be sufficient, if personally delivered or mailed, postage prepaid, to the permittee at the business address given on the application. It shall be effective immediately upon personal delivery, or on the second business day following its date of mailing.

(D) *Appeal.* Any person aggrieved by the decision of the permit officer, under this article, in regard to the denial of an application for a permit or in connection with the revocation of a permit, shall have the right to appeal to the City Commission. Such appeal shall be taken by filing with the City Manager, within seven days after the effective date of the notice of the denial or revocation, a written statement setting forth the grounds for the appeal. A hearing before the City Commission shall be scheduled within 21 days following the filing of the appeal. The decision of the City Commission shall be final.

(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

**§ 11-14-9 COMMERCIAL SOLICITORS ENGAGED IN INTERSTATE COMMERCE;  
CERTIFICATE OF REGISTRATION IN LIEU OF PERMIT.**

(A) No commercial solicitor engaged in the business of taking orders for future delivery of goods or services through the channels of interstate commerce shall be required to post a bond or be issued a permit under the terms of this article. However, no such solicitor shall engage in such activities without first filing with the city an application containing the information required by § 11-14-5(B)(1) through 11-14-5(B)(6) and § 11-14-5(B)(10) of this article, and obtaining a certificate of registration as herein provided.



(B) Upon the filing of the required application, each such solicitor shall be issued a certificate of registration upon payment of a fee of \$5 therefor, and each individual engaged in such solicitation in the city shall have an identification card approved as provided herein. No person shall engage in such solicitations without the required identity card.

(C) Certificates of registration and identification cards issued under this section shall be valid for a period of 90 days, and shall be displayed to any person so requesting.  
(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

**§ 11-14-10 GENERAL REGULATIONS FOR VENDORS.**

All vendors permitted under the provisions of this article shall comply with the following rules and regulations, which shall be conditions of the permits:

(A) All vendor premises and surrounding areas shall be kept clean and free of trash and litter. A trash receptacle shall be available upon or within 75 feet of every vending unit.

(B) No vendor shall conduct his vending operation except between the hours of 7:00 a.m. and 12:00 midnight. No vending unit shall remain on the premises except during such period of operations.

(C) Vendor signage shall be restricted to vending units and service vehicles, with no extension of signs beyond the edges of vehicles and vending units. Sign shall be limited to stating the vendor's name, and listing the goods and services available and their prices. Signs shall also comply with the zoning regulations relating to signage for the zoning district in which the vending unit is operated.

(D) All permits shall be prominently displayed and plainly visible within or upon the vending unit. Identification cards shall be displayed to any person so requesting.

(E) Vending of food or beverages in glass containers is prohibited.

(F) All vendor premises must be vacated, and vending units removed therefrom, during Condition 3 and higher hurricane alerts.

(G) No vending unit, or service vehicle used therewith, shall be left unattended on any public street, alley, sidewalk or other public way, nor upon any public grounds, park, beach or other public premises.

(H) Vending units shall be freestanding, and no item related to the vending operation shall be allowed to lean against, hang from or otherwise be attached to any structure, except the vending unit.

2005 S-7

(I) Vending units shall be constructed and maintained in a professional, workmanlike manner with quality materials. Units that are rusted, tattered, worn or otherwise in disrepair are strictly prohibited.

(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

#### **§ 11-14-11 SPECIAL REGULATIONS FOR SIDEWALK VENDORS.**

(A) No permit shall be issued to any vendor to operate his or her business, and no vendor shall vend upon any public sidewalk, except along parade routes for limited periods of time.

(B) Vendors are permitted to vend upon public sidewalks along parade routes four hours prior to, during, and one hour after any parade held under authority of a permit issued pursuant to the city code, subject to the following restrictions and regulations (in addition to any other conditions imposed upon vendors by this article):

(1) The Police Chief shall determine whether the vending would be consistent with the public safety. In protecting public safety, the Chief may refuse to grant a permit, or may grant a permit limiting the vending to particular areas, limiting the items to be sold or rented, limiting the time for vending, or imposing other restrictions. In making his or her determination based upon past parade and law enforcement experience, the Chief shall consider the potential for: interference with traffic; misuse of items to be sold or rented; physical injury; interference with parade participants, parade watchers, police officers and others; and other effects detrimental to safety.

(2) Vendors shall comply with all pertinent restrictions and regulations applicable to sidewalk vendors as follows:

(a) The maximum size of vending units shall be three feet in width by four feet in length, excluding movable parts and pushbars. Overall size shall not exceed six feet in length nor four feet in width.

(b) Vendors shall confine their vending units and activities to the sidewalk area. Vending is prohibited on or from streets and parking areas.

(c) Mobile vending units shall remain mobile, except to stop and vend and for reasonable rest periods when no vending occurs.

(d) Vending is prohibited within 75 feet of another vendor; within 300 feet of any permanent contractual concession; within 25 feet of any street intersection; within 300 feet of the designated grounds of an authorized community festival event, and within 50 feet of any building entrance.



(e) No vendor shall cause any obstruction to the smooth flow of pedestrian or vehicular traffic, and vendors shall yield the right-of-way to other traffic of any type.

(f) Motorized vending units are prohibited.

(3) No vendor shall use any type of sound amplification nor shall any vendor shout or make any other loud noises to attract the attention of pedestrians or motorists or otherwise harass or disturb persons. Distribution of commercial handbills, circulars or other advertising paraphernalia is prohibited.

(4) No vendor shall vend to persons in vehicles.

(5) Parade vendor permits shall be issued for the period specified in this section only and the fee therefor shall be \$10 for each vendor and/or vending unit, which fee shall be in lieu of the permit fee established for vendors in § 11-14-8.

(6) Vendors shall be restricted in their location to sidewalks and other public areas, except for streets and private premises immediately adjacent to and within 600 feet of parade routes. Such private premises shall be owned by the vendor or used by him with the expressed permission of the owner. Such permission shall be evidenced by written affidavit filed with the permitting officer prior to the issuance of a permit under this division.

(7) Applications for parade vendor permits must be completed and filed at least two days prior to the scheduled parade date.

(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

#### **§ 11-14-12 SPECIAL REGULATIONS FOR STREET VENDORS.**

No permit shall be issued to any vendor to operate his or her business, and no vendor shall vend upon or from any public street, alley or roadway, except subject to the following restrictions and regulations (in addition to other conditions imposed upon vendors by this article):

(A) Vending units shall be street-approved motor vehicles, duly licensed for operation upon public streets and roadways, in accordance with the regulations of the Texas Department of Public Safety and Texas Department of Motor Vehicles.

(B) No vending shall be conducted except upon residential streets and in residential zones under the provisions of the Zoning Ordinance.

(C) Vending units must remain mobile, except to stop and vend. Vending from a moving vehicle is prohibited.

(D) Vending within 500 feet of the grounds of any school, public or private, is prohibited: when the school is in session, and one half hour prior before and after any session.

(E) Vending within 500 feet of any hospital is prohibited.

(F) No vendor or vending unit shall restrict, obstruct or interfere with the access of any person to or from a private driveway, or in any way create an obstruction to adequate access to property.

(G) Vending shall be conducted only during daylight hours.

(H) No vendor shall vend or stop, stand or park his or her vehicle within 75 feet of any street intersection.

(I) For conducting business, vending units shall be stopped immediately adjacent to (within 18 inches of) curbs or street edge. Double parking is prohibited.

(J) Vending units shall be equipped with a caution sign, which can be extended horizontally from the left side of the vehicle, with letters not less than six inches in height spelling out the word CAUTION or SLOW. Vending units shall be further equipped with caution signs on the front and back, alerting oncoming motorists that children may be crossing near the vehicle. Whenever the unit is stopped for vending, the extendable caution arm must be extended. All equipment installed in or on any vending vehicle shall be secured so as to prevent movement during transit and detachment in the event of a collision or a sudden movement or stop. Loose utensils shall be securely stored whenever the vehicle is moving.

(K) No vendor shall use any outcry, sound amplification device or other instrument, which can be heard for a distance greater than 500 feet, to attract attention for vending. Nor shall any outcry, sound amplification device or other instrument for attracting attention be used in any place or at any time when vending is prohibited by this section.

(L) While engaged in seeking customers in residential areas, vending vehicles shall not exceed 15 miles per hour.

(M) Vending to persons standing in streets is prohibited.

(N) Vendors shall yield the right-of-way to all other types of traffic.  
(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

**§ 11-14-13 GENERAL REGULATIONS FOR PEDDLERS, COMMERCIAL SOLICITORS AND ITINERANT MERCHANTS.**

All peddlers, commercial solicitors and itinerant merchants permitted under the provisions of this article shall comply with the following rules and regulations, which shall be conditions of the permits:

(A) Peddlers and commercial solicitors shall conduct business only between the hours of 9:00 a.m. and 9:00 p.m.

(B) No peddler, commercial solicitor or itinerant merchant shall represent to any person that any certificate of registration, permit or identification card issued under the provisions of this article in any manner constitutes an endorsement or approval by the city of a product, good or service of any particular person or business.

(C) No peddler, solicitor or itinerant merchant shall make any false or fraudulent statements or any misrepresentations regarding any goods or services, or in any other manner misrepresent his or her business or purpose.

(D) Upon the request of any purchaser of goods or services, every peddler, commercial solicitor and itinerant merchant shall provide a signed, written receipt, which shall set forth a brief description of the goods or services, their total purchase or rental price, the amount of any cash payment, and the balance due and terms of payment.

(E) Every peddler, commercial solicitor and itinerant merchant shall prominently display any certificate of registration or permit issued under the provisions of this article. Upon the request of any person, he or she shall display any identification card issued under the provisions of this article.

(F) No peddler or commercial solicitor shall remain on any private premises, or continue any effort to gain entry to any private premises, after being requested by the owner or lawful occupant thereof to depart. For purposes of this provision, any sign posted at the primary entrance to a private premises bearing the words "no peddlers," "no solicitors," or words of similar import, shall be deemed a request that any such peddler or solicitor depart the premises.

(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

**§ 11-14-14 NO SOLICITATION IN THE STREETS OR RIGHT-OF-WAYS.**

It shall be unlawful to solicit from the street and/or right-of-way, except as provided in § 11-14-16.

(Ord. ORD-2004-21, passed 8-9-04)

2005 S-7

**§ 11-14-15 DUTY OF POLICE TO ENFORCE.**

It shall be the duty of the Police Department to examine all places of business and persons subject to the provisions of this article, to determine past and present compliance, and to enforce its provisions against any person found to be in violation.

(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)

**§ 11-14-16 CHARITABLE SOLICITATION.**

(A) The prohibition on soliciting from a vehicle in a street in § 11-14-14 does not apply to a person soliciting contributions for a charitable organization which has been issued a permit under this section and who is in compliance with all other provisions of this section.

(B) In this section:

(1) **CHARITABLE ORGANIZATION** or **ORGANIZATION** means an entity that the United States Internal Revenue Service recognizes to be a charitable organization.

(2) **CONTRIBUTION** means currency, coin, or check.

(C) In order to solicit contributions while standing in a public street or highway, a charitable organization must comply with the following requirements:

(1) Not less than 30 days prior to the date desired for soliciting, submit a complete application to the Chief of Police or designee for a charitable solicitation permit. The Police Department shall prescribe a form for this purpose. The form shall require the charitable organization to provide its full name, a point of contact for the organization (meaning the name and phone number of the individual seeking the permit for the organization), the desired date(s) and specific location(s) (which must be an intersection equipped with a traffic control signal light) for soliciting, the name, address, phone number and age of each individual who may solicit contributions on behalf of the organization, and an agreement by the organization indemnifying the city and holding the city harmless from any and all claims, suits, demands, damages, and attorney fees arising out of or related to the acts or omissions of persons soliciting for the organization. The form may require further information that is reasonably necessary to the direct enforcement of this section and the purposes of this article.

(2) At the time of submitting a completed application, the organization shall also submit the following, and failure to do so renders the application incomplete:

(a) The application fee is \$25. This fee will be used to defray the city's costs of processing the application and compliance monitoring on the street. This fee is nonrefundable, unless the permit is denied.

(b) Written proof of liability insurance in the amount of at least \$500,000 per occurrence. The insurance must not have a deductible in excess of \$250 per occurrence. The policy must include the city as an additional insured and must specify that the insurance is primary over any insurance carried by the city. The insurance policy must be issued by a company authorized by the State Department of Insurance to do business in Texas, and have an effective date that covers the proposed date(s) of soliciting.

(c) Written proof that the organization is a charitable organization, along with a copy of the organization's charter (or if a foreign organization, then a copy of its certificate of authority to do business in Texas).

(3) No more than one permit per calendar year may be issued to an organization. For purposes of this subsection, local chapters of a state, national or international organization are deemed separate organizations, but committees or other subdivisions of an organization are not so deemed.

(4) Street soliciting under a permit shall be authorized for no more than three consecutive calendar days, and shall be limited to the period of 9:00 a.m. and one hour prior to sunset, at the approved location(s) specified in the application.

(5) A solicitation permit shall be issued only for soliciting within 100 feet of an intersection equipped with a traffic control signal light.

(D) The Police Chief or designee shall not issue an organization a permit for a given date(s) or location(s) if a permit has already been issued to another organization for such date(s) and location(s).

(E) The Police Chief or designee shall grant or deny a permit solely on the basis of the requirements stated in divisions (C) and (D) above. The Police Chief or designee shall advise the organization's point of contact of the decision to grant or deny the permit, not later than the tenth day after date of receiving the completed application and all required attachments.

(F) If a permit is granted, it shall state the name of the organization, the names of persons who will be soliciting contributions for the organization, and the approved date(s) and location(s). The organization shall at its expense make sufficient copies of the permit so that each person engaged in soliciting has a copy at each approved location and shall readily present such copy for inspection upon demand by any person.

(G) If a permit is denied, the applicant may appeal to the City Commission by filing a letter with the City Secretary indicating why the decision to deny the permit was incorrect, and why the permit should be granted. This letter must be filed no later than three business days after the notice of denial.

2005 S-7

The City Commission shall decide the matter and advise the organization's point of contact of the decision no later than the fifteenth day after receiving the appeal letter. The City Commission's decision is final.

(H) A person soliciting or attempting to solicit a charitable contribution commits an offense if the person violates any of the following requirements:

- (1) The person must be at least 18 years of age.
  - (2) The person must be named on the organization's permit.
  - (3) The person must wear a reflective orange or yellow visibility vest as an outer most garment.
  - (4) The person must be in the street or highway only when the controlling traffic signal light prohibits vehicle movement in that lane.
  - (5) The person must remain within one 100 feet of or from an intersection approved in the permit.
  - (6) The person must place an orange traffic control cone, not less than 24 inches in height, on the center stripe of each street and highway approaching the intersection, between 100 and 150 feet from the intersection, to warn drivers of a hazard ahead.
  - (7) The person must present for inspection a copy of the permit issued to the person's organization upon demand by any person.
- (I) It is an offense for any person to obstruct, tamper with, alter, cover, or post any object on or to a traffic-control device. Traffic-control device includes but is not limited to, median markers, reflectors, signal control boxes, regulatory signs, directional signs, warning signs, and pedestrian walk lights.  
(Ord. ORD-2004-21, passed 8-9-04)

#### **§ 11-14-99 PENALTY.**

(A) Violation of any provision of this article shall constitute a class C misdemeanor. Each violation of a separate provision, and each day a violation continues shall be a separate offense.

(B) Conviction of an offense under this article shall be punishable by a fine of not less than \$50 nor more than the maximum amount established by law, for each violation.  
(Ord. 200016, passed 9-25-00; Am. Ord. ORD-2004-21, passed 8-9-04)



## **CHAPTER XIII: GENERAL OFFENSES**

### **Article**

- 1. OFFENSES AGAINST PROPERTY**
- 2. OFFENSES AGAINST PUBLIC PEACE AND SAFETY**



## ARTICLE 1: OFFENSES AGAINST PROPERTY

### Section

#### ***General Provisions***

13-1-1 Arson

13-1-2 Barbed wire and electric fences

#### ***Litter***

13-1-10 Fliers

13-1-11 Posting on fences; poles

### **GENERAL PROVISIONS**

#### **§ 13-1-1 ARSON.**

It shall be unlawful for any person to burn or attempt to burn any building, edifice, or structure within the limits of the city, by whatever means the fire is communicated to the house; provided, the burning is with an illegal intent. The city will pay to any person \$250 for information given the Chief of Police which shall lead to the arrest and conviction of any such person committing such illegal act.

('62 Code, § 6-1-3) (Ord. —, passed 9-17-62) Penalty, see § 1-1-99

#### ***Statutory reference:***

*Arson, see TEX. PENAL CODE, Art. 28.02*

#### **§ 13-1-2 BARBED WIRE AND ELECTRIC FENCES.**

(A) It shall be unlawful for any person to erect or maintain any electric fence or any fence constructed in whole of barbed wire within the corporate limits of the city. Barbed wire shall not be used as a guard to any parking lot, land, or property except as hereinafter specified.

(B) Persons may utilize barbed wire in part for the erection or maintenance of a fence only when all of the following conditions are satisfied:

**Kingsville - General Offenses**

(1) Barbed wire does not encroach upon or extend over any public access easement, alley, street or public right of way;

(2) All barbed wire is maintained at a height equal to or greater than five feet above the ground level;

(3) The barbed wire contains no barb or point greater than one inch in length;

(4) Any fence containing or constructed in part of barbed wire is readily visible; and

(5) The barbed wire must be for a reasonable business purpose such as a perimeter security fence or to discourage-trespass upon dangerous and hazardous sites.

(C) It shall be unlawful to fail to maintain such in part barbed wire fences in accordance with the above conditions.

('62 Code, § 6-1-7) (Ord. 83047, passed 10-17-83) Penalty, see § 1-1-99

**Statutory reference:**

*For authority, see TEX. LOC. GOV'T CODE, §§ 54.004 and 217.042*

**LITTER**

**§ 13-1-10 FLIERS.**

It shall be unlawful for any person to scatter, post or throw upon the public thoroughfares or right-of-way any handbills, posters, advertisements or papers. Nothing herein shall be construed to authorize any person to obstruct the public thoroughfares or right-of-way or create any nuisance therein. These provisions shall not interfere with or prevent the posting of notices required by law to be posted.

('62 Code, § 6-8-1; Am. Ord. ORD-2001-05, passed 2-26-01; Am. Ord. ORD-2004-27, passed 9-13-04) Penalty, see § 1-1-99

**§ 13-1-11 POSTING ON FENCES; POLES.**

It shall be unlawful for any person to post, paint, tack or otherwise attach any notice or other advertising matter to any fence, wall or building or other property, until first obtaining the consent of the owner of such property. If consent of the property owner of the fence, wall or building or other property is obtained, removal within five calendar days after the posted event is required. Without exception, it shall be unlawful for any person to post, paint, tack or otherwise attach any notices or advertising matter to any telephone, electric or other such poles.

('62 Code, § 6-8-2; Am. Ord. ORD-2001-05, passed 2-26-01; Am. Ord. ORD-2004-27, passed 9-13-04) Penalty, see § 1-1-99

## **ARTICLE 2: OFFENSES AGAINST PUBLIC PEACE AND SAFETY**

### **Section**

#### ***General Provisions***

- 13-2-1 Possession of tobacco products by a minor
- 13-2-2 Obedience to barricades; penalty for violation

#### ***Curfew Regulations for Minors***

- 13-2-10 Definitions
- 13-2-11 Offenses
- 13-2-12 Defenses to prosecution
- 13-2-13 Enforcement

#### ***Daytime Curfew Regulations For Minors***

- 13-2-20 Definitions
- 13-2-21 Offenses
- 13-2-22 Defenses to prosecution
- 13-2-23 Enforcement
- 13-2-24 Inducement of violation

#### ***Weapons Control***

- 13-2-30 Unlawful discharge of firearms; enforcement
- 13-2-31 Concealed handguns on city property

#### ***Court Order***

- 13-2-40 Intentional or willful disobedience of a court order
- 13-2-99 Penalty

**GENERAL PROVISIONS****§ 13-2-1 POSSESSION OF TOBACCO PRODUCTS BY A MINOR.**

No person under 18 years of age shall possess, either actually or constructively, any substance containing tobacco leaf. The provisions of this section shall not apply to a minor possessing tobacco leaf products in the ordinary course of his duties as an employee of a commercial establishment that sells or distributes tobacco leaf products.  
(Ord. 96008, passed 2-26-96) Penalty, see § 1-1-99

**§ 13-2-2 OBEDIENCE TO BARRICADES; PENALTY FOR VIOLATION.**

(A) It shall be unlawful for any person to willfully move a barricade erected by a person authorized to erect such barricade, or circumvent or drive a motor vehicle past a barricade so erected or past a low water crossing sign.

(B) Violation hereof shall be punished by a fine of not less than \$25 nor more than \$200.  
(Ord. ORD-2004-17, passed 7-12-04)

**CURFEW REGULATIONS FOR MINORS****§ 13-2-10 DEFINITIONS.**

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

***CURFEW HOURS.***

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and

(2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

***EMERGENCY.*** An unforeseen combination of circumstances, or the resulting state, either of which calls for immediate action. The term includes, but is not limited to: a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

**ESTABLISHMENT.** Any privately owned place of business operated for a profit, to which the public is invited, including but not limited to any place of amusement or entertainment.

**GUARDIAN.**

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

**MINOR.** Any person under 17 years of age.

**OPERATOR.** Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership, and the officers of a corporation.

**PARENT.** A person who is:

- (1) A natural parent, an adoptive parent or a stepparent of another person; or
- (2) At least 18 years of age, authorized by a parent or guardian to have the care and custody of a minor, for a limited time and for a specific purpose.

**PUBLIC PLACE.** Any place to which the public, or a substantial group thereof, has access and includes, but is not limited to: streets; highways; and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

**REMAIN.**

- (1) To linger or stay; or
- (2) To fail to leave premises when requested to do so by a peace officer or the owner, operator, or other person in control of the premises.

**SERIOUS BODILY INJURY.** Bodily injury that creates a substantial risk of death, or that causes death or serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Ord. 94012, passed 7-11-94; Am. Ord. ORD-2001-08, passed 2-26-01)

**§ 13-2-11 OFFENSES.**

(A) A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during curfew hours.

(B) A parent or guardian of a minor commits an offense if he or she knowingly, or acting with criminal negligence, permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(C) The owner, operator or any employee of an establishment commits an offense if he or she knowingly, or acting with criminal negligence, allows a minor to remain upon the premises of the establishment during curfew hours.

(Ord. 94012, passed 7-11-94; Am. Ord. ORD-2001-08, passed 2-26-01) Penalty, see § 13-2-99

### **§ 13-2-12 DEFENSES TO PROSECUTION.**

(A) It is an affirmative defense to prosecution under § 13-2-11 that the minor was:

(1) Accompanied by the minor's parent or guardian;

(2) In a motor vehicle involved in interstate travel;

(3) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(4) Involved in an emergency;

(5) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor, if the neighbor did not complain to the police department about the minor's presence;

(6) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor; or going to or returning home from the same, without any detour or stop;

(7) Married or had disabilities of minority removed in accordance with TEX. FAM. CODE, Ch. 31.

(B) It is a defense to prosecution under § 13-2-11(C) that the owner, operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours, and had refused to leave.

(Ord. 94012, passed 7-11-94; Am. Ord. ORD-2001-08, passed 2-26-01)

### **§ 13-2-13 ENFORCEMENT.**

Before taking any enforcement action under this section, a peace officer shall ask the apparent offender's age and reason for being in the public place or on the establishment's premises. The officer



shall not issue a citation or make an arrest under this section, unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense under § 13-2-12 is present.

(Ord. 94012, passed 7-11-94; Am. Ord. ORD-2001-08, passed 2-26-01)

### ***DAYTIME CURFEW REGULATIONS FOR MINORS***

#### **§ 13-2-20 DEFINITIONS.**

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

##### ***CURFEW HOURS.***

(1) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday; provided however, the hours defined in this definition shall not be considered as curfew hours for minors not subject to compulsory school attendance pursuant to TEX. EDUC. CODE § 25.085, nor shall the hours herein defined be considered as curfew hours on days or during periods in which the school where the applicable minor is enrolled is closed or classes for which the applicable minor is enrolled have been cancelled under the order and direction of officials authorized to issue such orders and directives.

***EMERGENCY.*** An unforeseen combination of circumstances, or the resulting state, either of which calls for immediate action. The term includes, but is not limited to: a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

***ESTABLISHMENT.*** Any privately owned place of business operated for a profit, to which the public is invited, including but not limited to any place of amusement or entertainment.

##### ***GUARDIAN.***

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

***MINOR.*** Any person subject to compulsory school attendance.

***OPERATOR.*** Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership, and the officers of a corporation.

**PARENT.** A person who is:

- (1) A natural parent, an adoptive parent or a stepparent of another person; or
- (2) At least 18 years of age, authorized by a parent or guardian to have the care and custody of a minor, for a limited time and for a specific purpose.

**PUBLIC PLACE.** Any place to which the public, or a substantial group thereof, has access and includes, but is not limited to: streets; highways; and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

**REMAIN.**

- (1) To linger or stay; or
- (2) To fail to leave premises when requested to do so by a peace officer or the owner, operator or other person in control of the premises.

**SERIOUS BODILY INJURY.** Bodily injury that creates a substantial risk of death, or that causes death or serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.  
(Ord. 94013, passed 8-8-94; Am. Ord. ORD-2001-08, passed 2-26-01; Am. Ord. 2006-61, passed 11-27-06)

## **§ 13-2-21 OFFENSES.**

(A) A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the city during curfew hours.

(B) A parent or guardian of a minor commits an offense if he or she knowingly, or acting with criminal negligence, permits, or by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(C) The owner, operator or any employee of an establishment commits an offense if he or she knowingly, or acting with criminal negligence, allows a minor to remain upon the premises of the establishment during curfew hours.

(Ord. 94013, passed 8-8-94; Am. Ord. ORD-2001-08, passed 2-26-01) Penalty, see § 13-2-99

**§ 13-2-22 DEFENSES TO PROSECUTION.**

(A) It is an affirmative defense to prosecution under § 13-2-21 that the minor was:

(1) Accompanied by the minor's parent or guardian;

(2) In a motor vehicle involved in interstate travel;

(3) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(4) Involved in an emergency;

(5) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor, if the neighbor did not complain to the police department about the minor's presence;

(6) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor; or going to or returning home from the same, without any detour or stop;

(7) Married or had disabilities of minority removed in accordance with TEX. FAM. CODE Ch. 31.

(B) It is a defense to prosecution under § 13-2-21(C) that the owner, operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours, and had refused to leave.  
(Ord. 94013, passed 8-8-94; Am. Ord. ORD-2001-08, passed 2-26-01)

**§ 13-2-23 ENFORCEMENT.**

Before taking any enforcement action under this section, a peace officer shall ask the apparent offender's age and reason for being in the public place or on the establishment's premises. The officer shall not issue a citation or make an arrest under this section, unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in § 13-2-22 is present.

(Ord. 94013, passed 8-8-94; Am. Ord. ORD-2001-08, passed 2-26-01)

**§ 13-2-24 INDUCEMENT OF VIOLATION.**

A person commits an offense if he induces, encourages or assists a minor to appear in a public place in violation of §§ 13-2-11 or 13-2-21.

(Ord. ORD-2004-18, passed 8-9-04)



**WEAPONS CONTROL****§ 13-2-30 UNLAWFUL DISCHARGE OF FIREARMS; ENFORCEMENT.**

(A) *Definitions.* For the purpose of this subarticle, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AIR RIFLE** or **AIR PISTOL.** These shall be defined as such terms are commonly known to the average person familiar with such terms and in addition shall include any object or instrument that by means of compressed air, compressed gas, or springs, is capable of discharging shots, pellets or any solid object.

**GUN, PISTOL** or **FIREARM.** These definitions shall be the same as is commonly understood by the average person familiar with such terms. ('62 Code, § 6-4-1)

(B) It shall be unlawful for any person to discharge any gun, pistol, air rifle, air pistol or firearm of any kind or any slingshot, within the city limits, save and except that peace officers may lawfully discharge firearms within the city limits in the performance of their duty as peace officers, and air rifles and air pistols may be discharged on one's own property; provided, that the pellets or shots do not cross a public alley or street or a neighbor's property line. ('62 Code, § 6-4-2)

(C) Any peace officer is hereby authorized to pick up or otherwise take possession of for evidence any gun, pistol, air rifle, air pistol, or firearm of any kind, discharged in violation of this article. ('62 Code, § 6-4-3) (Ord. —, passed 6-22-59)

**Statutory reference:**

*Weapons control, see TEX. PENAL CODE, §§ 46.01 et seq.*

*Authority to prohibit discharge of firearms, see TEX. LOC. GOV'T CODE, § 215.001*

**§ 13-2-31 CONCEALED HANDGUNS ON CITY PROPERTY.**

(A) No person who is a licensed holder shall carry a concealed handgun on the premises of the city.

(B) For the purpose of this section, the following definitions shall apply.

**LICENSED HOLDER.** A person licensed to carry a handgun under TEX. REV. CIV. STAT. Article 4413 (29ee).

***PREMISES.*** Any property owned by the city. It shall also include any property over which the city has care, control, or custody or right to care, control, or custody. The term does not include any public driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(Ord. 96009, passed 2-26-96) Penalty, see § 13-2-99

***COURT ORDER***

**§ 13-2-40 INTENTIONAL OR WILLFUL DISOBEDIENCE OF A COURT ORDER.**

(A) It shall be unlawful and a misdemeanor for any person to intentionally or knowingly fail to complete any community service to be performed in lieu of payment of fines within the time permitted by the Court.

(B) It shall be unlawful and a misdemeanor for any person to intentionally or knowingly fail to timely make payment of any fines under a schedule for payment of fines approved by the Court.

(C) If any person does not complete their community service within five calendar days after the time permitted by the Court, it shall be presumed that they intentionally or knowingly and unlawfully failed to complete the community service to be performed in lieu of payment of a fine, one or more.

(D) If any person who has agreed to timely make payment of any fines under a schedule for payment of fines approved by the Court shall fail to make such payments in a timely manner or within not more than five calendar days after such scheduled payment is due it is presumed they acted intentionally or knowingly and unlawfully.

(E) It shall be an affirmative defense as to the misdemeanors provided for herein that such act was not performed intentionally or knowingly.

(F) That nothing contained herein shall be construed to abrogate or usurp the intrinsic authority of the Court, or the judge thereof, to exercise its intrinsic authority for punishment for contempt of court or to determine the misdemeanor was not caused intentionally or knowingly, or for good cause shown, as determined by the Court, or the judge thereof, to determine what constitutes intentional or knowingly under the provisions of this section.

(G) That punishment for violation of this section shall be in accordance with Section 1-1-99, as amended or hereinafter amended of the Code of Ordinances of the City of Kingsville, Texas. (Ord. 13-2-40, passed 5-28-97)



**§ 13-2-99 PENALTY.**

(A) A person who violates §§ 13-2-11 or 13-2-21 is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.

(B) When required by of the TEX. FAM. CODE, § 51.08 as amended, the municipal court shall waive original jurisdiction over a minor who violates §§ 13-2-11(A) or 13-2-21(A) and shall refer the minor to juvenile court.

(Ord. 94012, passed 7-11-94; Am. Ord. 94013, passed 8-8-94)

(C) A violation of § 13-2-31 shall constitute a misdemeanor and be punishable by a fine of not less than \$100 nor more than \$500.

(Ord. 96009, passed 2-26-96)

## **CHAPTER XV: LAND USAGE**

### **Article**

- 1. BUILDING REGULATIONS**
- 2. MOBILE HOMES AND MOBILE HOME PARKS**
- 3. SUBDIVISION REGULATIONS**  
**APPENDIX: FORMS TO BE ENTERED ON PLAT**
- 4. FLOOD DAMAGE PREVENTION**
- 5. HISTORIC DISTRICTS AND LANDMARKS**
- 6. ZONING**  
**APPENDIX A: LAND USE CATEGORIES**  
**APPENDIX B: SPACE REQUIREMENTS**  
**APPENDIX C: TELECOMMUNICATIONS**  
**APPENDIX D: AIR INSTALLATIONS TABLES**
- 7. SEXUALLY ORIENTED BUSINESSES**
- 8. LANDSCAPING POLICY**



## ARTICLE 1: BUILDING REGULATIONS

### Section

#### ***Building Code***

- 15-1-1 Title
- 15-1-2 Adoption by reference
- 15-1-3 Additions and amendments to *International Building Code*
- 15-1-4 Modification of existing buildings
- 15-1-5 Nonliability of city
- 15-1-6 Schedule of permit fees
- 15-1-7 Building permit valuations
- 15-1-8 Swimming pools; enclosure required
- 15-1-9 Excavation and trench safety requirements
- 15-1-10 Party wall agreements
- 15-1-11 Certificate of occupancy required
- 15-1-12 Failure to comply
- 15-1-13 Purpose and authority for third party plan review services
- 15-1-14 Pre-qualification of companies
- 15-1-15 Procedures
- 15-1-16 Appeal procedures

#### ***Plumbing Code***

- 15-1-20 Title
- 15-1-21 Adoption by reference
- 15-1-22 Additions and amendments to *International Plumbing Code*
- 15-1-23 Schedule of permit fees
- 15-1-24 Use of existing piping and fixtures
- 15-1-25 Nonliability of city
- 15-1-26 Suspension of license; review by Board

#### ***Fuel Gas Code***

- 15-1-35 Title
- 15-1-36 Adoption
- 15-1-37 Additions and amendments to *International Fuel Gas Code*

**Kingsville - Land Usage**

- 15-1-38 [Reserved]
- 15-1-39 License required; compliance with provisions
- 15-1-40 Schedule of permit fees
- 15-1-41 Liquefied petroleum gas
- 15-1-42 Natural gas rates
- 15-1-43 Violation; revocation or suspension of license

***Electrical Code***

- 15-1-55 Title and scope
- 15-1-56 Definitions
- 15-1-57 Administration and enforcement
- 15-1-58 Examining Board of Electricians
- 15-1-59 Qualification and registration of electricians
- 15-1-60 Permits and fees; electrical inspection
- 15-1-61 Inspections
- 15-1-62 Electrical standards
- 15-1-63 Electric signs
- 15-1-64 Electric rules exceptions
- 15-1-65 National Electric Code adopted
- 15-1-66 Revocation of registration

***Housing Code***

- 15-1-75 Adoption by reference
- 15-1-76 Amendments

***Non-Residential Structures Code***

- 15-1-85 Purpose
- 15-1-86 Uses prohibited
- 15-1-87 Conflicting provisions
- 15-1-88 Definitions
- 15-1-89 Conformity to minimum standards required
- 15-1-90 Refuse and garbage
- 15-1-91 Natural growth
- 15-1-92 Drainage
- 15-1-93 Storage areas to be surrounded by solid screen
- 15-1-94 Off-street parking, drives and loading areas
- 15-1-95 Walls and foundations
- 15-1-96 Roofs and chimneys
- 15-1-97 Structure kept in good repair

- 15-1-98 Windows, doors and entrances
- 15-1-99 Store fronts
- 15-1-100 Signs, marquees, and awnings
- 15-1-101 Supporting members
- 15-1-102 Walls, ceilings and floors
- 15-1-103 Toilets and lavatories; lighting of washrooms
- 15-1-104 Stairways and entrances
- 15-1-105 Electrical standards
- 15-1-106 Premises to be kept clean and sanitary; eliminating infestation; malicious damage
- 15-1-107 Building official to supervise
- 15-1-108 Right of entry; interference with inspection a violation
- 15-1-109 Condemnation for human use
- 15-1-110 Notice to owner; service of notice
- 15-1-111 Placarding
- 15-1-112 Right of appeal
- 15-1-113 Summary abatement in emergency
- 15-1-114 Appeals
- 15-1-115 Inspection reports furnished
- 15-1-116 Hearings
- 15-1-117 Powers of Adjustments Board; action
- 15-1-118 Remedy at owner's expense
- 15-1-119 Time limit for compliance
- 15-1-120 Demolition as compliance
- 15-1-121 Board of Adjustment; establishment; composition

***Mechanical Code***

- 15-1-135 Adoption
- 15-1-136 Licenses and permits required
- 15-1-137 Revocation or suspension of license

***Swimming Pool Code***

- 15-1-150 Title
- 15-1-151 Adoption
- 15-1-152 Licenses and permits required; fees
- 15-1-153 Revocation or suspension of license

***Condemning Property***

- 15-1-165 Condemned building or structure; specifications
- 15-1-166 Condemnation Officer designated

## Kingsville - Land Usage

- 15-1-167 Condemning buildings; procedure for determination
- 15-1-168 Notice of violation
- 15-1-169 Responsibilities of owner and occupant
- 15-1-170 Order to vacate; posting vacant buildings
- 15-1-171 Public hearing; orders of Commission; abatement by city
- 15-1-172 Collection of cost to abate nuisance; lien
- 15-1-173 Transfer of ownership
- 15-1-174 Liabilities of enforcement agents
- 15-1-175 Utilities
- 15-1-176 Remedies not exclusive

### ***House Moving***

- 15-1-210 License and bond required
- 15-1-211 Permit required; notification of route and time of movement
- 15-1-212 Duty to cut and repair wires; failure to furnish employee
- 15-1-213 House movers not to cut wires
- 15-1-214 Failure of employee to repair wires
- 15-1-215 Night moving
- 15-1-216 Inspection; fee
- 15-1-217 Appeals
- 15-1-218 Inspection reports furnished
- 15-1-219 Hearings
- 15-1-220 Powers of the Planning and Zoning Commission; action
- 15-1-221 Appeal to the City Commission
- 15-1-222 Temporary location

### ***Residential Code for One and Two-Family Dwellings***

- 15-1-302 Adoption by reference
- 15-1-303 Additions and amendments to *International Residential Code for One and Two-Family Dwellings*.

### ***Energy Conservation Code***

- 15-1-402 Adoption by reference
- 15-1-403 Additions and amendments to *International Energy Conversation Code*

- 15-1-999 Penalty

#### **Statutory reference:**

*Municipal regulation of structures, see TEX. LOC. GOV'T CODE, §§ 214.001 et seq.*

***BUILDING CODE***

**§ 15-1-1 TITLE.**

This subarticle shall be known as the “Building Code of the City,” and may be cited as such.  
(’62 Code, § 4-1-1) (Ord. 99018, passed 3-22-99)



## § 15-1-2 ADOPTION BY REFERENCE.

The purpose of this subarticle is to provide minimum standards, provisions and requirements for safe construction, alterations and modifications of buildings within the city. All such constructions, alterations and modifications of buildings within the corporate limits of the city shall conform to the requirements of this subarticle and to the specifications, rules and regulations entitled *International Building Code*, 2000 Edition approved and adopted by the Southern Building Code Congress International with all appendices thereto. Such edition is incorporated herein by reference and made a part of this subarticle as if fully set forth herein. When such edition conflicts with local regulations and ordinances, all locally adopted regulations and ordinances shall prevail.

The *International Building Code*, 2000 Edition, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

('62 Code, § 4-1-2) (Ord. 99018, passed 3-22-99; Am. Ord. ORD-2001-32, passed 12-17-01)

## § 15-1-3 ADDITIONS AND AMENDMENTS TO STANDARD BUILDING CODE.

The *International Building Code*, 2000 Edition; is hereby modified and changed in the following particulars:

(A) The *International Building Code*, 2000 Edition, is hereby amended to add a section entitled "Contractor's License Required," which reads:

It shall be the duty of every contractor or builder, who shall make contracts for the erection, repair or modification of buildings and structures, and every builder or contractor subletting the same or any part thereof, to pay a license fee of \$90 annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, and, in case of removal from one place to another, to have made corresponding change in the file accordingly. Any person convicted in Municipal Court of a violation of this code may have his or her license revoked for a period not to exceed two years. Such person shall be notified by certified mail addressed to his or her place of business, as filed, of the proposed revocation and be given an opportunity at a hearing before the City Manager to present such facts and circumstances that are relevant to the case.

(B) Chapter 11, § 1103.2.2 (Existing Buildings) shall be amended by adding the following:

Section 3408 - Accessibility for the physically disable and/or handicapped shall not be required or applied to existing buildings with the exception of major repairs or alterations or changes in occupancy class. In no case may any repair or alteration reduce the degree of compliance with Section 3408, Appendix E, or other regulations governing handicapped access. Reduction or lessening the number of handicapped facilities or degree of access shall not be permitted unless compliance with Section 3408 and Appendix E is maintained.

(C) Chapter 1, § 112 entitled "Board of Appeals," is hereby amended to read "Board of Adjustment" and shall read the same in all other references to such Board in the *International Building Code*, 2000 Edition.

(D) Chapter 1, § 112.1, entitled "Appointment," shall hereby be amended to read:

There shall hereby be a Board of Adjustment as defined in Title XI, Chapter 6, Section 7, entitled "Board of Adjustment," of the City Code of Kingsville, Texas, which shall be appointed as set forth therein for the terms specified.

(E) Sanitation shall be created by adding the following:

Central, common or shared sanitary facilities in multiple use buildings may be utilized to satisfy the minimum fixture requirement of the Plumbing Code for the subdivision of a building provided that the facilities are within 200 feet, require no outside travel, and meet all code requirements. The 200 feet shall be measured by line of travel between the entrances of the restroom and subdivision of the building. Food service businesses with a floor area larger than 500 square feet in area must possess full public restroom for both sexes.

('62 Code, § 4-1-3) (Ord. 99018, passed 3-22-99; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2001-32, passed 12-17-01)

#### **§ 15-1-4 MODIFICATION OF EXISTING BUILDINGS.**

Nothing herein contained shall be construed as prohibiting an individual from constructing or modifying his or her own buildings on his or her own premises; provided, however, all such work must be done in conformity with all other provisions of this subarticle, including those relating to permits, inspections and fees.

('62 Code, § 4-1-4) (Ord. 99018, passed 3-22-99; Am. Ord. ORD-2001-32, passed 12-17-01)  
Penalty, see § 15-1-999

#### **§ 15-1-5 NONLIABILITY OF CITY.**

This subarticle shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by any defect in any building in the city, nor shall the city, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspections authorized hereunder.

('62 Code, § 4-1-5) (Ord. 99018, passed 3-22-99; Am. Ord. ORD-2001-32, passed 12-17-01)

**§ 15-1-6 SCHEDULE OF PERMIT FEES.**

(A) On all repairs or alterations to existing buildings or on construction of other than buildings, fees based upon valuation as set forth in Chapter 1 (108) of the *International Building Code*, 2000 Edition, and as restated in subdivision (B)(1) hereof shall apply.

(B) The permit fee for all new buildings, or additions to existing buildings where the floor area is increased, shall be as follows:

(1) *Permit fees.*

(a) Permit fees for remodeling, repair or alterations to existing buildings costing in excess of \$100 shall be charged a permit fee as noted below. Duplexes, apartments, hotels and motels shall be charged an additional fee of \$10 per unit. Permit fees for roof repairs costing in excess of \$100 shall be charged a permit fee of \$0.03 per square foot.

<b><i>Total Valuation</i></b>	<b><i>Fee</i></b>
\$1,000 and less	No fee unless inspection is required, in which case a \$20 fee for each inspection shall be charged
\$1,001 to \$50,000	\$20 for the first \$1,000 plus \$5 for each additional thousand or fraction thereof, to and including \$50,000.
\$50,001 to \$100,000	\$265 for the first \$50,000 plus \$4 for each additional thousand or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	\$465 for the first \$100,000 plus \$3 for each additional thousand or fraction thereof, to and including \$500,000.
\$500,001 and up	\$1,665 for the first \$500,000 plus \$2 for each additional thousand or fraction thereof.

(b) Permit fees; new buildings and additions.

1. All buildings shall be charged a permit fee of \$0.16 per square foot. The minimum fee shall be \$10. Duplexes, apartments, hotels and motels shall be charged an additional fee of \$10 per unit. A construction site office shall be charged a permit fee of \$30.

2. In applying the preceding paragraph, square footage shall be determined by including each floor level, including basements and cellars, mechanical rooms, storage areas, lofts, balconies, porches, sun decks, covered patios, breezeways, carports, garages, sheds and other similar areas.

3. Moved buildings or structures. A fee of \$0.10 per square foot shall be charged for the issuance of any permit for a moved building or structure.

(2) *Moving buildings or structures.* A fee of \$110 shall be charged for the issuance of any permit for the moving of a building or structure.

(3) *Demolition of buildings or structures.* A fee of \$75 shall be charged for issuing a permit for the demolition of any building or structure.

(4) *Plan-checking fee.* A plan-checking fee shall be paid at the time of submitting plans and specifications for review on commercial projects. The plan-checking fee shall be equal to one half of the building permit fee as set forth in § 106.3 of the *International Building Code*. Such plan-checking fee is in addition to the building permit fee. A plan update or revision fee shall be charged equal to 50% of the original plan review fee, and shall be payable upon submission of update or revision.

(5) *Starting work without permit.* Where work for which a permit is required by this code is started or proceeded with prior to obtaining the permit, the fees herein specified shall be doubled. However, the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work, nor shall it relieve them from any other penalties prescribed herein.

(6) *Investigation fee.* The fee for any investigation required for building construction is equal to the cost of the building permit.

(7) *After hours inspection fee.* The cost of performing and inspection after regular business hours is equal to \$25 per hour with a two hour minimum charge.

(8) *Reinspection fee.* When the work performed does not meet the code requirements and a reinspection is required, a fee of \$25 will be charged for each reinspection.

(9) *Refunds on permits.* No refund will be granted on individual permit fees assessed at the minimum fee amount for a specific type of permit. Refunds of permit fees greater than minimum fee

amounts may be made at a rate not to exceed 75% of that portion of the fee in excess of the minimum fee amount provided: (a) no work has commenced, (b) no inspections have been made, and (c) the refund claim is submitted within 180 days after the issuance of the permit. Refund claims must be submitted in writing, with a copy of the permit receipt.

('62 Code, § 4-1-7) (Ord. 99018, passed 3-22-99; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2001-10, passed 2-26-01; Am. Ord. ORD-2001-32, passed 12-17-01)

**§ 15-1-7 BUILDING PERMIT VALUATIONS.**

If, in the opinion of the Building Department, the valuation of building, alteration or structure appears to be underestimated in the application, permit shall be denied, unless the applicant can show detailed estimated cost to meet the approval of the Building Department. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor.

(Ord. ORD-2001-32, passed 12-17-01)

**§ 15-1-8 SWIMMING POOLS; ENCLOSURE REQUIRED.**

Prior to first filing and final inspection, all swimming pools shall be completely enclosed. The fence or screen enclosure of the pool shall be at least four feet in height and shall not exceed six feet in residential pools. Openings in the fence shall not permit the passage of a four-inch diameter sphere. The fence or screen enclosure shall be equipped with self-closing and self-latching gates.

(Ord. ORD-2001-32, passed 12-17-01)

**§ 15-1-9 EXCAVATION AND TRENCH SAFETY REQUIREMENTS.**

A permit is required for all excavations in which a trench will exceed a depth of five feet. Detailed plans and specifications for trench safety systems that meet OSHA standards shall accompany all requests for a permit. The detail sheet shall contain copies of Table P-1 (Approximate Angle of Repose) and Table P-2 (Trench Shoring Minimum Requirements) as contained in Subpart P, Part 1926 of the Code of OSHA Standards, require the contractor to meet or exceed these minimum standards, and contain appropriate certifications. Certification relating each condition to OSHA earth conditions shown in Table P-2 shall be contained on the detail sheet. Certification by a registered professional engineer of any trench safety system not shown on OSHA Table P-2 shall be required. Certification of substitute safety systems must state that they are "equal to" or "greater than" OSHA standards. Certification of the trench safety plan shall state that the plan is applicable to the specific project and location. Drawings shall show any specific safety system required due to know site conditions. The contractor shall have competent personnel inspect the system daily as a minimum or more often as conditions warrant. ('62 Code, § 4-1-10) (Ord. 99018, passed 3-22-99; Am. Ord. ORD-2001-32, passed 12-17-01) Penalty, see § 15-1-999

**§ 15-1-10 PARTY WALL AGREEMENTS.**

No building permit or certificate of occupancy shall be issued for any structure which uses a party wall as a portion of such structure unless the provisions hereof are fully complied with. No building permit or certificate of occupancy shall be issued until all landowners using, intending to use, or entitled to use such party wall shall enter into a party wall agreement setting out the rights and responsibilities of the parties, and such party wall agreement has been filed in the Deed Records of Kleberg County,



Texas, and a copy thereof showing file mark thereon has been furnished with the application for building permit or certificate of occupancy.

(Ord. 99018, passed 3-22-99; Am. Ord. ORD-2001-32, passed 12-17-01)

#### **§ 15-1-11 CERTIFICATE OF OCCUPANCY REQUIRED.**

(A) No entity shall furnish water, sewer, electricity, gas, or other public utilities unless at the time of making application for service a valid certificate of occupancy duly executed by the Building Official is presented.

(B) There shall be two types of certificates of occupancy. These shall be designated as an Interim Certificate of Occupancy and a Permanent Certificate of Occupancy.

(1) An Interim Certificate of Occupancy may be issued by the Building Official for use in necessary construction on the premises only. The fee for an interim Certificate of Occupancy shall be \$3 per day for the first 30 calendar days; \$6 per day for the second 30 calendar days; and \$10 per day for each calendar day thereafter. The fees for such Interim Certificate of Occupancy shall be tendered prior to the issuance of such Interim Certificate of Occupancy. An Interim Certificate of Occupancy shall be required for water utility service only.

(2) A Permanent Certificate of Occupancy shall be issued when the Building Official determines that the proposed structure meets all applicable laws and ordinances, and not before. The fee for a Permanent Certificate of Occupancy shall be \$25. An additional fee of \$15 per floor shall be charged for multi-story buildings. A Permanent Certificate of Occupancy shall not be subject to renewal, and shall be valid as long as the premises for which it was issued meets all applicable codes and utility services are not terminated for any reason to such premises, whichever occurs first.

(Ord. Ord. 99018, passed 3-22-99; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2001-32, passed 12-17-01)

#### **§ 15-1-12 FAILURE TO COMPLY.**

It shall be unlawful for any person to commence any work on a building or structure before obtaining the necessary permit, or otherwise fail to comply with any provision of the *International Building Code*, 2000 Edition, or any provision of this subarticle.

('62 Code, § 4-1-6) (Ord. 99018, passed 3-22-99; Am. Ord. ORD-2001-32, passed 12-17-01)  
Penalty, see § 1-1-999

#### **§ 15-1-13 PURPOSE AND AUTHORITY FOR THIRD PARTY PLAN REVIEW SERVICES.**

The purpose of the procedures enumerated in this section is to provide the city with a selection procedure for pre-qualifying companies to perform the services of plan review under the provisions

established by the code. This section shall be applicable to the city's selection of third party plan review companies under the authority of the Building Official. Specifically, the city, by and through the Building Official, shall select a third party plan review company solely on the basis of qualifications. The Building Official through the Pre-Qualification Procedure enumerated herein shall review a company's qualifications. In addition this section does not apply to the hiring of such companies by the city to provide services relating to potential litigation or to provide services ancillary to compliance with local, state, or federal laws. Such hiring shall be done in consultation with the City Attorney and in accordance with the applicable requirements of local, state, or federal law.

(Ord. ORD-2004-16, passed 6-28-04)

#### **§ 15-1-14 PRE-QUALIFICATION OF COMPANIES.**

(A) The requirements for pre-qualification of any company shall be determined by the Building Official and shall be approved by the City Commission resolution, which shall be made available to the public. In order to be considered as a provider of plan review services for a municipal project for the city, a company must be pre-qualified by the closing date of such project, as noted herein. The information presented shall objectively demonstrate that the company has the capacity to perform plan review services as provided under the provision of this code. A company may update pre-qualification information at any time, but it is the sole responsibility of the company to maintain current records with the city. Updated pre-qualification materials submitted by a company shall replace existing materials in their entirety. Failure to update records as necessary may result in the determination of non-responsiveness of any submittal for pre-qualification. The Building Official shall notify companies in writing as to whether or not they have met the pre-qualification requirements. Upon the granting of pre-qualification, an annual renewal shall be required. The Planning Administrator shall maintain the files of the pre-qualified companies.

(B) The city shall ensure that a competent engineering firm, registered to practice in the State of Texas, that has had experience in the areas including, but not limited to, Certified Plan Review, municipal construction projects, private development design projects, projects located along TxDOT roadways, and/or projects located in this general region of the state are on the pre-qualification list.

(C) The engineering firm shall be competent in providing project-related engineering plan review services, including but not limited to the following areas:

(1) Review of construction design plans and specifications for new development in accordance with this code of ordinances.

(2) Review of construction design plans and specifications for new development in accordance with the city current adopted version of the International Codes including but not limited to Building Code, Plumbing Code, Mechanical Code, Fire Prevention Code, Life Safety Code, Energy Conservation Code and the current adopted version of the National Electrical Code.



(3) Submission of reviewed and approved design plans and specifications and submittals to the city.

(D) The projects being reviewed may consist of any or all aspects of civil, structural, mechanical, electrical, plumbing and architectural design including but not limited to the construction of water, sewer, parking, building, mechanical landscaping and road improvements.

(E) The city shall evaluate and qualify the company according to but not limited to the following criteria;

(1) The qualifications of firm,

(2) Experience of firm in performing plan reviews,

(3) Experience of firm on similar projects,

(4) Experience of firm on projects located along TxDOT roadways,

(5) Familiarity with city ordinances and codes, and

(6) Having a current Plan Review Certification.

(Ord. ORD-2004-16, passed 6-28-04)

#### **§ 15-1-15 PROCEDURES.**

(A) *Scope of services.*

(1) The pre-qualified third party plan review companies may perform work for the private sector. However, any agreements entered into between a company and the private sector are private contracts to which the city is not a party. Regardless of the terms of any private contract, any and all fees required by this code must be paid to the city.

(2) The pre-qualified company may also provide services to the city. These services to the city may include plan review related to the city's own municipal projects and/or plan review of private sector projects by the city for which the Building Official determines that third party plan review services would be appropriate.

(B) *Award to city contract to provide third party services.* The city shall abide by all local, state, and federal law, statutes, rules and regulations regarding the procurement of services noted above in division (A)(2).

(Ord. ORD-2004-16, passed 6-28-04)

**§ 15-1-16 APPEAL PROCEDURES.**

Any company, which feels that the pre-qualification procedure regulated by § 15-1-14 has occurred improperly in the selection process, may appeal directly to the City Commission. Such appeal must be made in writing within ten working days from the date of receiving written notice by the Building Official pursuant to § 15-1-14. The City Commission shall hear any and all appeals related to this section. The City Commission shall be the final authority regarding any such appeals.

(Ord. ORD-2004-16, passed 6-28-04)



**PLUMBING CODE****§ 15-1-20 TITLE.**

This subarticle shall be known as the "Plumbing Code of the City," and may be cited as such. ('62 Code, § 4-2-1) (Ord. 99016, passed 3-15-99)

**§ 15-1-21 ADOPTION BY REFERENCE.**

The purpose of this subarticle is to provide minimum standards, provisions and requirements for safe construction, alteration and modification of plumbing within the city. All piping and fixtures for the delivery of water or disposal of wastewater shall be installed, replaced, maintained and repaired in conformance with the requirements of this subarticle and to the specifications, rules and regulations entitled *International Plumbing Code*, 2000 Edition, in its entirety with all appendices thereto. Such edition is hereby incorporated herein by reference and made a part of this subarticle as if fully set forth herein. When such edition conflicts with local regulations and ordinances, all locally adopted regulations and ordinances shall prevail. The *International Plumbing Code*, 2000 Edition, shall apply to installation, replacement, maintenance, and repair of all nonutility piping and fixtures for the delivery of water or the disposal of wastewater within the city or that is connected to the city water or wastewater systems. ('62 Code, § 4-2-2) (Ord. 99016, passed 3-15-99; Am. Ord. ORD-2001-30, passed 12-17-01)

**§ 15-1-22 ADDITIONS AND AMENDMENTS TO INTERNATIONAL PLUMBING CODE.**

The *International Plumbing Code* is hereby modified and changed in the following particulars:

(A) Section 106.1 of the *International Plumbing Code* shall be amended to read as follows:

§ 106.1 Contractor License: It shall be the duty of every contractor who shall make contracts for the installation or repair of gas, water and wastewater systems that are not owned by a public franchised utility for which a permit is required, and every contractor making such contracts and subletting same, or any part thereof, to pay a license fee of \$95 annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, phone number, and appropriate state registration. The fee for renewal of a current registration shall be \$85, if paid before the end of December of each year. Upon submission of the license fee and required information, the Building Department shall issue a license to perform plumbing work. In case of removal from one place to another the license holder shall cause to have made corresponding change in the file accordingly. Nothing contained herein shall be construed as prohibiting any individual from installing or repairing his or her own fixtures or installing, extending, replacing, altering, or repairing plumbing fixtures and piping in their own residence; provided, however, that all such work must be in conformity with all other provisions of this chapter, including those relating to permits, inspections and fees.

(B) Section 109.1 of the *International Plumbing Code* shall be amended to read as follows:

§ 109.1 Supervising Board of Plumbers created.

(a) There is hereby created the Supervising Board of Plumbers consisting of seven (7) persons. The Board shall include three (3) appointive members and four (4) ex officio members. The appointive members of the Board shall be appointed by the City Commission. The ex officio members shall be the City Manager, the City Engineer, the Health Officer of his or her agent and the Plumbing Inspector. The Supervising Board of Plumbers shall function in lieu of the Board of Appeals described by Section 109 of the *International Plumbing Code*, 2000 Edition.

(b) Qualifications of appointive members. Persons who serve on the Supervising Board of Plumbers shall be qualified as follows: one (1) appointive member shall be a journeyman plumber, one (1) appointive member of the Board shall be a master plumber or plumbing contractor, and one (1) appointive member shall be a person knowledgeable of plumbing such as an engineer, retired contractor, vocational instructor, appliance or hardware dealer, or a journeyman or master plumber.

(c) Tenure of office. The appointive members of the Supervising Board of Plumbers shall hold office from the date of their appointment and qualification until their successors have been appointed and qualified. The appointment or reappointment of members of the Board shall be such that the first member shall be appointed on or about January 1 of odd-numbered years for a term of two (2) years, and the other two (2) members shall be appointed on or about January 1, of even numbered years for a term of two (2) years. Any member of the Board may be removed by the City Commission at any time for cause. Vacancies shall be filled by appointment for the unexpired term.

(d) Compensation. The members of the Supervising Board of Plumbers shall receive no compensation for their services.

(e) Organization of Supervisory Board. The Board shall select their own chairman and adopt such rules and procedures as they may deem appropriate and necessary.

(f) Powers and duties. The Board shall hear any appeals for variance or relief from grievances as may be filed which are governed by the *International Plumbing Code* or this chapter. The Board shall also act as agent to assure compliance with the State Statutes involving plumbing and the regulations of the Texas State Board of Plumbing Examiners. The Board may also act in matters involving plumbing which may affect the public health.

(g) Quorum. Four (4) members of the Board present at any property meeting shall constitute a quorum for the transaction of business. No vote shall be deemed official without the concurring vote of at least three (3) Board members.

(h) Records. The Boards shall keep a minuted book in which shall be recorded all transactions and business of the Board.

(C) Section 106.6.1 of the *International Plumbing Code* shall be amended to read as follows:



It shall be unlawful for any persons to commence any plumbing work before obtaining the necessary permit, or otherwise fail to comply with any provision of the *International Plumbing Code*, 2000 Edition, or any other provision of this subarticle.

(D) Section 109 of the *International Plumbing Code* shall be amended to read as follows:

Supervising Board of Plumbers - Appointment:

(a) Supervision Board of Plumbers Created. There is hereby created the Supervising Board of Plumbers consisting of seven (7) persons. The Board shall include three (3) appointive members and four (4) ex-officio members. The appointive members of the Board shall be appointed by the City Commission. The ex-officio members shall be the City Manager, the City Engineer, the Health Officer or his or her agent, and the Plumbing Inspector. The Supervising Board of Plumbers shall function instead of the Board of Appeals described by Section 109 of the *International Plumbing Code*, 2000 Edition.

(b) Qualifications of Appointive Members. Persons who serve on the Supervising Board of Plumbers shall be qualified as follows: One (1) appointive member shall be a journeyman plumber, one (1) appointive member of the Board shall be a master plumber or plumbing contractor, and one (1) appointive member shall be a person knowledgeable of plumbing such as an engineer, retired contractor, vocational instructor, appliance or hardware dealer, or a journeyman or master plumber.

(c) Tenure of Office. The appointive members of the Supervising Board of Plumbers shall hold office from the date of their appointment and qualification until their successors have been appointed and qualified. The appointment or reappointment of members of the Board shall be such that the first member shall be appointed on or about January 1 of odd number years for a term of two (2) years. Any member of the Board may be removed by the City Commission at any time for cause. Vacancies shall be filled by appointment for the unexpired term.

(d) Compensation. The members of the Supervising Board of Plumbers shall receive no compensation for their services.

(e) Organization of the Supervisory Board. The Board shall elect their own chairperson and adopt such rules and procedures, as they may deem appropriate and necessary.

(f) Powers and Duties. The Board shall hear any appeals for variance or relief from grievances as may be filed which are governed by the *International Plumbing Code* or this Chapter. The Board shall also act as an agent to assure compliance with the State Statutes involving plumbing and the regulations of the Texas State Board of Plumbing Examiners. The Board may also act in matters involving plumbing which may affect the public health.

('62 Code, § 4-2-3) (Ord. 99016, passed 3-15-99; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2001-10, passed 2-26-01; Am. Ord. ORD-2001-30, passed 12-17-01) Penalty, see § 1-1-99



**§ 15-1-23 SCHEDULE OF PERMIT FEES.**

The permit fees for all new buildings, or additions to existing buildings where the floor area is increased, shall be as follows:

(A) Except for a specific fee set forth below, permit fees for remodeling or alterations to existing buildings costing in excess of \$100 shall be charged a permit fee of \$0.03 per square foot. Duplexes, apartments, hotels and motels shall be charged an additional fee of \$10 per unit.

<b><i>Plumbing Permit Fees</i></b>	
For each issuing permit	\$20
Plus the following when provided:	
-For each plumbing fixture, floor drain or trap, including water and drainage piping	\$2.50
-For each house sewer	\$5
-For each house sewer having to be replaced or repaired	\$5
-For each cesspool	\$5
-For each septic tank and seepage pit or drainfield	\$10
-For each water heater and/or vent	\$2.50
-For installation, alteration or repair of water piping and/or water-treating equipment	\$5
-For repair or alteration of drainage or vent piping	\$5
For vacuum breakers or backflow protective devices installed subsequent to the installation of the piping or equipment served:	
-One to five	\$2.50
-Over five, each	\$1.50
Investigation fee	Permit fee
Reinspection fee	\$25
Outside city limits fee	\$25 plus permit fee
The permit fee shall be doubled, if work is started before the permit is issued.	

2004 S-6

(B) *Permit fees for new buildings and additions.* All buildings shall be charged a permit fee \$0.04 per square foot. The minimum fee shall be \$20. Duplexes, apartments, hotels and motels shall be charged an additional fee of \$10 per unit.

(C) *Moved buildings or structures.* A fee of \$0.04 per square foot shall be charged for the issuance of any permit for a moved building or structure.

(D) *Refunds on permits.* No refund will be granted on individual permit fees assessed at the minimum fee amount for a specific type of permit. Refunds of permit fees greater than minimum fee amounts may be made at a rate not to exceed 75% of that portion of the fee in excess of the minimum fee amount provided: (1) no work has commenced, (2) no inspections have been made, and (3) the refund claim is submitted within 180 days after the issuance of the permit. Refund claims must be submitted in writing with a copy of the permit receipt.

(Ord. 200022, passed 11-20-00; Am. Ord. ORD-2001-10, passed 2-26-01; Am. Ord. ORD-2001-30, passed 12-17-01)

#### **§ 15-1-24 USE OF EXISTING PIPING AND FIXTURES.**

Notwithstanding any provision in this subarticle to the contrary, piping and fixtures installed prior to the adoption of this subarticle that will render reasonably satisfactory service and will not in any way endanger life or property need not be altered even though they do not conform with the requirements of this subarticle.

('62 Code, § 4-2-5) (Ord. 99016, passed 3-15-99)

#### **§ 15-1-25 NONLIABILITY OF CITY.**

This subarticle shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by any defect in any piping or fixture mentioned herein, or by installation thereof, nor shall the city, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder.

('62 Code, § 4-2-6) (Ord. 99016, passed 3-15-99)

#### **§ 15-1-26 SUSPENSION OF LICENSE; REVIEW BY BOARD.**

When a person is convicted of a violation of the City Plumbing Code, any city plumbing or contractor license may be suspended or revoked by the Supervising Board of Plumbers. The Board shall review the circumstances of the conviction to determine if further action is warranted.

Should the Board determine that further inquiry or action is warranted, the Board shall cause a statement of charges and order to appear to be served upon the accused by placing such statement and order to be sent by certified mail at least 30 days before the date of the scheduled hearing. The accused may appear in person or by counsel, or both, at the time and place named in the order for hearing. The City Attorney shall provide counsel for the Board. If the accused fails or refuses to appear, the Board may proceed in the absence

of the accused. The Board may upon vote of four members suspend or revoke the city plumbing or contractor license for a period not to exceed two years. The Board shall cause a complete transcript of any hearing which results in the suspension or revocation of a license to be forwarded to the Texas State Board of Plumbing Examiners. The Board shall have the power to administer oaths and to compel the attendance of witnesses by subpoena issued over the signature of the chairman or secretary and the seal of the Board.

('62 Code, § 4-2-7) (Ord. 99016, passed 3-15-99)

### ***FUEL GAS CODE***

#### **§ 15-1-35 TITLE.**

This subarticle shall be known as the "International Fuel Gas Code of the City," and may be cited as such.

('62 Code, § 4-3-1) (Ord. 99013, passed 3-15-99; Am. Ord. ORD-2001-33, passed 12-17-01)

#### **§ 15-1-36 ADOPTION.**

The purpose of this subarticle is to provide minimum standards, specifications and requirements for safe construction, installation, alteration and modification of gas piping and appliances within the city. All such construction, installation, alteration and modification of buildings within the corporate limits of the city shall conform to the requirements of this subarticle and to the specifications, rules and regulations entitled *International Fuel Gas Code*, 2000 Edition, approved and adopted by the Southern Building Code Congress International with all appendices thereto. When such edition conflicts with local regulations and ordinances, all locally adopted regulations and ordinances shall prevail. The *International Fuel Gas Code*, 2000 Edition, shall apply to the construction, alteration, repair, equipment, use, maintenance, or installation of gas piping, appliances, or equipment within the city limits.

('62 Code, § 4-3-2) (Ord. 99013, passed 3-15-99; Am. Ord. ORD-2001-33, passed 12-17-01)

#### **§ 15-1-37 ADDITIONS AND AMENDMENTS TO INTERNATIONAL FUEL GAS CODE.**

(A) Section 404.14.2 of the *International Fuel Gas Code*, 2000 Edition, is amended to read as follows:

§ 404.14.2: When connecting plastic to a metallic riser, there shall be a minimum thirty six inch (36") horizontal length of metallic piping underground at the end of any plastic piping installed, and such section of metallic piping shall be suitably protected against corrosion. The metallic piping shall be of adequate length and size so that no stress or strain is placed on the plastic piping.

(B) Section 404.3 of the *International Fuel Gas Code*, 2000 Edition, is amended to read as follows:

§ 404.3: General: Gas piping may be installed in concealed locations in accordance with this section provided that no pipe smaller than one-half inch ( $\frac{1}{2}$ " ) shall be used in any concealed location, except as permitted by local authorities.

(C) Section 404.9 of the *International Fuel Gas Code*, 2000 Edition, is amended to read as follows:

§ 404.9: Underground piping must be buried underground a minimum of eighteen inches (18 ") for its entire length below grade, and may not be used within or under any building or slab. Plastic piping may not be used within or under any building or slab.

§ 404.9.1: Individual lines to outside lights, grills or other appliances shall be installed a minimum of eighteen inches (18 ") below grade, provided that such installation is approved and is installed in locations not susceptible to physical damage.

('62 Code, § 4-3-6) (Ord. 99013, passed 3-15-99; Am. Ord. ORD-2001-33, passed 12-17-01)

#### **§ 15-1-38 EXISTING PIPING AND APPLIANCES.**

Notwithstanding any provision in this subarticle to the contrary, consumer's piping installed prior to the adoption of this subarticle or piping installed to supply other than natural gas may be converted to natural gas, if the inspector finds, upon inspection and proper tests, that such piping will render satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, piping shall be altered or replaced to conform to all requirements of this subarticle.

(Ord. ORD-2001-33, passed 12-17-01)

#### **§ 15-1-39 LICENSE REQUIRED; COMPLIANCE WITH PROVISIONS.**

(A) No person shall engage in work at the installation, extension or alteration of consumer's gas piping or certain gas appliances until such person shall have secured a plumbing contractors license and registration as required by the Plumbing Code of the city.

(B) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises; provided, however, all such work must be done in conformity with all other provisions of this subarticle, including those related to permits, inspections, and fees.

('62 Code, § 4-3-4) (Ord. 99013, passed 3-15-99; Am. Ord. ORD-2001-33, passed 12-17-01)  
Penalty, see § 15-1-999

#### **§ 15-1-40 SCHEDULE OF PERMIT FEES.**

(A) The fees for gas permits as set forth in Section 106.5.2 of the *International Fuel Gas Code*, 2000 Edition, are hereby established. A separate permit is required for each address.

## Kingsville - Land Usage

<b><i>Schedule of Permit Fees</i></b>	
For issuing each permit	\$5
One to four outlets (inclusive)	\$5
Each additional outlet	\$1
Conversion burners, floor furnaces, incinerators, boilers, central heating, or air conditioning	\$5
Each additional	\$1
Vented wall furnaces and water heaters (first unit)	\$2.50
Each additional	\$1
Reinspection fee	\$15

(B) If any person commences any work before obtaining the necessary permit and inspection, fees shall be doubled; and any and all fees shall be paid by the person to whom the permit is issued.

(C) If the inspector determines that public safety has been endangered, a complaint shall be filed in Municipal Court. Upon receiving a conviction, the person shall have their license revoked as follows:

- (1) 1<sup>st</sup> conviction.....3 months revocation
- (2) 2<sup>nd</sup> conviction.....6 months revocation
- (3) 3<sup>rd</sup> conviction .....12 months revocation
- (4) 4<sup>th</sup> conviction ..... 2 year revocation
- (5) 5<sup>th</sup> conviction ..... permanently revoked

('62 Code, § 4-3-5) (Ord. 99013, passed 3-15-99; Am. Ord. ORD-2001-33, passed 12-17-01)  
Penalty, see § 15-1-999

### **§ 15-1-41 LIQUEFIED PETROLEUM GAS.**

(A) Storage and use of liquefied petroleum gas shall comply with the standards, specifications and procedures of the State of Texas Railroad Commission, City Fire Prevention Code and this subarticle.

(B) Specific prohibitions are as follows:

(1) No liquefied petroleum gas tank shall be installed within 500 feet of any school or hospital, with the 500 feet to be measured from the property line of the nearest school or hospital to the point at which the liquefied petroleum gas tank is proposed for installation.

(2) There shall be no installation of liquefied petroleum gas tanks where there is a gas main located within 400 feet of such property unless such property is properly zoned and the owner engaged in the sale, storage, distribution, or processing of liquefied petroleum gas.

(3) There shall be no installation of liquefied petroleum gas tanks of over 500 gallons for residential uses.

(4) Nothing in this subarticle is intended to regulate the use or storage of liquefied petroleum gas associated with motor vehicles, recreational vehicles, campers, or other equipment designed for portable applications when such vehicles possess a valid motor vehicle license plate or when such tanks do not exceed 50 gallons capacity.

(5) There shall be no storage of over 25 gallons of gasoline, diesel, or other motor fuels in any residential zoning district.

('62 Code, § 4-3-7) (Ord. 99013, passed 3-15-99; Am. Ord. ORD-2001-33, passed 12-17-01)  
Penalty, see § 15-1-999

#### **§ 15-1-42 NATURAL GAS RATES.**

The rate schedules currently charged by Entex Inc., as established by Ordinance 91016, shall remain in effect within the corporate limits of the city until such time as the rate schedules may be changed, modified, amended, or withdrawn with the approval of the City Commission. ('62 Code, § 4-3-8) (Ord. 99013, passed 3-15-99; Am. Ord. ORD-2001-33, passed 12-17-01)

#### **§ 15-1-43 VIOLATION; REVOCATION OR SUSPENSION OF LICENSE.**

If any person commences any work upon gas piping or appliances without securing required permits or licenses, or otherwise fails to comply with the provisions of the *International Fuel Gas Code*, 2000 Edition, such person shall be deemed to be in violation of this subarticle. Any person convicted a violation under this subarticle may have his city license revoked or suspended by the Municipal Judge or City Commissioners for a period not to exceed two years.

('62 Code, § 4-3-9) (Ord. 99013, passed 3-15-99; Am. Ord. ORD-2001-33, passed 12-17-01)  
Penalty, see § 1-1-999



***ELECTRICAL CODE*****§ 15-1-55 TITLE AND SCOPE.**

(A) *Title*. The title of this subarticle shall be the "Electrical Code of the City" and may be cited as such.

(B) *Purpose*. The purpose of this subarticle is to safeguard persons and buildings and their contents from electrical hazards arising from the improper installation and use of electrical equipment for any purpose.

(C) *Scope*. The provisions of this subarticle shall apply to all installations of, and work done on, electrical conductors, fittings, devices, motors, controls, appliances, fixtures, electronic devices, signs and gaseous tubing; hereinafter referred to as "electrical equipment," within or on public and private buildings and premises, with exceptions as provided herein.

(1) On all new installations of electrical equipment, alterations to existing installations or for which the use has changed, all work shall be done to conform to this subarticle.

(2) Repair and maintenance work shall be such that when replaced it shall conform to this subarticle.

(D) *Public utilities*. The provisions of this subarticle shall not apply to electric supply or communication agencies in the normal course of their duties provided such agencies are operating under a franchise from this city.

(E) *Radio stations*. The provisions of this subarticle shall apply to electrical equipment used to supply power for amateur radio transmitting stations, but shall not apply to other electrical equipment used for radio transmission.

(F) *Signs and gaseous tubing*. This subarticle shall apply to all forms of electrical signs, gaseous tubing and outline lighting conductors and equipment.

(G) *Railroads*. The city shall have no jurisdiction on electrical work done within the railroad right-of-way.

('62 Code, § 4-4-1) (Ord. —, passed 8-16-51; Am. Ord. 95012, passed 6-12-95; Am. Ord. 2006-16, passed 4-17-06)

**§ 15-1-56 DEFINITIONS.**

For the purpose of this subarticle, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words not defined in this section shall have the meaning given to them in the 1993 Edition of NFPA 70, National Electric Code.

**APPROVED or APPROVAL.** Approved by the Planning Department. Nationally recognized standards shall be the basis of such approval.

**AUTHORIZED PERSON.** An individual or authorized representative of a firm or corporation who is licensed under the provisions of this subarticle to do the work provided by this subarticle.

**BOARD.** The Electrical Examining Board as created in this subarticle.

**CITY.** The territory within the corporate limits of the City of Kingsville, Texas.

**CONDUCTOR.** A wire or cable or other form of metal suitable for carrying electrical current or potential.

**ELECTRICAL CONSTRUCTION.** All work and material used in installing, maintaining and extending a system of electrical wiring and all appurtenances, apparatus and equipment used in connection therewith, inside of or attached to any building or structure.

**ELECTRICAL CONTRACTOR.** Any person engaged in the business of installing, maintaining or altering, by contract, electrical conductors or equipment, and who is qualified under terms and provisions of this subarticle.

**ELECTRICIAN.** A person engaged in the business of electrical construction, maintenance and repair, and who is qualified under the provisions of this subarticle.

**EQUIPMENT.** Materials, fittings, motors and the like, used as a part of or in connection with electrical installations.

**INSPECTOR.** An individual who has been designated by the city as an Electrical Inspector.

**MAINTENANCE WORK.** The act of keeping in safe operating condition any conductor or piece of equipment in any and all existing electrical installations, but does not include the installation of additional electrical work, electrical equipment or apparatus.

**OWNER.** Any person holding legal title to any real property within the city.

**REGISTERING.** That person who has satisfied the Examining Board of Electricians and has satisfied the Board that he or she is qualified to do the work stated in the application, that he or she has paid the necessary registration fees to date, and that his or her name is carried in the records of the Electrical Inspector as qualified under the provisions of this code.

**SPECIAL RULING.** A written ruling or decision passed by the Board and filed in the office of the Electrical Inspector.

('62 Code, § 4-4-2) (Ord. —, passed 7-25-60; Am. Ord. 95012, passed 6-12-95; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06)

**§ 15-1-57 ADMINISTRATION AND ENFORCEMENT.**

(A) *Prohibited interest.* It shall be unlawful for inspectors to engage in the business of the sale, installation or maintenance of electrical conductors, devices, appliances, apparatus, fixtures, or other electrical equipment, either directly or indirectly, and they shall have no financial interest in any concern engaged in such business at any time while in the employ of the city as an inspector.

(B) *Powers of inspectors.*

(1) The inspectors shall have the powers of a police officer to enable the proper enforcement of the provisions of this subarticle upon presentation of proper identification or badge.

(2) He or she may enter any house or premises by due process of law, if necessary, during reasonable hours, to examine any electrical installation therein, in the performance of his or her official duties.

(3) He or she shall have the authority to have electrical service disconnected where improper wiring exists, or where construction is done without a permit as required herein.

(4) He or she shall order the compliance to this subarticle where changes or alterations to existing wiring in buildings or premises is needed.

(5) He or she may place any official seal or notice on electrical equipment to prevent the use of electricity, and it shall be unlawful for any person to remove or in any way alter the seal or notice placed by the inspector.

(6) Upon failure of any person owning, leasing or in possession of and using any building or structure in the city to correct or cause to be corrected such defective and condemned electrical or fixture work or any part thereof, for a period of 15 days after a receipt of written notice thereof, from the inspector to do so, which notice shall specify the corrections to be made, the inspector shall direct the person, who shall be supplying electrical current or power to such electrical work or part thereof to disconnect the supply thereof. It shall be unlawful for any such agency supplying current to renew supply of current or power without permission of the inspector to do so.

(C) *Liability of inspectors.* Where action is taken by the inspector or inspectors to enforce the provisions of this subarticle, such acts shall be done in the name of, and on behalf of the city, and the inspectors in so acting shall not render themselves personally liable for any damage which may accrue to persons or property as a result of acts committed in good faith and discharge of their duties and any suit brought against any inspector by reason thereof shall be defended by the attorney until final termination of the proceedings.

(D) *Special ruling.* If a special ruling by the inspector is necessary to govern specific electric construction not covered by this subarticle, such ruling shall be passed upon by the Board before becoming fully effective.



(E) *Special permission.* The electrical regulations of this subarticle may be modified or waived by special permission in particular cases where such modification is reasonable, does not differ from the intent of this subarticle, and does not create an injustice. Such permission shall be granted by the inspector in all cases and reviewed by the Board.

('62 Code, § 4-4-3) (Ord. —, passed 8-16-51; Am. Ord. 79-18, passed 1-28-80; Am. Ord. 95012, passed 6-12-95; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06) Penalty, see § 15-1-999

## **§ 15-1-58 EXAMINING BOARD OF ELECTRICIANS.**

(A) *Electrical Board.* There is hereby created the Kingsville Electrical Board consisting of seven persons. The Board shall include five appointive members and two ex-officio members. The appointive members shall be appointed by the Mayor and Commission. The ex-officio members shall be the inspector, and the Building Official. The ex officio members shall not have a vote.

(B) *Qualifications.* Persons who serve on the Examining and Supervisory Board of Electricians as appointive members shall qualify and be composed as follows:

(1) Two master electricians, or one master electrician and one journeyman electrician.

(2) Three citizens who are not actively practicing electricians. At least one of the three citizens members should be knowledgeable of electricity such as an electrical engineer, a retired electrician, a vocational teacher, a utility employee, or other qualified person. If no knowledgeable person is available, both citizen representatives appointed should serve as consumer representatives.

(C) *Tenure of office.* The appointive members of the Board shall be appointed for a term of two years. Their tenure of office shall start as soon as this subarticle becomes effective. Any member may be removed by the governing body of the city for cause. Vacancies within the Board shall be filled by appointment for the unexpired term.

(D) *Powers and duties.* The Board shall select a chairman at the time of appointment and shall prescribe a procedure and order of business for hearing appeals from the decisions of the inspector and grievement appeals as provided herein. The Electrical Inspector of the city shall act as secretary to the Board, but shall be excused from acting as secretary of the Board in the event of hearing of appeals from decisions of the inspectors section and in his or her stead another member shall act in his or her capacity.

(1) Application forms may be obtained at the City Planning Department Office.

(2) Three members of the Board present at any meeting shall constitute a quorum for transaction of business and at least three concurring votes are necessary to transact an official action of the Board.

(3) Any applicant aggrieved by the Board's decision must submit a written appeal to the City Commission.



(4) In addition to the powers already enumerated, the Electrical Board shall have the authority to hear complaints concerning the application and enforcement of the Electrical Code of the city and shall make such recommendations to the Commission for changes and additions to the Electrical Code as they deem necessary to the Commission.

(E) *Records.* The Board shall keep complete minutes of all meetings.

(F) *Certificate of registration.* The Planning Department alone shall issue certificates of registration.

(G) *Suspension or revocation of rights.*

(1) The Board shall have the power to suspend or revoke the certificate of registration or both of any electrician or electrical contractor who is found guilty of:

(a) The practice of any fraud or deceit in obtaining such certificate of registration.

(b) Taking out electrical permits in the name of some person authorized by law to do electrical work and thereafter permitting a person without a proper certificate of registration to do the work.

(c) Any gross negligence, incompetency, or misconduct in the performance of electrical work within the jurisdiction of the city under this subarticle.

(2) In determining any such charges the Board shall proceed upon sworn information furnished it by any official of the city, or by any person aggrieved by the action of an electrician in the performance of electrical work for which an electrical permit is required by this subarticle. Such information shall be in writing and shall be duly verified by the person familiar with the facts therein charged, and three written copies of the same shall be filed with the Secretary. Upon receipt of such information, the Secretary shall retain one copy for the official records of the city and shall convey two copies to the Board. Thereupon, the Board, if it deems the information sufficient to support further action on its part, shall make an order setting the charges therein contained for hearing at a specified time and place, and the secretary of the Board, with the advice of the City Attorney, shall cause a copy of the Board's order and of the information to be served upon the accused by registered mail at least 30 days before the date stated in the order for the hearing. The accused may appear in person or by counsel, or both, at the time and place named in the order and make his or her defense to the same. The City Attorney shall provide counsel for the Board. If the accused fails or refuses to appear, the Board may proceed to hear and determine the charge in his or her absence. If the accused pleads guilty, or if upon a hearing of the charge the Board by vote of four or more of its members shall find them to be true, it may enter an order suspending or revoking the registration of such electrician. The Board shall have the power, through its chairman or secretary, to administer oaths and, to compel the attendance of witnesses before it by subpoena issued over the signature of the secretary and seal of the Board.

(3) When the Board has completed such hearing, it shall cause a record of its finding and decision to be filed with the Secretary and shall cause a certified copy thereof to be forwarded to the accused.

(4) It shall be unlawful for any person whose rights under a certificate of registration have been suspended or revoked by the Board to engage in or do electrical work for which a permit is required by this subarticle.

(5) The Board shall in reciting its decision make provision for reinstatement based upon written notice by the Board at the expiration of a specified period. Such order of reinstatement shall be filed as a part of the record and a copy shall be made and given or mailed to the person so reinstated.

(l) *Special meetings.* Applicants or other individuals may request the Board schedule a special meeting to expedite appeals or other items of business. Such request shall be accompanied by a fee of \$150 for each special meeting requested. The fee shall be returned should the Board decline or be unable to schedule a special meeting. **SPECIAL MEETINGS** are defined as any meeting other than the scheduled meetings of the Board.

('62 Code, § 4-4-4) (Ord. —, passed 8-16-51; Am. Ord. 90014, passed 3-12-90; Am. Ord. 93015, passed 6-28-93; Am. Ord. 95012, passed 6-12-95; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06) Penalty, see § 15-1-999

## § 15-1-59 QUALIFICATION AND REGISTRATION OF ELECTRICIANS.

### (A) *Registration required.*

(1) It shall be unlawful for any person to engage in the business of installing electrical equipment for which a permit is required by this subarticle unless such person is a holder of a certificate of registration as required by this subarticle.

(2) Every electrical contracting firm must maintain an established place of business and shall have a person in attendance to receive messages for the electrical inspection section of the city or concerned persons during business hours. Electrical contracting firms must maintain a local telephone listing at their principal place of business. Each electrical firm must be operated by a master electrician, registered with the city, who is owner, part owner, or holds a responsible place in the employment of the company and be bonded as stated in the following sentences: A person holding a master license for an electrical contracting firm must be part owner or a responsible official of the firm and be duly bonded with the firm and legally responsible for his actions for the firm and responsible with the firm for all work performed by the firm or corporation. Affidavit to his position in the firm must be furnished the city by the firm or corporation.

(3) It shall be unlawful for any person to falsely represent himself or herself publicly as being in any other classification than that which the person is registered as provided in this subarticle.

(B) *Classification of registration.* There shall be four classes of electrical registration which shall be known as follows:

- (1) Master electrician.
- (2) Limited master electrician.
- (3) Journeyman electrician.
- (4) Apprentice electrician.

(C) *Method of registration.* Applications for registrations shall be made in writing to the Planning Department on forms available in the office of the inspector.

(1) An applicant, if of contractual basis, shall file an affidavit giving the names of owners, officers, or directors and their addresses. In addition the name and address of the person who shall be in charge of all work done under this subarticle, and the name and address of the registered electrician qualified to do work under this subarticle shall be provided.

(2) All applicants shall furnish a completed application to the Planning Department with copies of their state contractors license, masters license, journeyman license, drivers license and insurance.

(3) If the applicant is to conduct the business and supervise work himself or herself, he or she shall be examined for the class of work in which he or she intends to engage.

(D) *General.*

(1) In the actual work of installing, maintaining, altering or repairing any electric conductors or equipment for which a permit is required by law there shall be present and in direct supervision a qualified electrician of the proper qualification. It shall be required that an electrician of the registered classification of the first two grades as listed in division (B) of this section, reliable and responsible for layout and technical supervision of any work which has required the securing of permits, and a journeyman or higher classified grade electrician shall be in direct on-the-job supervision of work carried on as specified herein; except in work falling under the classifications of sign or elevator work which work shall be performed by, or directly supervised by, the person holding such certificate of registration.

(2) Should it come to the notice of the inspector or his or her assistants that such supervision and control are not being maintained, the inspector may order the work be discontinued and the person to whom the permit has been issued shall discontinue further work until proper supervision has been employed and supplied; provided, further, that nothing herein shall be construed as prohibiting the employment of a maximum of two apprentices or helpers to assist each person duly registered and qualified under the provisions of this subarticle. Apprentices shall be under the direct supervision of a licensed journeyman or master electrician on all job sites.



(E) *Registration fees.*

(1) The fees for a certificate of registration or a registration card shall be payable to the city at the office of the Planning Department as set forth in division (E)(3) of this section.

(2) Annual renewal of a certificate of registration shall accompany payment of fees and shall be authorized by a certified receipt signed by the license clerk or inspector. The holder of the certificate shall affix and display each yearly receipt. The registration card shall be available and be shown upon request.

(3) Table.

<b><i>REGISTRATION CLASS</i></b>	<b><i>ANNUAL LICENSE FEE</i></b>
Master electrician	\$65
Limited master electrician (sign and elevator)	\$65
Journeyman electrician	\$40
Apprentice electrician	\$20

(F) *Certificate of registration.* A certificate of registration form shall be prepared by the Planning Department in registering all of the classifications listed in division (B) of this section.

(1) A certificate of registration shall not be transferable.

(2) A certificate of registration shall not be valid unless signed by the permit clerk, inspector or the Building Official.

(3) The annual receipt shall be attached to the certificate of registration in the space so designated.

(4) A certificate of registration shall expire on December 31, each year.

(5) Should the holder of a certificate take up another occupation full time, even though he or she may apply for registration each year, he or she shall be required to pass an examination each two years.

(G) *Registration slips.* Registration slips shall be issued all persons complying with the provisions of this subarticle for registration.

(H) *Registration not transferable.* It shall be unlawful for any person to lend, rent or transfer his or her certificate of registration or any rights to any other person, and for any person to make use of any such rights which are not actually his or her own.

(I) *Display or evidence of registration.* It shall be required that all registrants shall properly display their certificates or cards of registration as provided herein.

(1) Every holder of a certificate as a master electrician or limited master electrician shall display his or her certificate in a conspicuous place in his or her principal place of business.

(2) Electricians shall carry their registration slip on their person at all times while doing electrical work along with any state required license and shall produce and exhibit it when requested by any inspector or any proper official of the city. Failure to produce the registration slip shall constitute an offense punishable under § 15-1- 62(E).

(J) *Exceptions from registration requirements.* The following classes of work may be carried out by persons who are not registered electricians:

(1) The replacement of lamps, fuses and connection of portable devices to suitable receptacles which have been permanently installed.

(2) The installation, alteration or repairing of any wiring, devices or equipment for the operation of signal or the transmission of intelligence, where such wiring, devices, appliances, or equipment operates at a voltage not exceeding 50 volts between conductors and does not include generating or transforming equipment.

(3) The installation, alteration or repair of electric wiring, devices, appliances and equipment installed by or for an electrical public service corporation operating under a franchise from the city when for the use of such corporation in the generation, transmission, distribution or metering of the electrical energy or for the use of such a corporation in the operation of street railways, signals or the transmission of intelligence.

(4) Any work involved in the manufacture or test of electrical materials, devices, appliance or apparatus, but not including any installation of wiring other than that required for testing purposes, if such equipment as completed is approved by the inspector before it is installed or used within the city under a permit covering such installation.

('62 Code, § 4-4-5) (Ord. —, passed 8-16-51; Am. Ord. 91040, passed 12-9-91; Am. Ord. 93008, passed 4-12-93; Am. Ord. 95012, passed 6-12-95; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06) Penalty, see § 15-1-999

## **§ 15-1-60 PERMITS AND FEES; ELECTRICAL INSPECTION.**

(A) *Permits required.* It shall be unlawful for any person to install or cause to be installed, or to permit any person to install, any electrical wiring, fixtures or equipment, or to make any alterations, additions or repairs within the city limits without first obtaining a permit to do so as issued by the inspector, except as provided herein. There shall be one permit for each building for which rough work for electrical conductors, or where electrical equipment is installed. Accessory buildings, tourism

cottages or group houses shall not be considered separate buildings when work is classed as one project to be completed at one time; unless separate meter loops or switches are installed thereon.

(B) *Permits not required.* No permit shall be required for minor repairs or maintenance work, replacement of tamps or for connecting portable electrical equipment to permanently installed receptacles of a suitable nature. No permit shall be required of an established refrigeration firm for the replacing of a refrigeration motor by another motor of the same horsepower and rating, solenoid valves, low pressure controls, or other controls that are a part of the refrigeration system provided the electrical supply to same has been or is properly installed by a licensed electrician. No permit shall be required for the installation of electrical conductors or equipment to be installed by or for a public utility corporation in duly executing their services as outlined in their franchise. No permit shall be necessary for any work involved in the manufacturing, testing, servicing, altering, or repairing of electrical equipment or apparatus so long as the work does not include any permanent wiring.

(C) *Permit fees.* There is a minimum permit fee of \$25. Before proceeding with the installations, alteration of or the addition to any electrical wiring or equipment within or on any building, structure, or premises, publicly or privately owned within the corporate limits, the master electrician in charge of such proposed work shall first file with the inspector an application requesting a permit and pay fees to the Permit Clerk in accordance with the schedule contained herein.

(1) *Permit fees required.* The permit fees for all new buildings, or additions to existing buildings where the floor area is increased shall be as follows:

(a) Except for specific fees set forth below, permit fees for remodeling, repairs or alterations to existing buildings costing in excess of \$100 shall be charged a permit fee of \$0.04 per square foot. Duplexes, apartments, hotels and motels shall be charged an additional fee of \$10 per unit.

<b>Permit Fees</b>	
Circuits	\$2
Fixtures	\$0.30
Motors, one hp and smaller	\$1.25
Motors, one to five hp	\$3.75
Motors, five to ten hp	\$4.75
Motors, ten to 25 hp	\$7.25
Motors, over 25 hp	\$10
Electrical Services:	
Temporary	\$10
100 amps or less	\$7

## Kingsville - Land Usage

<b><i>Permit Fees</i></b>	
Electrical Services:	
101 to 200 amps	\$9.50
201 to 400 amps	\$17
401 to 1,000 amps	\$25
1,001 to 1,600 amps	\$30
Over 1,600 amps	\$32
Each additional meter	\$8
Sub-feeders (commercial only):	
100 amps or less	\$7
101 to 200 amps	\$9.50
201 to 400 amps	\$17
401 to 1,000 amps	\$25
1,001 to 1,600 amps	\$30
Over 1,600 amps	\$32
Transformers:	
0-10 kw	\$6
Each additional kw or fraction thereof	\$0.40
Heaters, 5 kw and less	\$12
Each additional kw or fraction	\$0.40
Equipment:	
Motion picture projectors	\$15
X-ray, cat-scan, etc.	\$15
Elevators/escalators	\$15
Gasoline pump	\$10
Swimming pool, sauna or hot tub	\$15
Welding machines	\$10
Other	\$10



<b>Permit Fees</b>	
Central heat or air conditioning:	
Up to 3 hp	\$5
Over 3 hp per hp or fraction	\$1
Reinspection fee	\$25
Permit issuing fee for issuing all permits, with the exception of meter inspection requests	\$5
Existing facility inspection fee:	
Residential meter inspection	\$20
Nonresidential meter inspection	\$20
Investigation fee	Permit fee
After hours inspection fee	\$25 per hour - two hour minimum
Signs (electrical work only) will be based according to actual electrical installations to connect service to sign.	
If electrical work is started without permit, the penalty shall be \$150 for the first offense, compounded by \$150 for each additional offense.	

(b) Permit fees for new buildings and additions. All buildings shall be charged a permit fee of \$0.06 per square foot. The minimum fee shall be \$25. Duplexes, apartments, hotels and motels shall be charged an additional fee of \$10 per unit.

(c) Moved buildings or structures. A fee of \$0.10 per square foot shall be charged for the issuance of any permit for a moved building or structure.

(d) Refunds on permits. No refund will be granted on individual permit fees assessed at the minimum fee amount for a specific type of permit. Refunds of permit fees greater than minimum fee amounts may be made at a rate not to exceed 75% of that portion of the fee in excess of the minimum fee amount provided: no work has commenced, no inspections have been made, and the refund claim is submitted within 180 days after the issuance of the permit. Refund claims must be submitted in writing with a copy of the permit receipt.

(e) Penalties.

1. If electrical work (which requires a permit) is started without a permit, the penalty shall be \$150 for the first offense, compounded by \$150 for each additional offense. There is no cap on the maximum number of offenses.

2. Example:

- a. First offense: \$150
- b. Second offense: \$300
- c. Third offense: \$450

3. An additional penalty of \$150 per incident shall apply to each of the following:

- a. Electrical work performed within the city limits by unlicensed electricians;
- b. Any company that hires unlicensed electricians to perform permitted electrical work within the city limits.
- c. Failure to produce electrical license while performing electrical work.
- d. Starting work without first obtaining a permit.

(2) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CIRCUIT.** Main branch feeder, sub-main, or branch circuit, and each fused or automatically protected wire of a final branch multi-wire circuit. Each of the above shall be considered as separate and fees assessed accordingly.

**FIXTURE or OUTLET.** Any point on a wiring system at which current is taken to supply power or lighting.

**INVESTIGATION FEE.** Fee charged if the inspector has not been notified within 48 hours (Sunday and legal holidays excepted) after a specific job has been started. Investigation fee shall be in addition to the regular permit fees.

(3) Permit applications for installing motors shall specify each motor individually and fees will be paid accordingly. No grouping of motors or a machine or grouping of horsepower will be permitted.

(D) *Application for permit.*

(1) Application for permits shall be made in writing on forms provided by the Inspection Department for that purpose. With each application there shall be filed a diagram or plan showing clearly

the type of electrical work to be done. The plans or diagram shall show the manner in which the electrical work is to be done, or the character of any repairs to any existing installation. Application shall include the following information:

- (a) Street and house number;
- (b) Name of owner;
- (c) Type of building;
- (d) Number of stories in the building; and
- (e) A list of electrical fixtures and appliances to be installed.

(2) The diagram or plans shall be referred to the inspector who shall have the authority to issue or refuse to issue a permit.

(E) *Permits; to whom issued.* Permits shall be issued to registered electricians qualified to secure permits as set forth in this subarticle, or to their duly authorized agents. Qualified registered electricians shall execute an affidavit upon renewal of the license each January certifying their duly appointed agent and shall so state that the registered electrician shall assume all responsibilities and liabilities for any permits taken out by the agent. No registered electrician or his or her duly appointed agent, qualified to secure permits as set forth in this subarticle, shall file an application for a permit to do or install or cause to be done or installed, any electrical or fixture work in, on or about any building or structure in the city, unless the person is in fact the contractor for such work. The inspector shall have the power to cancel any permit found by him or her to be issued contrary to the provisions of this section.

(F) *Issuance of permits.* Upon finding the application to be correct and the diagram or plans of the proposed work to be in accordance with all provisions of this subarticle, and after all fees have been paid the inspector shall cause the permit to be issued. Upon receipt of the permit the registered electrician may start or cause to start the proposed job and make the installation described in his or her application, requesting inspection by inspectors in the proper sequence as the work progresses. If the plans relating to electrical wiring or installation of fixtures or equipment, and the application required, are found to be incorrect or faulty, they shall be disapproved, and the inspector shall notify the applicant, listing the corrections necessary to comply with this subarticle and rules and regulations of the Inspection Department.

(G) *Permits for part jobs.* When one registered electrician completes the rough work, in whole or in part, or any electrical work, and a second registered electrician is called upon to complete the work in whole or in part, separate permits shall be required for which regular fees shall be paid for work to be done. Each registered electrician shall be held responsible only for the work done by him or her. Before the second permit is issued the holder of the first permit shall be notified, if he or she can be found, that the second permit is to be issued. Issuance of the second permit shall cancel and make null and void the first permit.

(H) *Special permits.*

(1) *Unusual construction permit.* Where additional fixtures or alterations are to be made, which cannot practically be constructed in accordance with all provisions of this subarticle, a special permit in writing may be issued by the inspector for such work, if in his or her judgment the conditions require; however, such fixtures or alterations shall be of a character that will make the electrical system in the building as a whole conform to the spirit of this subarticle. In the event of a special ruling by the inspector for some unusual type of construction or occupancy not outlined therein, and which will establish a policy for future work, the inspector shall make a written ruling, obtain approval from the Board and shall place the same on file in his or her office for public information.

(2) *Owners permit.* Upon successful completion of a homeowner's electrical exam administered by the city, a permit for the installation of electrical work in, on or about any building used or occupied as a homestead in the city shall be issued by the inspector to the owner of the building, provided the electrical or fixture work is done by such owner, or immediate relative of such owner of the household, and further provided that the person who is to install the electrical work is named on the permit. The named person shall appear before the inspector and show, by answering such questions as may be asked by the inspector or his or her representative, that he or she has sufficient knowledge to do or install such electrical or fixture work. If it is apparent, from the character of the work installed under such a permit, that the owner or person named in the permit is not qualified or competent to do or install the electrical or fixture work, the inspector may require such portion of the work that is in violation of this subarticle to be changed, altered or repaired by a qualified, registered electrician. For the purposes of this section, manufactured housing (mobile homes) shall be deemed to be homesteads only when used or occupied by the owner and located upon land to which the owner holds title or contract of sale. The non-refundable fee for taking the homeowner's examination is \$25. The homeowner is allowed two chances to pass the homeowner's exam before being required to hire a licensed electrician to do the work. The homeowner's exam is only applicable to the project for which a permit is obtained.

(I) *Time limitations on permits.* The inspector shall have the power to cancel permits, where the electrical or fixture work therein has not been started within 60 days from and after the date of issuance of the permit therefor, and in the event of such cancellation of such permit the fees paid therefor shall be credited to the account of the person paying the same and may be treated as a payment of an equal amount of the estimated fees payable on any subsequent application or applications for a permit to do electrical or fixture work.

('62 Code, § 4-4-6) (Ord. —, passed 8-16-51; Am. Ord. 92015, passed 8-24-92; Am. Ord. 93008, passed 4-12-93; Am. Ord. 95012, passed 6-12-95; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2001-10, passed 2-26-01; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06) Penalty, see § 15-1-999

## **§ 15-1-61 INSPECTIONS.**

(A) *Inspections required.* It shall be unlawful for any person to make connection from a source of electrical energy to any electrical wiring devices or equipment on an installation for which a permit is



required, as set forth in this subarticle until a certificate of approval has been issued by the inspector authorizing such connection and the use of such wiring, devices or equipment. All permits, inspections and other fees shall be collected by the Planning Department Permit Clerk prior to any electrical work beginning. No fees shall be collected in the field.

(B) *Rough inspection.* When the rough wiring or installation work is completed on any premises, the person responsible therefor shall notify the Electrical Inspector that the job is ready for inspection giving proper identification of the work, address, and permit number. The inspector shall then make an inspection of the electric installation within 24 hours from the time of notification (exclusive of Sundays and legal holidays). If the wiring or installation work has been installed in accordance with the terms and provisions of this subarticle, the inspector shall sign the inspection card, noting thereon the date of the approval of the work. Rough inspections that fail to comply to the current electrical code adopted by the city shall pay a re-inspection fee of \$25

(1) *Faulty work.* If the electric wiring or installation of fixtures or equipment is found to be faulty, incorrectly or defectively installed, the inspector shall notify the responsible person who installed such work of the changes necessary to be made in order that the work may conform to this subarticle.

(2) *Rectification of faulty work.* The electrician shall within 48 hours from the time of notification, make or start to make the changes ordered and shall proceed with the work until the same is completed. Upon completion thereof and payment of the reinspection fee, he or she shall notify the Electrical Inspector to the effect that the faulty work has been corrected. The latter shall then cause the reinspection to be made, and if the work is found to comply with this subarticle, he or she shall sign the inspection card noting thereon the date of approval of the work. If the inspector shall again find the work incorrectly installed, he or she shall notify the responsible electrician of the necessary changes and an additional reinspection fee shall be charged. If the responsible electrician does not make the required changes within reasonable time, the inspector shall refuse to issue to any such person any further permits until the work in question is corrected and approved.

(C) *Final inspection.* Upon the completion of all electrical wiring or installation of fixtures or equipment in any building or on any premises, the electrician in charge shall notify the inspector that the work is ready for final inspection, giving the electrical permit number and street address. The inspector shall then cause an inspection to be made within 24 hours from time of receipt of notification (exclusive of Sundays and legal holidays). If any faulty or defective wiring or equipment is found, the electrician in charge shall be notified of the changes to be made in order to comply with this subarticle. If such work is found to be correctly installed, the inspector shall endorse the inspection card and shall issue an inspection certificate stating that the wiring or installation work has been installed in accordance with the provisions of this subarticle. For each final inspection request by an electrician in charge of a job after the first has been made, a reinspection fee shall be charged.

(D) *Electrical work; unlawful to conceal.* It shall be unlawful to conceal or cause to be concealed any electrical work in or about any building or structure before the same has been inspected and approved by the inspector and a tag indicating its approval posted on such building or structure wherein or whereon such electrical work has been done or installed. Failure to comply with this subarticle shall result in removal of any covering to allow the electrical work to be inspected.



(E) *Inspectors removal request.* It shall be the duty of the inspector to cause all abandoned dead wire, unused poles or electrical apparatus on the outside of the buildings or in streets or alleys to be removed at the expense of the owners thereof by giving the owners written notice.

(F) *Interference.* It shall be unlawful for any unauthorized person to, in any manner, change or alter electrical conductors or equipment in or on any building. If in the course of the erection of the building or structure, electrical conductors or equipment have previously been installed in such position to interfere with the erection or completion of the structure, notice shall be immediately given the authorized person or firm using the electrical conductors or equipment, and he or she shall be required to accomplish any needed change in accordance with this subarticle.

(G) *Periodical general inspections.* The inspector shall cause to be made, through periodic inspections of installations of all electrical wiring, electrical devices, and electrical equipment now installed or that may hereafter be installed within the city and when the installation of any such wiring, devices, or equipment is found to be defective, dangerous, or in an unsafe condition the person owning, using, or operating the same shall be notified in writing. Upon failure of any person owning, leasing, or in possession of and using any building or structure in the city, to correct or cause to be corrected such defective and condemned or fixture work or any part thereof, which notice shall specify the corrections to be made, the inspector shall order the disconnection and discontinuance of electrical service to such wiring devices or equipment until same has been made safe. It shall be unlawful for any person to make connections or to renew the supply of current or power until a certificate of approval has been issued by the inspector. ('62 Code, § 4-4-7) (Ord. 95012, passed 6-12-95; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06) Penalty, see § 15-1-999

## **§ 15-1-62 ELECTRICAL STANDARDS.**

(A) *Standards for electrical installations.* No electrical or fixture work shall be installed or constructed which is dangerous to life, or property, and all electrical and fixture work within the city shall be done, installed and constructed in conformity with the rules and requirements of the current version of the International Fire Prevention Code, and any amendments thereto, as adopted by the city, the current version of the National Fire Protection Association 101 (NFPA101 Life Safety Code) and any amendments thereto, as adopted by the city, and the applicable statutes of the State of Texas, and any rules or regulations issued by authority thereof. The current version of the International Fire Prevention Code and any amendments thereto, as adopted by the city, and the current version of NFPA 70, National Electrical Code, and any amendments thereto, as adopted by the city, shall be the rule of decision except where in conflict with the current city Electrical Ordinance.

(B) *Standards for electrical equipment.* No electrical equipment shall be installed which is dangerous to life or property, and all electrical equipment installed within the city shall conform with the provisions of this subarticle and the applicable statutes of the State of Texas and any rules and

regulations issued by authority thereof. Only standard parts and materials approved by the Underwriters' Laboratories, Inc., or by the inspector shall be permitted in electrical repair or maintenance work.

('62 Code, § 4-4-8) (Ord. 95012, passed 6-12-95; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06) Penalty, see § 15-1-999

## § 15-1-63 ELECTRIC SIGNS.

(A) *Standards for electric signs.* All electrically illuminated or electrically powered outdoor and indoor signs and displays shall be reasonably safe to persons and property and in conformity with the provisions of this subarticle and any rules or regulations issued by authority thereof. All types of electrical signs shall conform with the standards of Underwriters' Laboratories, Inc., and the National Electrical Code, as adopted by the city, the National Safety Code, or electrical provisions of other safety codes which have been approved by the American Standards Association in order to be considered in conformity with the provisions of this subarticle.

(B) *Conditions for certificate of approval.* A certificate of approval shall be issued for an electrical installation of electrical signs or outline lighting when the installations are in strict conformity with the following provisions of this subarticle.

(C) *Moving of electric signs from one location to another.* The Inspector's Department will permit the direct moving of existing signs from one location to another, providing no alterations or additions are made to the existing sign, and the signs have been previously approved for installation in the city and the inspector's office is immediately notified relative to its previous location and the electrical load of the sign.

(D) *Feeder of circuit required.* It shall be unlawful for any person registered with the Inspectors Department to install an electric sign on any building or structure in the city unless provisions have been made for the connection of the sign to an existing sign circuit or the installing of a new sign circuit shall be completed. It shall be unlawful to install any electric sign where provisions are not made for the installation of the sign circuit, or feeder.

(E) *Permits required.* It shall be unlawful for any person to install, place, or maintain an electric sign in, or about any building or structure or any pole in the city unless a permit for installing, placing, or maintaining of same is obtained from the inspector's office.

(F) *Permits to whom issued.* No electric signs shall be erected unless permits therefor have been secured from the Inspector's Department. Signs painted on the walls of buildings or structures and electrically illuminated or outlined shall require a permit issued by the Inspector's Department.

(G) *Inspection certificate.* Upon completion of the electrical construction and installation of an electric sign for which a permit is issued or required as provided in this subarticle, the inspector shall inspect or cause to be inspected the sign and the installation of same and if it is found to be in accordance with the requirements of existing laws and the provisions of this subarticle a certificate of inspection and approval shall be issued.

(H) *Fees for permits.* Every person shall pay fees to the Permit Clerk in accordance with the schedule found in § 15-1-62(C) in order to obtain a permit to carry on such work. No fees shall be collected in the field.

(I) *Penalty for installing electrical signs without a permit.* If any person, or agent thereof or any person acting for and on behalf of either thereof shall, after notice has been given in writing by the inspector's office and an opportunity to be heard is found to have done or installed any electrical sign or outline work without first applying for a permit therefor as specified in this subarticle, such person or agent thereof, shall pay all fines and permit fees to the city, before a certificate of inspection and approval is issued.

(J) *Removal of unauthorized signs.* It shall be unlawful for any person to install an electrical sign on any building or structure unless the electric sign is connected to a sign circuit or feeder installed for this purpose. The inspector may cause removal of any sign installed contrary to the provisions of this subarticle.

(K) *Sign circuit or feeder, minimum size of.* When a sign circuit or feeder is installed, the total connected load of the sign shall govern the size of the feeder or circuit conductors but in no case shall such conductors be smaller than 12 AWG gauge. Electric signs on the exterior of a building may be connected to an existing sign circuit or feeder, provided the total load connected thereto does not exceed the approved capacity of the conductors.

('62 Code, § 4-4-9) (Ord. 79-18, passed 1-28-80; Am. Ord. 95012, passed 6-12-95; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06) Penalty, see § 15-1-999

## **§ 15-1-64 ELECTRIC RULES EXCEPTIONS.**

(A) *General.* The following special rules are hereby set forth in addition to the provisions of the latest edition of the National Electrical Code in order to ensure continued safe installation of electric equipment.

(B) *Service entrance and meter location.* The service entrance shall be located at a point on the building most convenient for connection to the utility company's service pole or distribution center, with due consideration for property rights in crossing of adjacent premises or running overhead service wire construction over a roof or along a wall of any building. The distance between light and power service entrance shall be a maximum of four feet. Should a controversy arise as to service entrance conductors, such controversy shall be settled by tri-party conference with authorized representatives of the property owner, or owners, the utility company, and the inspector present.

(1) *Meters servicing multiple occupancy buildings and mobile home lots.* Meters, panels, disconnects, and service switches for multiple occupancy buildings shall be grouped together on the first floor, preferably on the outside, or in a hall readily accessible to meter readers and service men. Meters and equipment serving multiple occupancy buildings, travel trailer parks and manufactured housing (mobile home) parks shall be clearly marked to indicate the space being served. Individual spaces, units,

mobile homes or apartments shall be clearly marked in a manner conforming to the meter and equipment identification system.

(2) The main line or master service switch and fuses, where practicable, shall be located as close to and as directly below as possible the point of service attachment to each building. All service switches shall be located in a readily accessible spot, never above the second floor of any building and within 25 circuit feet of the service entrance, except where special permission is granted by the inspector to install a longer run.

(3) Where more than six separate sub-feeders from a single building service entrance are necessary, they shall be controlled by a single master safety switch. Each individual sub-feeder shall be controlled with separate safety fused disconnect switches or separate fused thermal circuit breakers in a panel to control each sub-feeder.

(4) Individual sub-feeder conductors shall be pulled in continuous conduit run from each sub-feeder service point to their respective distribution panels which shall be located on the customers rooms or premises and readily accessible to the customer. Nonmetallic sheathed cable (NM and NMC) of a romex type with ground wire, conductor No. 6 through 2 AWG sizes may be utilized as sub-feeder conductors without rigid metal conduit or electrical metallic tubing to supply branch boxes, panels or circuits in residential buildings unless conduit is otherwise required due to the number of units or location. Sub-feeders of larger diameter than number two wire, shall be enclosed in conduit. Sub-feeders subject to damage such as in exposed locations near driveways, awnings, shutters, swinging signs or similar objects shall be protected by rigid metal conduit or other approved means.

(5) All meters shall be installed in approved meter enclosures and shall be supplied by the utility company. All meters shall be installed not lower than five feet six inches nor higher than six feet zero inches from the center line of the meter to grade, or walk elevation directly below the location. Installation at a height other than this height installation will be permitted only by special permission of the inspector.

(6) Meters and meter boxes where subject to mechanical injury shall be protected by metal guards.

(7) Where one service run is installed to control several installations, apartments or customers, the main cabinet and individual cut-offs or disconnect switches shall be accessible at all times to each such premises and each such cut-off or disconnect switch shall be clearly marked to identify same with the premises which it controls.

(8) *Service mast.* Supports for service conductors shall be not less than two inch rigid conduit to run from the meter box to a height sufficient to obtain a minimum of 12-1/2 feet clearance to a point of attachment and finished grade level when a meter loop has been reworked. Minimum roof and other clearances as specified by the current version of the National Electrical Code and any amendments thereto must be maintained.

(9) *Main breaker.* If at the time of inspection a breaker box has spaces left over that will violate code, a main breaker shall be installed.

(C) *Distribution to and in buildings.*

(1) *Wiring to be enclosed in conduit.* All electrical wiring for lights, heat and power, or other purposes, hereafter to be installed in or on buildings within the city other than one- or two-family dwelling residences, multiple-unit dwelling structures containing not more than eight dwelling units, temporary buildings for construction, office and similar uses not to exceed 600 square feet in area and decorative street stringers, shall in all cases be installed and encased in rigid metallic-conduit or electrical metallic tubing, or nonmetallic conduit as approved by the current version of the National Electrical Code and any amendments thereto as adopted by the city.

(2) *Continuity of conduits or raceways.* All runs of rigid conduit that enter meter cabinets, switches, panel boards and all equipment which is a part of the building and service distribution for lighting and power shall be continuous and shall terminate with a bushing and double lock-nut. All equipment shall be bonded and grounded; but in no case shall raceway, conduit or metallic tubing be used as ground or neutral conductor to carry electric current. No installation of electrical metallic tubing or "thin wall" conduit shall be permitted in which the tubing or "thin wall" conduit is imbedded in concrete floors, walls or roofs of buildings.

(3) *Approval of plans.* Plans and specifications for all commercial installation shall be submitted to the inspector for approval before installation is made or permits issued to start any electrical wiring.

(D) *Special circuit rulings.*

(1) The minimum size service conductor shall be No. 4 AWG.

(2) The use of aluminum conductors shall be prohibited in electrical wiring installations within the city, except that exterior, overhead conductors shall be exempted from this prohibition.

(3) The use of flexible metal conduit (Greenfield) on the exterior of buildings or in wet locations is prohibited.

(4) The use of twin or tandem breakers is prohibited on new construction or in new breaker boxes. Twin or tandem breakers of 20 amps or less may be utilized in existing boxes when circuits are added provided no overload results.

(5) A disconnect shall be located in an accessible location outside buildings as close as practical to the service entrance. The service disconnecting means for each service permitted or for each set of service entrance conductors permitted shall consist of not more than six switches or six circuit breakers.

(E) *Emergency lighting.* Emergency lighting shall include all required exit lights and all illumination lighting, specified as necessary to provide required lighting for all approaches to exits.  
Emergency



lighting shall consist of battery operated lights and a battery charging system. Installation shall conform to Article 700-12-F of the current version of the National Electrical Code and any amendments thereto as adopted by the city.

(F) In the event of conflict with ordinances relating to the construction, installation, repair, maintenance, fire protection or zoning, the more restrictive requirement shall prevail.

('62 Code, § 4-4-10) (Ord. 79-18, passed 1-28-80; Am. Ord. 91027, passed 9-23-91; Am. Ord. 91039, passed 11-25-91; Am. Ord. 95012, passed 6-12-95; Am. Ord. ORD-2003-05, passed 3-10-03; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06) Penalty, see § 15-1-999

### **§ 15-1-65 NATIONAL ELECTRIC CODE ADOPTED.**

The current edition of the National Electrical Code as adopted by the State of Texas and any amendments thereto is adopted except as modified by other locally adopted sections, subsections, and provisions of the Electrical Code or as stated in this section.

('62 Code, § 4-4-11) (Ord. 89052, passed 12-11-89; Am. Ord. 93008, passed 4-12-93; Am. Ord. 95012, passed 6-12-95; Am. Ord. 97020, passed 6-23-97; Am. Ord. ORD-2004-11, passed 6-14-04; Am. Ord. 2006-16, passed 4-17-06) Penalty, see § 15-1-999

### **§ 15-1-66 REVOCATION OF REGISTRATION.**

When any person is convicted of a violation of the Kingsville Electrical Code or any provision of this subarticle, the electrical registration previously issued may be revoked by the Court or Electrical Board. Revocation of electrical registration by the Electrical Board shall conform to the procedure outlined by this subarticle.

('62 Code, 4-4-12) (Ord. 84014, passed 7-16-84; Am. Ord. 2006-16, passed 4-17-06)

## ***HOUSING CODE***

### **§ 15-1-75 ADOPTION BY REFERENCE.**

The Standard Housing Code, 1997 Edition, save and except such portions as hereinafter amended, is hereby adopted by reference.

('62 Code, § 4-9-1) (Ord. 92026, passed 10-12-92; Am. Ord. 99006, passed 2-8-99)

**§ 15-1-76 AMENDMENTS.**

Chapter 1, § 106 of the Standard Housing Code, entitled "Housing Board of Adjustments and Appeals," is hereby amended to read "Board of Adjustment" and shall read the same in all other references to such Board in the Standard Housing Code, 1997 Edition. The Board shall be the Board of Adjustment as set forth by § 15-6-157 of this chapter. The Board of Adjustment shall have the number of members and be appointed for the terms specified by § 15-6-157 of this chapter. All subsections of § 106 of the Standard Housing Code which conflict with § 15-6-157 of this chapter shall be governed by § 15-6-157.

('62 Code, § 4-9-2) (Ord. 92026, passed 10-12-92; Am. Ord. 99006, passed 2-8-99)

Penalty, see 1-1-99

***NON-RESIDENTIAL STRUCTURES CODE*****§ 15-1-85 PURPOSE.**

The purpose of this subarticle is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance; appearance and condition of commercial, business and industrial premises; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for occupancy and use; to fix certain responsibilities and duties upon owners and operators; to authorize and establish procedures for the inspection of commercial, business and industrial premises, to fix penalties for the violation of this subarticle, and to provide for the repair, demolition or vacation of commercial, business or industrial premises. This subarticle is hereby declared to be remedial and essential for the public interest and it is intended that this subarticle be liberally construed to effectuate the purposes as stated herein.

('62 Code, § 4-10-1)

**§ 15-1-86 USES PROHIBITED.**

No person shall make use of non-residential structures not in compliance with the requirements of the "Minimum Non-Residential Standards Ordinance." No owner of a non-residential structure shall permit the use of any such structure not in compliance with the requirements of this subarticle.

('62 Code, § 4-10-2) Penalty, see § 15-1-999

**§ 15-1-87 CONFLICTING PROVISIONS.**

The conditions and requirements set forth in this subarticle shall not be construed as amending, repealing or in any other way modifying, expressly or by implication any and all duly enacted ordinances of the city. The conditions or requirements of any ordinance relating to the non- residential use shall



be fully complied with pursuant to the conditions and requirements. In the event there is a direct irreconcilable conflict between the conditions and requirements of this subarticle and any other duly enacted ordinance of the city, then the more stringent conditions and requirements shall take precedence and the non-residential structure shall be in compliance therewith.

('62 Code, § 4-10-3)

#### **§ 15-1-88 DEFINITIONS.**

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

[Text continues on Page 45]



**ACCESSORY STRUCTURE.** A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

**BUILDING.** A combination of materials to form a construction adapted to permanent or continuous occupancy for use for public institutional, residence, business or storage purposes.

**BUILDING CODE.** The Building Code of the city.

**BUILDING OFFICIAL.** Building Inspector of the city or such other person as the City Manager may specifically designate on his behalf.

**DETERIORATION.** The condition or appearance of a building or part thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, excessive use or lack of maintenance.

**EXPOSED TO PUBLIC VIEW.** Any premises or any part thereof or any building, or any part thereof, which may be lawfully viewed by the public, or any member thereof, from a sidewalk, street, alleyway, open parking or from any adjoining or neighboring premises.

**EXTERIOR OF THE PREMISES.** Those portions of a building which are exposed to public view and the open space of any premises outside of any building erected thereon.

**EXTERMINATION.** The control and elimination of insects, rodents and vermin by eliminating their harborage places; by removing or making inaccessible material that may serve as their food, by poisoning, spraying, fumigating, trapping, or by any other approved means of pest elimination.

**FIRE CHIEF.** The Fire Chief of the city.

**FIRE HAZARD.** Anything or any act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fire; or which may obstruct, delay or hinder, or may become the cause of an obstruction, a delay, a hazard or a hindrance to the prevention, suppression or extinguishment of fire.

**HEALTH OFFICER.** The Health Officer of the city.

**INFESTATION.** The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.

**MIXED OCCUPANCY.** Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to non-dwelling uses.

**NON-RESIDENTIAL STRUCTURE.** Every building whose primary use is other than that of a dwelling unit or as two or more dwelling units, or as rooming or boarding houses.

**NUISANCE.** This term shall mean:

(1) Any public nuisance known at common law or in equity jurisprudence, or as provided by the Statutes of the State of Texas, or the ordinances of the city.

(2) Any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to: Abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, any structurally unsound fences or structures; lumber, trash, fences, debris or vegetation such as poison ivy, oak, or sumac, which may prove a hazard for inquisitive minors.

(3) Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the condition exists.

(4) Insanitary conditions or anything offensive to the senses or dangerous to health, in violation of this code.

(5) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

(6) Fire hazards.

**OPERATOR.** Any person who has charge, care or control of premises or a part thereof, whether with or without the knowledge and consent of the owner.

**OWNER.** Any person who alone, jointly or severally with others, shall be in actual possession, have charge, care or control of any building, premises or vacant lot within the city as owner, whether individual, firm, partnership or corporation, or as trustee or guardian of the estate or person of the title holder, and shall include the owner of record as reflected by the Kleberg County Clerk.

**PLUMBING.** All plumbing and plumbing fixtures shall be maintained in a safe and usable condition as provided in §§ 15-1-20 through 15-1-26, "Plumbing Code," Southern Standard Plumbing Code.

**PREMISES.** A lot, plot or parcel of land including the buildings or structures thereon.



**PUBLIC OFFICER** or **BUILDING OFFICIAL.** Building Inspector of the city or such other person as the City Commission may specifically designate and such other officials as the Public Officer may designate to act in his behalf.

**REFUSE.** All putrescible and nonputrescible solid wastes (except body wastes), including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

**REGISTERED MAIL.** Registered mail or certified mail.

**ROOM.** Space in an enclosed building, or space set apart by a partition or partitions.

**RUBBISH.** Non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

**SANITARY SEWER.** Any sanitary sewer owned, operated and maintained by the city and available for public use for the disposal of sewage.

**SEWAGE.** Waste from a flush toilet, bathtub, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture of equipment or machine.

**STORY.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished ceiling level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

**STRUCTURE.** Combination of any materials, whether fixed or portable, forming a construction, including buildings.

**WASHROOMS.** Enclosed space containing one or more bathtubs, showers or both, and which shall also include toilets, lavatories or fixtures serving similar purposes.

**WATER CLOSET COMPARTMENT.** Enclosed space containing one or more toilets which may also contain one or more lavatories, urinals and other plumbing fixtures.

**WEATHERING.** Deterioration, decay or damage caused by exposure to the elements.  
(‘62 Code, § 4-10-4) (Am. Ord. ORD-2004-37, passed 12-13-04)

**§ 15-1-89 CONFORMITY TO MINIMUM STANDARDS REQUIRED.**

It shall be the duty of an owner of a non-residential structure to cause the structure to be in compliance with this subarticle.

('62 Code, § 4-10-5) Penalty, see § 15-1-999

**§ 15-1-90 REFUSE AND GARBAGE.**

(A) All non-residential structures shall be maintained in compliance with §§ 5-1-1 et seq. and § 13-3-8 of this code.

(B) Inflammable or combustible liquids or other materials may not be stored on the premises unless they are of a type approved for storage by the regulations of the Fire Department, and then only in such quantities and in such fire-proof storage containers as may be prescribed by the regulations.

('62 Code, § 4-10-6) Penalty, see § 15-1-999

**§ 15-1-91 NATURAL GROWTH.**

Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating condition or storm damage, constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions.  
(‘62 Code, § 4-10-7) Penalty, see § 15-1-999

**§ 15-1-92 DRAINAGE.**

All portions of a premise shall be so graded that there is no pooling of water. All condensate and waste cooling water shall be discharged to the sewer system and shall not discharge to the ground surface.  
(‘62 Code, § 4-10-8) Penalty, see § 15-1-999

**§ 15-1-93 STORAGE AREAS TO BE SURROUNDED BY SOLID SCREEN.**

All open salvage yards and open storage shall be completely obscured from surrounding property by a solid screen which adds to the amenity of the area and not being less than six feet nor more than 10 feet in height.  
(‘62 Code, § 4-10-9) Penalty, see § 15-1-999

**§ 15-1-94 OFF-STREET PARKING, DRIVES AND LOADING AREAS.**

All off-street parking, drives and loading areas shall be paved with pituminous, concrete or equivalent surfacing and shall be free from dirt and other litter and kept in good repair. When lighted for nighttime use, lights shall not be permitted to cast their direct light upon dwellings nearby.  
(‘62 Code, § 4-10-10) Penalty, see § 15-1-999

**§ 15-1-95 WALLS AND FOUNDATIONS.**

All foundations and walls shall be maintained so as to carry the safe design and operating dead and live loads in accordance to §§ 15-1-1 through 15-1-10, “Building Code,” and shall be maintained plumb and free from open cracks and breaks, so as not to be detrimental to public safety and welfare.  
(‘62 Code, § 4-10-11) Penalty, see § 15-1-999

**§ 15-1-96 ROOFS AND CHIMNEYS.**

(A) The roof shall be maintained weatherproof and all rainwater conveyed therefrom in a manner to prevent wet walls and so as not to create a nuisance to others. (‘62 Code, § 4-10-12)

(B) All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe, sound and in good repair, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating material such as paint or similar surface treatment. ('62 Code, § 4-10-13)

Penalty, see § 15-1-999

#### **§ 15-1-97 STRUCTURE KEPT IN GOOD REPAIR.**

Every non-residential structure shall be kept in good repair and structurally sound by the owner. All wood, composition, or metal siding shall be maintained weatherproof and shall be properly surface-coated when required to prevent deterioration. These requirements pertain also to accessory buildings, fences and signs.

('62 Code, § 4-10-14) Penalty, see § 15-1-999

#### **§ 15-1-98 WINDOWS, DOORS AND ENTRANCES.**

All windows exposed to public view shall be kept clean and in a state of good repair. No storage of materials, stock or inventory shall be permitted in window display areas or other areas ordinarily exposed to public view unless the areas are first screened from the public view by drapes, venetian blinds, or other permanent material rendering the windows opaque to the public view. All screening of interiors shall be maintained in a clean and good state of repair.

('62 Code, § 4-10-15) Penalty, see § 15-1-999

#### **§ 15-1-99 STORE FRONTS.**

All storefronts shall be kept in good repair, painted where required and shall not constitute a safety hazard or nuisance. In the event repairs to a store front become necessary such repairs shall be made with the same or similar materials used in the construction of the store front in such manner as to permanently repair the damaged area or areas. Any cornice visible above a store front shall be kept painted where required and in good repair.

('62 Code, § 4-10-16) Penalty, see § 15-1-999

#### **§ 15-1-100 SIGNS, MARQUEES, AND AWNINGS.**

All canopies, marquees, signs, metal awnings, stairways, fire escapes, stand pipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material such as paint or other protective treatment. All signs shall be in accordance with § 9-10-11 of this code of ordinances.

('62 Code, § 4-10-17) Penalty, see § 15-1-999

**§ 15-1-101 SUPPORTING MEMBERS.**

All supporting members of all non-residential buildings shall be kept structurally sound, free of deterioration and maintained capable of safely bearing the dead and live loads imposed upon them in accordance with §§ 15-1-1 through 15-1-10 of this article.  
(‘62 Code, § 4-10-18) Penalty, see § 15-1-999

**§ 15-1-102 WALLS, CEILINGS AND FLOORS.**

(A) The interior walls and ceilings of all non-residential structures shall be kept structurally sound, capable of safely supporting the imposed loads upon them, free of cracks and breaks, loose plaster or covering and maintained in a clean, safe and sanitary manner. (‘62 Code, § 4-10-19)

(B) Floors shall be maintained structurally sound and capable of supporting the imposed loads without undue deflection. They shall be maintained at all times in a condition so as to be smooth, level, clean and free of breaks, cracks or other unsafe conditions. (‘62 Code, § 4-10-20)  
Penalty, see § 15-1-999

**§ 15-1-103 TOILETS AND LAVATORIES; LIGHTING OF WASHROOMS.**

(A) Every non-residential building regularly used or occupied by persons shall be provided with toilet and lavatory facilities in accordance with §§ 15-1-1 through 15-1-10 of this article, and as further provided in this section except that small buildings not over 150 square feet in floor area used for shelter in connection with the operation of parking lots, storage lots, kiosk, watchman stations, or similar uses shall not be required to have such facilities if such facilities are otherwise conveniently available to workers using such buildings and are so used at all times. (‘62 Code, § 4-10-21)

(B) Every washroom and water closet compartment shall be provided with permanently installed artificial lighting fixtures with a switch and wall plate so located and maintained that there is no danger of short-circuiting from water from other bathroom facilities or from splashing of water. (‘62 Code, § 4-10-22)  
Penalty, see § 15-1-999

**§ 15-1-104 STAIRWAYS AND ENTRANCES.**

(A) All stairways and entrances which may give access to the structure for employees or for business shall be kept in a good state of repair and structurally sound and properly lighted in accordance with the requirements of §§ 15-1-1 through 15-1-10 of this article.

(B) Any exterior stairway or entrance used by employees or for business shall be protected from the elements and against decay and rust by periodic application of a weather-coating material or other protective treatment.  
(‘62 Code, § 4-10-23) Penalty, see § 15-1-999

**§ 15-1-105 ELECTRICAL STANDARDS.**

(A) *Connection.* All premises shall be properly connected to and be provided with electric power through safely insulated conductors conforming to §§ 15-1-55 through 15-1-66 of this article. Except as hereinafter stated, all wiring or cables shall be properly affixed or attached to the structure. Insulation shall be provided for all wiring and cables and kept in good repair. No loose cords or loose extension lines in excess of six feet in length shall be permitted and no ceiling or wall fixture shall be used for supplying power to equipment other than that for which they are designed. ('62 Code, § 4-10-24)

(B) *Fuses and protective devices.* Maximum fuse size consistent with safety shall be posted conspicuously on the inside cover of all fuse boxes and no fuse shall be installed therein in excess of the stated maximum except that owners shall not be responsible for violation in fuse installations without their knowledge where the correct maximum is stated and the fuse box is located within any part of the premises which is in the exclusive possession of occupants other than the owner. ('62 Code, § 4-10-25)

(C) *Overloading of circuits.* Overloading of circuits is prohibited. Where the Building Official finds that by reason of the appliances and fixtures there is continuing overloading of an electrical line creating a hazard, the owner shall be required to install a line of sufficient capacity to absorb the load to which the line is subject or otherwise eliminate the conditions causing the overload. For purposes of this section, the Building Official may consider the peak seasonal load to which the line is subjected. ('62 Code, § 4-10-26) Penalty, see § 15-1-999

**§ 15-1-106 PREMISES TO BE KEPT CLEAN AND SANITARY; ELIMINATING INFESTATION; MALICIOUS DAMAGE.**

(A) Upon discovery by an occupant of any condition on the premises which constitutes a violation hereof, the occupant shall report the same to the owner or person in charge of the premises. All parts of the premises under the control of the operator shall be kept in a clean and sanitary condition and the occupant shall refrain from performing any acts which would render other parts of the premises unclean or insanitary or which would obstruct the owner or operator from performing any duty required hereunder or maintaining the premises in a clean and sanitary condition.

(B) *Eliminating infestation.* Every operator shall be responsible for the elimination of infestation in and on the premises, subject to his control.

(C) *Malicious damage.* Every operator shall maintain all plumbing fixtures used by him in a clean and sanitary condition and he shall not deposit any material in any fixture or sewer system which would result in stoppage of or damage to the fixture or sewer system.

(D) Nothing herein shall be construed to provide a defense to any owner violating this section.  
( '62 Code, § 4-10-27) Penalty, see § 15-1-999

**§ 15-1-107 BUILDING OFFICIAL TO SUPERVISE.**

Supervision vested in the Building Official and all inspections, regulations, enforcement and hearings on violations of the provisions of this subarticle, unless expressly stated to the contrary, shall be under his direction and supervision. He may appoint or designate such other public officials or employees of the city to perform duties as may be necessary to the enforcement of this subarticle, including the making of inspections and holding of hearings.  
(‘62 Code, § 4-10-28)

**§ 15-1-108 RIGHT OF ENTRY; INTERFERENCE WITH INSPECTION A VIOLATION.**

(A) In the discharge of the duties and powers contained in the “Minimum Non-Residential Standards Ordinance,” the Building Official or his authorized representative shall have authority and is empowered to enter any non-residential structure or part thereof, between the hours of 9:00 a.m. and 5:00 p.m., or at any other hour on the same day as the owner or occupant may request. Should the above-described right of entry be denied, then the above described officials may invoke the aid of the Police Department to enforce the right. No person shall deny entry to the above-described officials for the purposes herein provided. (‘62 Code, § 4-10-29)

(B) Where the Building Official or his agent is refused entry or access or is otherwise impeded or prevented by the owner or operator from conducting an inspection of the premises, such person shall be in violation of this subarticle and subject to the penalties hereunder. (‘62 Code, § 4-10-30)

(C) It is a defense to prosecution under this section that the interference alleged consisted of speech, not otherwise unlawful, only.  
Penalty, see § 15-1-999

**§ 15-1-109 CONDEMNATION FOR HUMAN USE.**

(A) The designation of a non-residential structure or portion thereof as unfit for human use and the procedure for condemnation and the placarding of such unfit structure, or part thereof, shall be carried out in compliance with §§ 15-1-110(B) and 15-1-111.

(B) The Building Official shall condemn as unfit for human use any non-residential structure thereof which:

(1) Is in such condition as to be damaged, decayed, dilapidated, unsanitary, unheatable, unsafe or vermin-infested that it is liable to be an immediate danger to the lives of persons.

(2) By reason of the lack of illumination, ventilation, or sanitary facilities, it is in such condition and liable to be an immediate danger to the lives of persons.

(3) By reason of its general condition it is liable to be dangerous to the lives of persons.  
(‘62 Code, § 4-10-31)

**§ 15-1-110 NOTICE TO OWNER; SERVICE OF NOTICE.**

(A) Whenever the Building Official has condemned a non-residential structure or a part thereof as unfit for human use, he shall immediately give notice to the owner thereof of such determination. Such notice shall contain a statement informing the owner and "user" of the right to appeal the determination of the Building Official within 30 days after the notice is served. ('62 Code, § 4-10-32)

(B) The service of notice shall be made by:

- (1) The posting of a copy upon the non-residential structure; and
- (2) Causing the notice to be delivered to such owner; or
- (3) If the owner is not found, then by leaving a copy at his usual place of abode.

(4) If service pursuant to subdivisions (2) and (3) cannot be had, then by sending a copy of the notice by registered letter to the last known address. ('62 Code, § 4-10-33)

**§ 15-1-111 PLACARDING.**

(A) In the event no appeal has been taken within the 30 day period or after a final determination upon review upholding the determination of the Building Official, then there shall be posted in a conspicuous place or places upon the structure or portion thereof a placard or placards bearing the following words: "This building is unsafe and its use or occupancy has been prohibited by the Building Official." After such placarding, the structure or portion thereof shall be vacated within a time as determined by the official.

(B) No person shall occupy, enter, refuse to leave, or remain in a non-residential structure or portion thereof which is placarded except persons directly employed in securing or removing such condemned structure or portion thereof.

('62 Code, § 4-10-34) Penalty, see § 15-1-999

**§ 15-1-112 RIGHT OF APPEAL.**

Any owner or occupant of a non-residential structure or part thereof determined by the Building Official to be unfit for human use may file in the office of the Building Official a written appeal to the Board of Adjustment requesting a hearing and setting forth a statement of the grounds within 30 days after service of the notice herein provided. The filing of an appeal shall act as a stay and the Building Official shall not proceed to placard until such hearing shall be completed. Except as herein provided, the procedure for hearing by the Board of Adjustment shall be as set forth in this code.

('62 Code, § 4-10-35)

### **§ 15-1-113 SUMMARY ABATEMENT IN EMERGENCY.**

Notice and hearing are not required. Where the violation or condition existing on the premises is of such a nature as to constitute an immediate threat to life and limb unless abated without delay, the Building Official may either abate the violation or condition immediately or order the owner, operator or occupant to correct the violation within a period of time not to exceed three days, and upon failure to do so, the Building Official shall abate the condition immediately thereafter.

('62 Code, § 4-10-37)

### **§ 15-1-114 APPEALS.**

(A) *Board of Adjustment jurisdiction.* The Board of Adjustment shall have jurisdiction to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or any determination made by the Building Official in the enforcement of the "Minimum Non-Residential Standards Ordinance." ('62 Code, § 4-10-38)

(B) *Appeal procedure.* Appeals may be taken to the Board of Adjustment by any person having received written notice from the Building Official. Such appeal shall be taken within 30 days after the decision is rendered by filing with the Building Official a notice of appeal and specifying the grounds therefor. The Building Official shall forthwith submit to the Board a copy of this notice of appeal together with all the papers constituting the record upon which the action appealed from is taken. ('62 Code, § 4-10-39)

(C) *Stay pending appeal.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Official shall certify to the Board subsequent to the filing of any notice of appeal, that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction. ('62 Code, § 4-10-40)

### **§ 15-1-115 INSPECTION REPORTS FURNISHED.**

The Building Official shall furnish the Board of Adjustment upon request copies of reports of any or all inspections made by such officers in the matter on appeal and furnish such other information as may be available to them and requested by the Board.

('62 Code, § 4-10-41)

### **§ 15-1-116 HEARINGS.**

The Board of Adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be mailed to the appellant or to his attorney of record and such hearing shall not be less than 10 days from a publication in a local newspaper stating the time and place of the hearing.

('62 Code, § 4-10-42)

**§ 15-1-117 POWERS OF ADJUSTMENTS BOARD; ACTION.**

(A) In exercising its power, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made. ('62 Code, § 4-10-43)

(B) The Board of Adjustment shall act by majority vote and a quorum shall consist of at least four members. The action of the Board shall not become effective until after the order of the Board setting forth the full reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such order, immediately following the Board's final decision, shall be filed in the Office of the Board and shall be open to public inspection. ('62 Code, § 4-10-44)

(C) The powers granted by this section to the Board of Adjustment shall be in addition to those conferred upon it by this code. ('62 Code, § 4-10-45)

**§ 15-1-118 REMEDY AT OWNER'S EXPENSE.**

If an owner fails to comply with the provisions of the "Minimum Non-Residential Standards Ordinance," then the Building Official may take such action as may be necessary to remedy the conditions at the expense of the owner of the structure. The Building Official shall submit bills for the cost thereof to the owner of the structure. These debts shall be a lien against the property where the work has been done. ('62 Code, § 4-10-46)

**§ 15-1-119 TIME LIMIT FOR COMPLIANCE.**

Rehabilitation or demolition should be begun no later than 30 days following notification of sub-standard conditions, but the Building Official shall have the authority to grant up to 120 days in cases where an owner shows definite progress toward such action (such as securing a loan). Whenever the Building Official shall find any building or structure or portion thereof to be unsafe, unsanitary or unfit for human habitation, he shall, in accordance with established procedure for legal notices, give the owner, agent or person in control of such building or structure written notice stating the defects thereof. This notice shall require the owner to initiate and complete the required rehabilitation or demolition according to the requirements of the Building Official within 30 to 120 days. ('62 Code, § 4-10-47)

**§ 15-1-120 DEMOLITION AS COMPLIANCE.**

Any owner of a non-residential structure that does not conform to the "Minimum Non-Residential Standards Ordinance" may remove or demolish such building and such action shall be deemed compliance. ('62 Code, § 4-10-48)

**§ 15-1-121 BOARD OF ADJUSTMENT; ESTABLISHMENT; COMPOSITION.**

There is hereby established a Board to be called the Board of Adjustment which shall be the same Board found elsewhere in this code. The composition of such Board shall be the same as that set forth in this code. The term of office, quorum and procedures for the operation of the Board shall be synonymous with the Board of Adjustment already in existence.

('62 Code, § 4-10-50) (Ord. —, passed 1-3-72)

**MECHANICAL CODE****§ 15-1-135 ADOPTION.**

The *International Mechanical Code*, 2000 Edition, as approved by the Southern Standard Building Code Congress, is hereby adopted in its entirety except as herein amended and all conflicting ordinances are hereby repealed.

('62 Code, § 4-11-1) (Ord. 99014, passed 3-15-99; Am. Ord. ORD-2001-31, passed 12-17-01)

**§ 15-1-136 LICENSES AND PERMITS REQUIRED.**

(A) All persons performing installations, alterations or repairs must secure a permit prior to starting work, when such a permit is required by the *International Mechanical Code*. All persons performing mechanical work must file a copy of the appropriate state license with the city, unless exempted from licensing requirements by state law. Before permits will be issued, licensees must pay a registration fee of \$55, which shall be valid for a calendar year. The fee for renewal of a current registration shall be \$45, if paid before the end of December of each year. Homeowners are specifically exempted from license requirements when performing work on their own homestead.

(B) Nothing contained in this subarticle shall be construed as prohibiting a homeowner from performing work covered by this subarticle on his or her own homestead; provided, however, all such work must be done in conformance with all other provisions of this subarticle, including those related to permits, inspections and fees.

(C) Fees listed in Appendix B of the *International Mechanical Code*, 2000 Edition, are hereby adopted. If any person starts work without a permit, the permit fee shall be equal to the cost of the permit times the number of incidents the person has not obtained a permit prior to commencing work.

(1) *Permit fees for remodeling.* Permit fees for remodeling, repairs (as noted in Section 106.1 of the *International Mechanical Code*) or alterations to existing buildings costing in excess of \$500 shall be charged a permit fee as listed in Appendix B of the *International Mechanical Code*, 2000 Edition.



Duplexes, apartments, hotels and motels shall be charged an additional fee of \$10 per unit. Fees listed in Appendix B of the *International Mechanical Code*, 2000 Edition, are hereby adopted and incorporated herein.

(2) *Permit fees; new buildings and additions.* All buildings shall be charged a permit fee of \$0.04 per square foot. The minimum fee shall be \$10. Duplexes, apartments, hotels and motels shall be charged an additional fee of \$10 per unit. Fees shall be based upon the conditioned area of the building.

(3) *Moved buildings or structures.* A fee of \$0.04 per square foot shall be charged for the issuance of any permit for a moved building or structure. Fee shall be based upon the conditioned area of the building.

(4) *Refunds on permits.* No refund will be granted on individual permit fees assessed at the minimum fee amount for a specific type of permit. Refunds of permit fees greater than minimum fee amounts may be made at a rate not to exceed 75% of that portion of the fee in excess of the minimum fee amount provided: (a) no work has commenced, (b) no inspections have been made, and (c) the refund claim is submitted within 180 days after the issuance of the permit. Refund claims must be submitted in writing with a copy of the permit receipt.

('62 Code, § 4-11-2) (Ord. 99014, passed 3-15-99; Am. Ord. 200022, passed 11-20-00; Am. Ord. ORD-2001-10, passed 2-26-01; Am. Ord. ORD-2001-31, passed 12-17-01) Penalty, see § 15-1-999

#### **§ 15-1-137 REVOCATION OR SUSPENSION OF LICENSE.**

Any person convicted of a violation of the *International Mechanical Code* or any provision of this subarticle may have his license registration revoked or suspended by the Municipal Judge or City Commission for a period not to exceed two years.

('62 Code, § 4-11-3) (Ord. 99014, passed 3-15-99; Am. Ord. ORD-2001-31, passed 12-17-01)

## **SWIMMING POOL CODE**

### **§ 15-1-150 TITLE.**

This subarticle shall be known as the "Swimming Pool Code of the City" and may be cited as such.

('62 Code, § 4-12-1) (Ord. 99015, passed 3-15-99)

### **§ 15-1-151 ADOPTION.**

The purpose of this subarticle is to provide minimum standards for the design, construction or installation, repair or alterations of swimming pools, public or private, and equipment related thereto within the city. All swimming pool work done within the corporate limits of the city shall conform to the requirements of this subarticle and to the specifications, rules and regulations entitled *Standard Swimming Pool Code*, 1997 Edition, as approved by the Southern Building Code Congress which is hereby adopted in its entirety, except as herein amended.

('62 Code, § 4-12-2) (Ord. 99015, passed 3-15-99)

### **§ 15-1-152 LICENSES AND PERMITS REQUIRED; FEES.**

(A) It shall be the duty of every contractor who shall make contracts for the construction or installation, repair or alteration of swimming pools to pay a license fee of \$125 annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, phone number, and, in case of removal from one place to another, to have made corresponding changes in the file accordingly.

(B) All persons performing swimming pool work for which a permit is required by this subarticle must secure a permit prior to starting work. Fees listed in § 105 of the *Standard Swimming Pool Code*, 1997 Edition, are hereby adopted with the following amendment: For issuing each permit it shall cost \$10.

(C) If any person starts work without a permit, the permit fee shall be equal to the cost of the permit times the number of incidents the person has not obtained a permit prior to commencing work.

(D) If the inspector determines that public safety has been endangered, a complaint shall be filed in Municipal Court. Upon receiving a conviction, the person shall have their license revoked as follows:

(1) 1<sup>st</sup> conviction ..... 3 months revocation

(2) 2<sup>nd</sup> conviction ..... 6 months revocation

(3) 3<sup>rd</sup> conviction ..... 12 months revocation

(4) 4<sup>th</sup> conviction ..... 2 year revocation

(5) 5<sup>th</sup> conviction ..... permanently revoked  
('62 Code, § 4-12-3) (Ord. 99015, passed 3-15-99; Am. Ord. 200022, passed 11-20-00) Penalty, see § 1-1-999

#### **§ 15-1-153 REVOCATION OR SUSPENSION OF LICENSE.**

Any person convicted of a violation of the Swimming Pool Code, or any provision of this subarticle, may have his city license revoked or suspended by the Municipal Judge or City Commission for a period not to exceed two years.

('62 Code, § 4-12-4) (Ord. 99015, passed 3-15-99)

***CONDEMNING PROPERTY***

**§ 15-1-165 CONDEMNED BUILDING OR STRUCTURE; SPECIFICATIONS.**

(A) Any building or structure of any type of material, whether public or private property, existing within the city limits, which is determined to be unsafe for or dangerous to human occupancy, shall be declared and be and become a condemned building or structure.

(B) The condemned buildings or structures mentioned in division (A) shall be determined to be such under the following listed terms and conditions:

(1) Any building or structure which, for want of repair or by reason of age or dilapidated condition, or for any causes, 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.

(2) Any building or other structure which shall be determined to have a permanent or temporary plumbing condition existing in violation of the installation, maintenance and repair provisions of the City Plumbing Code presently duly enacted or to be duly enacted from time to time, and which shall be further determined, by virtue of such condition in violation of the provisions of the Plumbing Code to endanger the safety of the building or structure or other buildings or structures or other property, and to endanger the safety and health of persons who may have occasion to occupy and/or be in, on or about the premises, whether they be the owner thereof or not.

(3) Any building or other structure which shall be determined to have a permanent or temporary electrical installation condition existing in violation of the installation, maintenance or repair provisions of the City Electrical Code as it is presently duly enacted or may be enacted from time to time, and which shall be further determined, by virtue of such condition in violation of the provisions of the Electrical Code to endanger the safety of the building or structure or other buildings or structures or other property, and to endanger the safety and health of persons who may have occasion to occupy and/or be in, on or about the premises, whether they be the owner thereof or not.

(4) Any building or structure which shall be determined to contain a faulty and defective structural condition existing in violation of the construction, maintenance and repair provisions of the City Building Code as is presently duly enacted or may be enacted from time to time, and which shall be further determined, by virtue of such condition in violation of the Building Code to endanger the safety of the building or structure or other buildings or structures or other property, and to endanger the safety and health of persons who may have occasion to occupy and/or be in, on or about the premises, whether they be the owner thereof or not.

(5) Any building or structure which shall be determined to have a permanent or temporary sanitary condition existing in violation of the various health and sanitation ordinances duly enacted and to be enacted from time to time, and which shall be further determined, by virtue of such condition in violation of the provisions of the sanitation ordinances to endanger the safety of the building or

structure or other buildings or structures or other property, and to endanger the safety and health of persons who may have occasion to occupy and/or be in, on or about the premises, whether they be the owner thereof or not.

('62 Code, § 4-6-1)

#### **§ 15-1-166 CONDEMNATION OFFICER DESIGNATED.**

The City Building Official shall be and henceforth become the Condemnation Officer for the city and shall carry out the provisions of this subarticle as herein provided for.

('62 Code, § 4-6-2) (Ord. 2006-11, passed 4-10-06)

#### **§ 15-1-167 CONDEMNING BUILDINGS; PROCEDURE FOR DETERMINATION.**

(A) The following procedure shall be followed in applying the foregoing conditions in determining if a building or other structure within the city is to be condemned:

(1) The Plumbing Inspector shall have the right to enter upon and inspect the premises of any building or other structure, permanent or temporary, of any type of material, within the city, at any time (being reasonable and commensurate with any dangerous conditions reasonably believed to exist and with due consideration and regard for the safety, respect and dignity of the owners or other occupants of the premises) for the purpose of inspecting same to determine that the plumbing facilities in the building or other structure are in accordance and in compliance with the provisions of the City Plumbing Code as above, mentioned, and if it should be determined from the inspection, by the Plumbing Inspector, that all or any part of the plumbing installation is in violation of the provisions of the Plumbing Code, and as a result thereof, the building or other structure is in the condition as outlined in § 15-1-165(B)(2) of this subarticle, then and in that event the Plumbing Inspector shall immediately file a written complaint and/or notice with the Building Official notifying him or her of the condition and requesting the hereinafter provided proceedings by the Building Official in connection therewith.

(2) The Electrical Inspector shall have the right to enter upon and inspect the premises of any building or other structure, permanent or temporary of any type of material, within the city, at any time (being reasonable and commensurate with any dangerous conditions reasonably believed to exist and with due consideration and regard for the safety, respect and dignity of the owners or other occupants of the premises) for the purpose of inspecting same to determine that the electrical facilities in the building or other structure are in accordance and in compliance with the provisions of the City Electrical Code as above mentioned, and if it should be determined from the inspection, by the Electrical Inspector, that all or any part of the electrical installation is in violation of the provisions of the Electrical Code, and as a result thereof, the building or other structure is in the condition as outlined in § 15-1-165(B)(3) of this subarticle, then and in that event the Electrical Inspector shall immediately file a written complaint and/or notice with the Building Official notifying him or her of the condition and requesting the hereinafter provided proceedings by the Building Official in connection therewith.

(3) The Building Inspector shall have the right to enter upon and inspect the premises of any building or other structure, permanent or temporary, of any type of material, within the city, at any time (being reasonable and commensurate with any dangerous conditions reasonably believed to exist and with due consideration and regard for the safety, respect and dignity of the owners or other occupants of the premises) for the purpose of inspecting same to determine if the general structural condition of the building is in accordance and in compliance with the provisions of the City Building Code as above mentioned, and if it should be determined from the inspection, by the Building Inspector, that all or any part of the general structure is in violation of the provisions of the Building Code, and as a result thereof, the building or other structure is in the condition as outlined in § 15-1-165(B)(4) of this subarticle, then and in that event the Building Inspector shall immediately file a written complaint and/or notice with the Building Official notifying him or her of the condition and requesting the hereinafter provided proceedings by the Building Official in connection therewith.

(4) The Sanitation Inspector shall have the right to enter upon and inspect the premises of any building or other structure, permanent or temporary, of any type of material, within the city, at any time (being reasonable and commensurate with any dangerous conditions reasonably believed to exist and with due consideration and regard for the safety, respect and dignity of the owners or other occupants of the premises) for the purpose of inspecting same to determine if the sanitary conditions of the building are in accordance and in compliance with the provisions of the city sanitation ordinances as above mentioned, and if it should be determined from the inspection, by the Sanitation Inspector, that all or any part of the sanitary condition is in violation of the provisions of the sanitary ordinances, and as a result thereof, the building or structure is in the condition as outlined in § 15-1-165(B)(5) of this subarticle, then and in that event the Sanitation Inspector shall immediately file a written complaint and/or notice with the Building Official notifying him or her of the condition and requesting the hereinafter provided procedure by the Building Official in connection therewith.

(5) The Fire Chief shall have the right to enter upon and inspect the premises of any building or other structure, permanent or temporary, of any type of material, within the city, at any time (being reasonable and commensurate with any dangerous conditions reasonably believed to exist and with due consideration and regard for the safety, respect and dignity of the owners or other occupants of the premises) for the purpose of inspecting same to determine if there is any imminently dangerous existing condition which may or might result in a fire as determined and provided for in § 15-1-165(A) of this subarticle.

(B) Upon receipt by the Building Official of such written notice and/or complaint from either the Plumbing Inspector, Building Inspector, Electrical Inspector or Sanitation Inspector, or upon the determination by the City Fire Chief, of the existence of a dangerous fire condition in any building or structure, then and in that event, the Building Official shall notify in writing, the person, group of persons, corporation or other entity owning or controlling the building or other structure, of such defective condition, such written notice to also order the correction and/or repair and/or replacement of such defective condition within a reasonable time (commensurate with the degree of danger and possible resulting in jury therefrom), the time allowed for the repair and/or correction and/or replacement of such defective condition not to exceed 30 days from the date of delivery of such notice. The notice shall be delivered in person by the Building Official or shall be mailed registered mail, return receipt requested,



and in either event, the date of actual delivery shall be noted upon a copy of the written notice to be maintained in the condemnation files of the Building Official. The Building Official shall have the authority to order any building demolished if it is determined by him to be beyond repair. ('62 Code, § 4-6-3) (Ord. 2006-11, passed 4-10-06)

#### **§ 15-1-168 NOTICE OF VIOLATION.**

(A) Whenever the Building Official determines that there are reasonable grounds to believe that there has been a violation of this subarticle or of any rules or regulations adopted pursuant thereto, or when he or she has been notified by the other officials herein set out, he or she shall give notice of such alleged violation to the person or persons responsible therefor and such alleged violation shall constitute a nuisance. Such notice shall be in writing and shall be in the manner set out in § 15-1-167(B) of this subarticle.

(B) Such notice shall be deemed properly served upon such person responsible if a copy is served upon him or her personally, or if a copy thereof is sent by registered or certified mail, return receipt requested, to the last known address of such person or a copy is posted in a conspicuous place in or about the building affected by the notice. Failure of the owner or occupant to comply with such notice shall be deemed a violation of this subarticle. ('62 Code, § 4-6-4) (Ord. 2006-11, passed 4-10-06)

#### **§ 15-1-169 RESPONSIBILITIES OF OWNER AND OCCUPANT.**

It shall be the responsibility of the owner of a building used, designed or intended for human occupancy, or his agent, to maintain such structure in good repair and fit for human habitation or in accordance with this subarticle. It shall be the responsibility of the occupant of every dwelling to keep the dwelling and every part thereof over which he has exclusive control including yards, lawns and premises clean and free from any accumulation of dirt, filth, garbage, rubbish or similar material and free from vermin or rodent infestation and to provide such approved receptacles as might be necessary to comply with the health ordinances of this city. Failure on the part of an owner or occupant to discharge the responsibilities set forth herein shall be deemed a violation of this subarticle.

('62 Code, § 4-6-5) Penalty, see § 15-1-999

#### **§ 15-1-170 ORDER TO VACATE; POSTING VACANT BUILDINGS.**

(A) Whenever proper notice of violation has been served to the person or persons responsible for the violation of any provisions of this subarticle, and compliance with such notice has not been effected within the time stated, the Building Official may order the occupant of the building, or portion thereof, in which the violation exists, to vacate same, and failure or refusal to comply with such order within the time stated for compliance shall constitute a violation of this subarticle. If in the opinion of the Building Official, the public safety or welfare requires immediate action he or she shall order the building vacated

without "notice of violation" having been issued. No such buildings shall again be used for human habitation nor shall any notice posted thereon be removed until written approval is given by the Building Official. Refusal of occupant to vacate after having been duly ordered to do so or removal of any notice duly posted shall constitute a violation of this subarticle. ('62 Code, § 4-6-6)

(B) (1) When in the opinion of the Building Official a violation of this subarticle exists with respect to any vacant building, he or she may cause to be posted at the entrance a notice to read:

**WARNING**

This building is in violation of the City Code of Kingsville, Texas.  
It is unlawful to occupy until it complies with such Code.

(2) Such notice shall remain posted until the required repair, demolition or removal is completed. Such notice shall not be removed without the permission of the Building Official. Occupancy of any building so posted shall constitute a violation of this subarticle. ('62 Code, § 4-6-7)

(Ord. 2006-11, passed 4-10-06) Penalty, see § 15-1-999

**§ 15-1-171 PUBLIC HEARING; ORDERS OF COMMISSION; ABATEMENT BY CITY.**

(A) All buildings in violation of this subarticle which constitute a fire hazard or are dangerous to human life, or constitute a hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment are hereby declared to be unsafe buildings and a nuisance, the maintenance of which is hereby declared to be a violation of this subarticle. When proper notice of violation as provided for herein has been served upon the owner, agent or person in charge of such building, and he or she or they fail, neglect, omit or refuse to comply with the requirement of such notice within the time specified, the Building Official may cite the owner, agent or person in charge to appear before the City Commission at a public hearing to show cause why such building or structure should not be condemned, notifying such owner, agent or person in charge of the time and place thereof, which hearing shall be not less than ten days prior to the date the owner, agent or person in charge is so notified.

(B) Such person may appear at such hearing in person, or by counsel or agent. At the hearing the Building Official shall report to the Commission his or her findings and may present evidence and testimony of witnesses, after which the owner, agent or person in charge shall be provided an opportunity to be heard and present witnesses. After all interested parties have been afforded an opportunity to be heard, the public hearing shall be closed, and the Commission shall make its findings and conclusions as to what action, if any, shall be taken.

(C) If the Commission finds that such building or structure is unsafe, and in its then present condition is in violation as set forth hereinabove, but that measures can be taken to remove or correct the conditions causing such building or structure to be unsafe, thereby rendering such building or structure safe and in accordance with this code, then in such case, the City Commission shall specify the



measures to be taken and shall order such owner, agent or person in charge, to correct the conditions in accordance with its directions. Such owner, agent or person in charge, at his or her option, may comply with the Commission's orders, or may demolish the same.

(D) If the Commission finds that the conditions rendering the buildings or structures unsafe cannot be corrected without substantial reconstruction, the Commission shall declare the building or structure to be a public nuisance and shall order its demolition. In the event the owner of such building or structure fails to comply with the orders of the City Commission within the number of days specified in the order, the city shall proceed to abate such public nuisance in any manner it may deem necessary and proper.

('62 Code, § 4-6-8) (Ord. 2006-11, passed 4-10-06)

#### **§ 15-1-172 COLLECTION OF COST TO ABATE NUISANCE; LIEN.**

Cost incurred by the city in abating public nuisances under the procedures as set forth in this subarticle may be collected in the following manner:

(A) The City Commission shall authorize the City Manager to file a statement of expenses incurred to abate the nuisance, giving the amount of such expenses, the date on which such work was done, and a description of the premises upon which such work was done with the County Clerk. The city shall have privilege lien on such lot or real estate upon which such work was done to secure the expenditures so made in accordance with the laws of the State of Texas which lien shall be second only to tax liens for street improvements, and such amount shall bear interest at the rate of 10% per annum from the date the statement was filed. For any such expenditures and interest as aforesaid, suit maybe instituted and recovery and foreclosure of such lien may be had in the name of the city and the statement of expenses so made as aforesaid or a certified copy thereof shall be prima facie proof to the amount expended for such work or improvements.

(B) The owner of the building or structure may pay to the city the cost incurred for such work or improvements in cash, or upon such terms as may be agreeable to the city, and may waive all notices required herein.

('62 Code, § 4-6-9)

#### **§ 15-1-173 TRANSFER OF OWNERSHIP.**

No owner of any building upon whom a notice has been served that violation of this subarticle exists shall sell, transfer, grant, mortgage, lease or otherwise dispose of such property until compliance with such notice or order has been secured, or until such owner shall have furnished to the purchaser, transferee, grantee, mortgagee or lessee, a true copy of such notice or order and at the same time shall have given adequate notification to the city of his intent to enter into such transaction, including supplying the name and address of the person or persons or firm to whom the sale, transfer, grant,

mortgage or lease is proposed. A purchaser who has been informed of the existence of any notice or order pursuant to the subarticle shall be bound thereby.  
(’62 Code, § 4-6-10) Penalty, see § 15-1-999

**§ 15-1-174 LIABILITIES OF ENFORCEMENT AGENTS.**

Any officer, employee or public servant charged with the enforcement of this subarticle in the discharge of his duties, shall not thereby render him liable personally, 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 discharging of his duties. Any suit brought against any officer or employee because of this subarticle shall be defended by the city until the final termination of the proceeding.

('62 Code, § 4-6-11)

#### **§ 15-1-175 UTILITIES.**

After notice and hearing before the City Commission as hereinabove provided, and after determining that a building or structure is unsafe and its present condition constitutes a nuisance, the city shall not provide, nor permit another to provide (either public or private) utility service such as water, gas, electricity, sewer, and the like, to such building or structure becoming vacant until such building or structure has been inspected and brought into compliance with this subarticle. This requirement shall not preclude the temporary use of such utilities as may be deemed necessary during construction, repair or alteration.

('62 Code, § 4-6-12)

#### **§ 15-1-176 REMEDIES NOT EXCLUSIVE.**

The enumeration of remedies for the abatement of nuisances as for the suppression of nuisances as provided herein are not to be deemed exclusive, but as cumulative. In particular, prosecutions for any of the violations described herein shall not effect the city's right to abate the nuisance in the various manners provided herein, nor shall abatement by the city be a bar to prosecution for any violation described herein.

('62 Code, § 4-6-14)

### ***HOUSE MOVING***

#### **§ 15-1-210 LICENSE AND BOND REQUIRED.**

No person, except a licensed house mover, shall move any building over or along any street or highway within the city limits. Before engaging in this occupation, every such person shall obtain an annual license therefor, for which the fee shall be \$125. Such license shall not be granted until the person applying therefor shall have given a bond in the sum of \$5,000 with one or more good and sufficient sureties, to be approved by the governing body, conditioned among other things, that the party will pay any and all damages which may happen to any house, building, tree, pavement, street or sidewalk, or any awning, wire, fire alarm, telegraph or other pole, or to any other thing injured by any house mover, whether inflicted by the party or his agents, employees or workmen; and conditioned also that the party will save, indemnify and keep harmless the city against all liabilities, judgments, costs and expenses which may in any way accrue against the city in consequence of the granting of such license,

and further that such house mover, his servants or employees, shall clean all debris and other trash or substance from the lot or lots from which the house was moved within a period of 30 days from the time that such house is moved to the satisfaction of the City Inspection Department, and further that he or she will in all things strictly comply with the conditions of the permit.

('62 Code, § 5-7-1) (Ord. 91010, passed 4-8-91; Am. Ord. 200022, passed 11-20-00) Penalty, see § 15-1-999

#### **§ 15-1-211 PERMIT REQUIRED; NOTIFICATION OF ROUTE AND TIME OF MOVEMENT.**

Upon satisfying the license and bond requirements, a house mover shall apply for a house moving permit and pay a fee of \$110 before moving any building or structure. Such application shall include the legal descriptions of the properties affected by the move, the owners of both properties, the dimensions of the building or structure, the route to be taken, and time for such move. The house mover shall immediately notify the Fire Chief, the Chief of Police, and any and all companies maintaining electric wires across and along any street included in the designated route along which the house is to be moved, and the time when it is to be moved.

('62 Code, § 5-7-2) (Ord. 92030, passed 10-12-92; Am. Ord. 200022, passed 11-20-00) Penalty, see § 15-1-999

#### **§ 15-1-212 DUTY TO CUT AND REPAIR WIRES; FAILURE TO FURNISH EMPLOYEE.**

(A) Within five hours after the notice required by the preceding section has been received by any company maintaining electric, telephone, or other type of wire, it shall be the duty of such company to furnish an agent or employee, whose duty it shall be to cut and repair the wires of such company with which the house or structure being moved may come in contact, and which it may be necessary to cut in order to permit the house or structure to be moved along the street. ('62 Code, § 5-7-3)

(B) Whenever any corporation, or any of its agents, operating or using any line of electric wires along the designated route, has been notified of the intention to move the house, it shall be unlawful to fail to furnish or for an agent or employee to cut and repair the wires that may be necessary to permit the house to be moved along the designated route, so as not to delay the work of removing the house. ('62 Code, § 5-7-4)

Penalty, see § 15-1-999

#### **§ 15-1-213 HOUSE MOVERS NOT TO CUT WIRES.**

It shall be unlawful for any house mover or firm of house movers, at any time, to cut any wire across or along any street of the city, carrying an electric current or for the purpose of carrying an electric current, and in the event any such person shall cut the same or permit the same to be cut by any one in their employ, such person shall be amendable to the penalty provided for in this article.

('62 Code, § 5-7-5) Penalty, see § 15-1-999

**§ 15-1-214 FAILURE OF EMPLOYEE TO REPAIR WIRES.**

Whenever the agent or employee of any company using or operating wires for the conduct of electricity shall cut any wire for the purpose of allowing the house which is being moved to pass along the street, and shall fail to carefully repair such wire, or shall repair the same in such manner that it shall become unsafe for persons using the street, such agent or employee shall be punished according to the provisions of this article.

('62 Code, § 5-7-6) Penalty, see § 15-1-999

**§ 15-1-215 NIGHT MOVING.**

It shall be the duty of all house movers to schedule the moving so that the moving will take place before the hours of darkness, but should the moving be not complete by the hour of darkness, adequate red lights shall be placed about the structure to protect the public and two night watchmen shall be put on duty.

('62 Code, § 5-7-7) Penalty, see § 15-1-999

**§ 15-1-216 INSPECTION; FEE.**

(A) It shall be the duty of every person who engages in moving any building into the corporate limits of the city or from one location to another within the corporate limits of the city, at least 30 days prior to any move, to have the Building Inspector inspect or cause to be inspected each building to be moved and to certify in writing to the Planning and Zoning Commission that each building to be moved is in compliance with the Building Code as adopted with modifications in §§ 15-1-1 through 15-1-10 of this article, the Plumbing Code as adopted with modifications in §§ 15-1-20 through 15-1-26 of this article, and the Electrical Code as adopted in §§ 15-1-55 through 15-1-66 of this article. The Building Inspector shall be further required to certify in writing to the Planning and Zoning Commission that the building or buildings to be moved will be in compliance with the zoning then in effect at the destination site. Should the Building Inspector determine that any building or buildings, which are to be moved, fail to comply with any of the Building, Plumbing or Electrical Codes, and the zoning at the destination site, then no permit will be issued for the moving of such building or buildings and the Building Inspector shall notify in writing the person requesting issuance of the permit. ('62 Code, § 5-7-8)

(B) Any person making a request for a permit shall be required to pay, in addition to the permit fee required in § 15-1-211, a \$15 inspection fee at the time application is made for a moving permit for each building to be moved. ('62 Code, § 5-7-9)

Penalty, see § 15-1-999

**§ 15-1-217 APPEALS.**

(A) *Planning and Zoning Commission jurisdiction.* The Planning and Zoning Commission shall have jurisdiction to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or any determination made by the Building Inspector in the enforcement of this subarticle. ('62 Code, § 5-7-10)

(B) *Appeal procedure.* Appeals may be taken to the Planning and Zoning Commission by any person having received written notice from the Building Inspector. Such appeal shall be taken within 30 days after the decision is rendered by filing with the Building Inspector a notice of appeal and specifying the grounds therefor. The Building Inspector shall forthwith submit to the Commission a copy of this notice of appeal together with all the papers constituting the record upon which the action appealed from is taken. ('62 Code, § 5-7-11)

(C) *Stay pending appeal.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector shall certify to the Commission subsequent to the filing of any notice of appeal that, the building or buildings to be moved have been brought into conformance with the Building, Plumbing and Electrical Codes and all zoning requirements then in effect at the destination site. ('62 Code, § 5-7-12)

**§ 15-1-218 INSPECTION REPORTS FURNISHED.**

The Building Inspector shall furnish the Planning and Zoning Commission upon request copies of reports of any or all inspections made in the matter on appeal and furnish such other information as may be available to them and requested by the Commission.  
( '62 Code, § 5-7-13)

**§ 15-1-219 HEARINGS.**

The Planning and Zoning Commission shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be mailed to the appellant or to his attorney of record and such hearing shall not be less than 10 days from a publication in a local newspaper stating the time and place of the hearing.  
( '62 Code, § 5-7-14)

**§ 15-1-220 POWERS OF THE PLANNING AND ZONING COMMISSION; ACTION.**

(A) In exercising its power, the Planning and Zoning Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made. ('62 Code, § 5-7-15)

(B) The Planning and Zoning Commission shall act by majority vote and a quorum shall consist of at least five members. The action of the Commission setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such order, immediately following the Commission's final decision, shall be filed in the office of the Planning and Zoning Commission and shall be open to public inspection. ('62 Code, § 5-7-16)

(C) The powers granted by this subarticle to the Planning and Zoning Commission shall be in addition to those conferred upon it by this code. ('62 Code, § 5-7-17)

#### **§ 15-1-221 APPEAL TO THE CITY COMMISSION.**

In the event that the requested permit is denied by the Planning and Zoning Commission an appeal may be taken to the City Commission within 30 days of denial by the Planning and Zoning Commission. The City Commission shall fix a time and place for hearing the appeal. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be mailed to the appellant or to his attorney of record and such hearing shall not be less than 10 days from a publication in a local newspaper stating the time and place of the hearing. The decision of the City Commission shall be final. ('62 Code, § 5-7-18)

#### **§ 15-1-222 TEMPORARY LOCATION.**

In the event an appeal is taken to the Planning and Zoning Commission, in conformance with the procedures as set forth in this subarticle, and the appellant is able to show that urgent necessity requires the moving of a building or buildings, the Planning and Zoning Commission may authorize the temporary location of a building or buildings at the requested destination as stated in the application for a moving permit. In no event may a building or buildings located on a temporary basis remain more than 120 days; provided, however, that such building or buildings may be allowed to remain if all of the requirements of this subarticle are met within the 120 day period.

('62 Code, § 5-7-19) Penalty, see § 15-1-999

### ***RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS***

#### **§ 15-1-302 ADOPTION BY REFERENCE.**

The purpose of this subarticle is to provide minimum standards, provisions and requirements for safe construction, alteration and modification of one and two-family dwellings within the city. All such construction, alteration and modification of one and two-family dwellings within the corporate limits of the city shall conform to the requirements of this subarticle and to the specifications, rules and regulations entitled *International Residential Code for One and Two-Family Dwellings*, 2000 Edition, approved and adopted by the Southern Building Code Congress International with all appendices thereto.

Such edition is incorporated herein by reference and made a part of this subarticle as if fully set forth herein. When such edition conflicts with local regulations and ordinances, all locally adopted regulations and ordinances shall prevail. The *International Residential Code for One and Two-Family Dwellings*, 2000 Edition, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every one and two-family dwellings or structure or any appurtenances connected or attached to such one and two-family dwellings or structures.

(Ord. ORD-2002-10, passed 4-8-02)

**§ 15-1-303 ADDITIONS AND AMENDMENTS TO *INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS*.**

The *International Residential Code for One and Two-Family Dwellings*, 2000 Edition; is hereby modified and changed in the following particulars:

(A) The *International Residential Code for One and Two-Family Dwellings*, 2000 Edition, is hereby amended to add a section entitled "Contractors License Required" which reads:

It shall be the duty of every contractor or builder, who shall make contracts for the erection, repair or modification of buildings and structures and every builder or contractor subletting the same or any part thereof, to pay a license fee of ninety dollars (\$90.00) annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, and in case of removal from one place to another to have made corresponding change in the file accordingly. Any person convicted in Municipal Court of a violation of this code may have his or her license revoked for a period not to exceed two years. Such person shall be notified by certified mail addressed to his or her place of business, as filed, of the proposed revocation and be given an opportunity at a hearing before the governing body to present such facts and circumstances that are relevant to the case.

(B) Chapter 1, § R105.2 (Work exempt from permit) shall be amended by the following:

**Building**

1. Permits for one-story detached accessory structures are required.
5. Sidewalks and driveways located in the city street right-of-way shall not be constructed without a permit. The permit for this work shall be considered a curb cut permit and the fee paid in according to § 9-10-35 of the City of Kingsville Code of Ordinances.

(C) Chapter 1, § R 112 108, entitled "Board of Appeals" is hereby amended to read "Board of Adjustment" and shall read the same in all other references to such Board in the *International Building Code*, 2000 Edition.

(D) Chapter 4, § R 401.1, entitled "Application," shall hereby be amended to read:

Wood foundations are not permitted. Foundation designs must be provided to the City Planning Department by a Texas Registered Professional Engineer.

(E) Part V - Mechanical shall be amended to read:

Mechanical systems shall be permitted in accordance with the *International Mechanical Code*, 2000 Edition.

(F) Part VI - Fuel gas shall be amended to read:

Fuel Gas Systems shall be permitted in accordance with the *International Gas Code*, 2000 Edition.

(G) Part VII - Plumbing shall be amended to read:

Plumbing systems shall be permitted in accordance with the *International Plumbing Code*, 2000 Edition.

(H) Part VIII - Electrical shall be amended to read:

Electrical Systems shall be permitted in accordance with the *International Electrical Code*, 2000 Edition.

(Ord. ORD-2002-10, passed 4-8-02)

### ***ENERGY CONSERVATION CODE***

#### **§ 15-1-402 ADOPTION BY REFERENCE.**

The purpose of this subarticle is to provide minimum standards, provisions and requirements for safe construction, alteration and modification of one and two-family dwellings within the city. All such construction, alteration and modification of one and two-family dwellings within the corporate limits of the city shall conform to the requirements of this subarticle and to the specifications, rules and regulations entitled *International Energy Conservation Code*, 2000 Edition, approved and adopted by the Southern Building Code Congress International with all appendices thereto. Such edition is incorporated herein by reference and made a part of this subarticle as if fully set forth herein. When such edition conflicts with local regulations and ordinances, all locally adopted regulations and ordinances shall prevail. The *International Energy Conservation Code*, 2000 Edition, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every one and two-family dwellings or structure or any appurtenances connected or attached to such one and two-family dwellings or structures.

(Ord. ORD-2002-11, passed 4-8-02)

**§ 15-1-403 ADDITIONS AND AMENDMENTS TO *INTERNATIONAL ENERGY CONSERVATION CODE*.**

The *International Energy Conservation Code*, 2000 Edition; is hereby modified and changed in the following particulars.

(A) The *International Energy Conservation Code for One and Two-Family Dwellings*, 2000 Edition, is hereby amended to add a section entitled "Contractors License Required" which reads:

It shall be the duty of every contractor or builder, who shall make contracts for the erection, repair or modification of buildings and structures and every builder or contractor subletting the same or any part thereof, to pay a license fee of ninety dollars (\$90.00) annually and have a copy of the same on file with the Building Department, giving full name, residence and place of business, and in case of removal from one place to another to have made corresponding change in the file accordingly. Any person convicted in Municipal Court of a violation of this code may have his or her license revoked for a period not to exceed two years. Such person shall be notified by certified mail addressed to his or her place of business, as filed, of the proposed revocation and be given an opportunity at a hearing before the governing body to present such facts and circumstances that are relevant to the case.

(B) Chapter 1, § 101.3 (Compliance) shall be amended by the following:

Energy Conservation systems shall be permitted in accordance with the *International Building Code*, 2000 Edition and shall be based upon the valuation of the improvements.  
(Ord. ORD-2001-11, passed 4-8-02)

**§ 15-1-999 PENALTY.**

(A) Any person who violates any provision of this article for which no penalty is otherwise provided shall be guilty of a misdemeanor and shall be subject to the penalty provided in § 1-1-99.

(B) Any person who violates of the provision of the Building, Plumbing, Gas, Electrical, Housing, Mechanical, or Swimming Pool Codes adopted in this article, or who violates any provision of §§ 15-1-1 through 15-1-76, or 15-1-135 through 15-1-153 of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$1,000. ('62 Code, §§ 4-1-6, 4-2-7, 4-3-9, 4-4-12, 4-9-3, 4-11-3, 4-12-4) (Ord. 84-14, passed 7-16-84; Ord. 92023, passed 10-12-92; Ord. 92024, passed 10-12-92; Ord. 92025, passed 10-12-92; Ord. 92026, passed 10-12-92; Ord. 92027, passed 10-12-92; Ord. 92029, passed 10-12-92)



(C) Any person, firm, corporation or agent who shall violate any provision of the Non-Residential Structures Code, as set forth §§ 15-1-85 through 15-1-121 of this article, or who shall fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish, or move any structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of the Non-Residential Structures Code shall, upon conviction, be subject to a fine of not less than \$5 and not more than \$200 for each offense. ('62 Code, § 4-10-36)

(D) Any person, firm, corporation, or agent who shall violate any provision of §§ 15-1-165 through 15-1-176, or who shall fail to comply therewith, or with any of the requirements thereof, or who shall refuse to carry out the orders of the Nuclear Fallout Shelter Manager, as provided in § 15-1-197 shall be guilty of a misdemeanor and, upon conviction, shall be fined in any amount not to exceed \$200. ('62 Code, §§ 4-6-13, 4-7-8(B)) (Ord. —, passed 3-11-74)

(E) Any person, firm, corporation, or agent, who violates any provision of §§ 15-1-212(B) or 15-1-214 of this article, shall be subject to a fine of not more than \$100. ('62 Code, §§ 5-7-4, 5-7-6)

(F) A separate offense shall be deemed committed for each and every day or portion thereof during which any violation is committed or continued.



## ARTICLE 2: MOBILE HOMES AND MOBILE HOME PARKS

### Section

#### ***General Provisions***

- 15-2-1 Definitions
- 15-2-2 Parking restrictions; exemptions
- 15-2-3 Temporary permit; special use permit

#### ***Permit and License Provisions***

- 15-2-15 License required
- 15-2-16 Application for license
- 15-2-17 Suspension or revocation of license
- 15-2-18 Transfer and duration
- 15-2-19 Posting of license
- 15-2-20 Notices, hearings, orders
- 15-2-21 Pre-move inspection fee

#### ***Operation Requirements***

- 15-2-27 Location
- 15-2-28 Special use recreational vehicle park; recreational vehicle spaces
- 15-2-29 Site plan requirements for manufactured home parks
- 15-2-30 Site design standards for manufactured home parks
- 15-2-31 Access, traffic circulation and parking for manufactured home parks
- 15-2-32 Office building
- 15-2-33 Rules and regulations for park
- 15-2-34 Management of park
- 15-2-35 Register of occupants
- 15-2-36 Supervision
- 15-2-37 Water supply
- 15-2-38 Sanitary sewer
- 15-2-39 Garbage receptacles
- 15-2-40 Fire protection
- 15-2-41 Fuel
- 15-2-42 Area for travel trailers
  
- 15-2-43 Penalty

**GENERAL PROVISIONS****§ 15-2-1 DEFINITIONS.**

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

**CERTIFICATE OF OCCUPANCY.** A certificate issued by the Building Official for the use of a building, structure, or land, when it is determined by such officer that the building, structure, or land complies with the provisions of all applicable city codes, ordinances, and regulations.

**COMMON ACCESS ROUTE.** A private way which affords the principal means of access to individual mobile home or manufactured home lots. (Same meaning as **INTERNAL STREET**)

**DRIVEWAY.** A minor entranceway off the common access route within the park, into an off street parking area serving one or more mobile homes or manufactured homes.

**FAMILY.** Defined for the purposes of R-1, R-2, and MH Zones: Any number of individuals living in a dwelling unit which are related by blood, marriage, or adoption, or up to and including three unrelated individuals.

**HUD-CODE MANUFACTURED HOME.** A structure constructed on or after June 15, 1976 according to the rules of the U.S. Department of Housing and Urban Development, transportable in one or more sections, which, in traveling mode, of 8 body feet or more in width or 40 body feet or more in length, or when erected on site is 320 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 system. The term manufactured home does not include a "recreational vehicle" as that term is defined by 24 C.F.R Section 3282.8(g)

**INTERNAL STREET.** See definition under **COMMON ACCESS ROUTE**.

**LABEL.** A device or insignia issued by the Texas Department of Housing and Community Affairs to indicate compliance with the standards, rule and regulations by the U.S. Department of Housing and Urban Development, and is permanently affixed to each transportable section of each HUD-code manufactured home constructed after June 15, 1976 for the sale to a consumer.

**LICENSE.** A written license issued by the city permitting a person to operate and maintain a recreational vehicle park, a manufactured home park, or manufactured home subdivision under the provisions of this article.

**LICENSEE.** Any person licensed to operate and maintain a recreational vehicle park, a manufactured home park or manufactured home subdivision under the provisions of this article.

**MANUFACTURED HOME PARK.** A unified development of manufactured home lots arranged on a tract of land at least five gross acres in size for the purpose of renting or leasing lots meeting all requirements of the article and other applicable city codes and ordinances.

**MANUFACTURED HOME SUBDIVISION.** A unified development of manufactured home lots arranged on a tract of land at least five gross acres in size for the purpose of selling lots meeting all requirements of the subdivision regulations (Article 3, Chapter XV), this article and other applicable city codes and ordinances.

**MANUFACTURED HOUSING OR MANUFACTURED HOME.** A HUD –CODE manufactured home or a mobile home and collectively means and refers to both. The definition of **MOBILE HOME HUD-CODE MANUFACTURED HOME**, and **MANUFACTURED HOME** as set forth in this section are binding on all persons and agencies in this state and under the jurisdiction of the city. For the purposes of this article, a mobile home is not a HUD- CODE manufactured home and a HUD-CODE manufactured home is not a mobile home. Recreational vehicles, however, may be located and used only in approved recreational vehicle parks or approved manufactured home parks.

**MOBILE HOME.** 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 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.

**NATURAL OR ARTIFICIAL BARRIER.** Any river, pond, canal, railroad, levee, embankment, fence or hedge.

**PARKING SPACES, OFF-STREET.** A minimum space 12 feet in width by 20 feet in length, located within the boundaries of a manufactured home space or in a common parking and storage area having unobstructed access to an internal street. A minimum of two-off street parking spaces shall be provided at each manufactured home space.

**PERSON.** An individual, persons, partnership, firm, company, corporation, association, tenant, owner, lessee, or licensee, their agents, heirs or assigns.

**RECREATIONAL VEHICLE.** A vehicle which is built on a single chassis which is:

- (1) 400 square feet or less when measured at the largest horizontal projections;
- (2) Designed to be self-propelled or permanently towable by a light duty truck;

(3) And, is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use including any of the following:

(a) **DEPENDENT TRAILER.** A trailer which is dependent upon a service building for toilet and lavatory facilities.

(b) **MOTOR HOME.** A portable temporary dwelling to be used for travel, recreation and vacation, constructed as integral part of a self-propelled vehicle.

(c) **PICK-UP COACH.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

(d) **SELF-CONTAINED.** A trailer which can operate independent of connections to sewer, water and electric systems. It contains a water flushed toilet, lavatory, shower and kitchen sink, all of which are connected to water storage and sewage holding tank located within the trailer.

(e) **TRAVEL TRAILER.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a "travel trailer" by the manufacturer of the trailer. It may be occupied with or without utilities provided by temporary connections at a manufactured home park.

**RECREATIONAL VEHICLE PARK.** A unified development of recreational vehicle spaces arranged on a tract of land at least five gross acres in size for the purpose of renting or leasing lots meeting all requirements of this article and other applicable city codes and ordinances.

**REPLACEMENT.** The act of moving one mobile home or recreational vehicle from its existing stand and replacing it with another mobile home or recreational vehicle. In the city, mobile homes shall be replaced only with approved HUD-CODE manufactured homes.

**SEAL.** A device or insignia issued by the Texas Department of Housing and Community Affairs to be affixed to used manufactured homes for titling purposes.

**SEWER RISER PIPE.** That portion of a sewer service which extends vertically to the ground elevation and terminates at a manufactured home lot.

**SEWER UTILITY CONNECTION.** The connection consisting of all pipes, fittings and appurtenances from the drain outlet of a manufactured home or recreational vehicle to the inlet of the corresponding sewer service riser pipe of the sewage system serving the recreational vehicle park, manufactured home park or subdivision.

**SITE PLAN.** Same as a plot plan. A graphic representation, drawn to scale in a horizontal plane, delineating the outlines of the land included in the plan and all proposed use locations, accurately dimensioned and meeting the requirements of this article.

**SPACE.** A plot of ground within a manufactured home park, subdivision, or a recreational vehicle park designed for the accommodation of one manufactured home or recreational vehicle, together with such open space as required by this article. This term also shall include the terms "lots," "stand," and "site."

**STAND.** The area of a manufactured home lot which has been reserved for placement of a mobile home or manufactured home.

**TRAVEL TRAILERS.** See definition under **RECREATIONAL VEHICLE.**

**WATER RISE PIPE.** That portion of the private water service system serving a manufactured home which extends vertically to the ground elevation and terminates at a designated point at a manufactured home lot.

**WATER UTILITY CONNECTION.** The connection consisting of all pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within a recreational vehicle park, manufactured home park or manufactured home subdivision. ('62 Code, § 5-9-1) (Ord. —, passed 12-23-68; Am. Ord. 2003-09, § 15-2-1, passed 4-28-03)

## § 15-2-2 PARKING RESTRICTIONS; EXEMPTIONS.

(A) It shall be unlawful within the limits of the city for any person to permanently park any recreational vehicle or manufactured home on any street, alley or highway, or other public place, or on any tract of land owned by any person, occupied or unoccupied, within the city, except as provided in this article.

(B) Emergency or temporary stopping or parking is permitted on any street, alley or highway, subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or ordinances for the street, alley or highway. Travel trailers which are used for display of items of general interest shall obtain a solicitor's license from the Planning Department for temporary parking in a commercial area for solicitor and vending purposes and comply fully with all requirements for solicitation.

(C) No person shall park or occupy any recreational vehicle, mobile home, or manufactured home on the premises of any dwelling or on any lot which is not a part of the premises of any dwelling either of which is situated outside an approved mobile home or manufactured home park; except the parking of only one unoccupied recreational vehicle in an accessory private garage, building, or in a yard or driveway, in any district, is permitted, providing no living quarters shall be maintained or any business practiced in the recreational vehicle while such recreational vehicle is so parked or stored. Any trailer or manufactured home shall be parked in accordance with all setback requirements.

(D) The restrictions in divisions (A) through (C) shall not apply to recreational vehicles parked outside a recreational vehicle, mobile home, or manufactured home park within the city limits when such vehicles are part of an organized convention, travel club, or other similar activity and when such vehicles are self-contained and will not hook up to any water, electrical or sewer utility. Exemptions under this division are only valid for a period of time not to exceed five days. ('62 Code, § 5-9-2) (Ord. —, passed 3-19-69; Am. Ord. 89049, passed 11-27-89; Am. Ord. 91012, passed 5-13-91; Am. Ord. 2003-09, § 15-2-2, passed 4-28-03) Penalty, see § 1-1-99

### **§ 15-2-3 TEMPORARY PERMIT; SPECIAL USE PERMIT.**

(A) The Planning and Zoning Commission, in cases of an emergency or undue hardship, may grant a temporary permit for the location of a manufactured home to be used for one family dwelling within the corporate limits of the city.

(B) Such permit shall be a personal permit to the applicant and shall be considered as an amendment to the zoning ordinances insofar as the special use is concerned. In granting a special use permit, special conditions may be required precedent to the issuance of a certificate of occupancy for the use of the property, and not as conditions precedent to the issuance of the special use permit. Such permit shall not be transferable and shall expire immediately upon cessation of use by the grantee and is subject to the following restrictions:

- (1) Hardships must be demonstrated due to age, infirmity, or death of a family member.
- (2) Permit is limited to one year.
- (3) Permit may be renewed by demonstrating continued hardship.

(4) The manufactured home must be removed within 90 days of the expiration of the permit.

(C) A public hearing shall be held to determine that the granting of the special use permit will not adversely affect the character, use or monetary value of surrounding property; does not modify the intent of the land use plan or zoning plan; and will not adversely affect traffic, safety, health, public utilities and general welfare.

(D) All special use permit applications shall be accompanied by a fee of \$250 as stated in § 15-6-4(A) of the Zoning ordinance. A special use permit may not be issued for a manufactured home to be located in any residential zone for any commercial purpose; ex. a model home in R-1. A special use permit may be issued for a manufactured office in residential zonings.

(E) Manufactured homes may also be placed in Industrial Districts (I-1 and I-2) for offices or dwellings by special use permit. No more than one mobile home or manufactured home per business may be so placed. Manufactured homes may not be placed in residential zones for temporary commercial purposes.

('62 Code, § 5-9-23) (Am. Ord. 2003-09, § 15-2-3, passed 4-28-03; Am. Ord. 2006-32, passed 7-10-06)

## **PERMIT AND LICENSE PROVISIONS**

### **§ 15-2-15 LICENSE REQUIRED.**

(A) It shall be unlawful for any person to maintain or operate any recreational vehicle park, mobile home or manufactured home park or manufactured home subdivision unless such person holds a valid license issued annually by the city in the name of such person for the specific park.

(B) All manufactured home parks established after the passage of Ordinance 2003-09 (4-28-03) shall comply with the terms of this article.

('62 Code, § 5-9-3) (Am. Ord. 2003-09, § 15-2-15, passed 4-28-03) Penalty, see § 1-1-99

### **§ 15-2-16 APPLICATION FOR LICENSE.**

(A) *Application process and license fee.* Application for the original license to operate a manufactured home park shall be filed with the Planning and Zoning Commission and forwarded to the City Commission for site writing on forms furnished by the city. The city shall not issue a license unless the applicant is a valid holder of a certificate of occupancy. The original license may be granted at any time during the year after successful completion of all necessary inspections by municipal reviewing officials and shall expire at the end of the calendar year, unless previously suspended or revoked. All applications shall be accompanied by a fee of \$50 plus \$5 per existing space located within the park.

(B) *Application for original license.* Application for the original license shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant to the truth of the application and by deposit of the license fee provided in division (A), and shall contain the following:

(1) The name, address and phone number of the applicant.

(2) The location and legal description of the park. All park sites in the city or in the area of the extra-territorial jurisdiction shall be platted in conformance with § 15-3-1, Subdivision Regulations. Additionally, all sites in the city shall meet zoning requirements.

(3) A site plan of the park showing all manufactured home spaces and other data as required for compliance with § 15-2-9 of this article.

(4) Before the original license is issued, each park shall be inspected and approved by fire, utility, public works, code enforcement and planning department officials.

(C) *Denial, hearing.* Any person whose application for a license under this article has been denied may request and shall be granted a hearing on the matter before the City Commission, under the procedures provided by § 15-2-20.

('62 Code, § 5-9-5) (Ord. 89049, passed 11-27-89; Am. Ord. 2003-09, § 15-2-16, passed 4-28-03)

**§ 15-2-17 SUSPENSION OR REVOCATION OF LICENSE.**

(A) The City Commission may at the recommendation of the Planning Department revoke any license to maintain and operate a manufactured home park when the licensee has been found guilty by a court of competent jurisdiction of violating any provisions of this article. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law and this article.

(B) Whenever, upon inspection of any manufactured home park, the Planning Department officials, in consultation with other city department officials, find that conditions or practices exist which are a violation of any provision of this article, such officials shall give notice in writing in accordance with § 15-2-20 to the licensee that unless such conditions or practices are corrected within a reasonable period of time specified in such notice, the license shall be suspended. At the end of such period of time, the Planning Department shall re-inspect such park, requesting assistance from other city departments or agencies as may be required, and if such conditions or practices have not been corrected, it shall suspend the license and give notice in writing of such suspension to the licensee. Upon receipt of notice of such suspension, the licensee shall cease operation of such park, except as provided in § 15-2-20.

('62 Code, § 5-9-17) (Am. Ord. 2003-09, § 15-2-17, passed 4-28-03)

**§ 15-2-18 TRANSFER AND DURATION.**

(A) Every person holding a license shall give notice in writing to the city within ten days after having sold, transferred, given away, or otherwise disposed of interest in or control of any manufactured home park. Within ten calendar days thereafter, the Planning Department shall act on the application for license transfer and it shall be approved if the park is in compliance with the provisions of this article.

(B) All applications for license transfer shall be accompanied by a fee equal to the amount collected for the original license. Such original license, and transfer thereof, may be granted at any time during the year and shall expire at the end of the calendar year unless suspended or revoked. The license must be renewed no later than December 1 of each year or the property owner shall incur a 10% penalty fee.

('62 Code, § 5-9-18) (Am. Ord. 2003-09, § 15-2-18, passed 4-28-03)

**§ 15-2-19 POSTING OF LICENSE.**

The license certificate shall be conspicuously posted in the office of, or on the premises of the recreational vehicle park, mobile home or manufactured home park or manufactured home subdivision at all times.

('62 Code, § 5-9-19) (Am. Ord. 2003-09, § 15-2-19, passed 4-28-03) Penalty, see § 1-1-99



**§ 15-2-20 NOTICES, HEARINGS, ORDERS.**

(A) *Notice of violations; requirements of notice.* Whenever it is determined that there are grounds to believe that there has been a violation of any provision of this article, the city shall give notice of such alleged violation to the licensee or agent as hereinafter provided. Such notice shall:

- (1) Be in writing;
- (2) Include a statement of the reasons for its issuance;
- (3) Allow a reasonable time for the performance of the act it requires;

(4) Be served upon the licensee or his agent; provided, that such notice or order shall be deemed to have been properly served upon such licensee or agent when a copy thereof has been sent by mail to such person's last known address, or when such person has been served with such notice by any method authorized or required by the laws of this state; and

(5) Contain an outline of remedial action which, if taken will effect compliance with the provisions of this article.

(B) *Appeal from denial of license.* Any person affected by the refusal of the Planning Department to issue a license under the provisions of this article may request and shall be granted a hearing on the matter before the City Commission; provided that such person shall file within 15 days after the day the permit was refused in the office of the Planning Department a written petition requesting such hearing and setting forth a brief statement of the grounds thereof. Upon receipt of such petition, the Planning Department shall forward it to the City Secretary, who shall request the City Commission to set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such refusal should be modified or withdrawn.

(C) *Appeal from notice issued by the city.* Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article may request and shall be granted a hearing on the matter before the City Commission; provided that such person shall file within 15 days after the day the notice was served in the office of the Planning Department a written petition requesting such hearing and setting forth a brief statement of the grounds thereof. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension, except in the case of an order issued under division (E) of this section. Upon receipt of such petition, the Planning Department shall forward such petition to the City Secretary, who shall request the City Commission to set a time and place for such hearing and shall give an opportunity to be heard and to show why such notice should be modified or withdrawn.

(D) *Hearing; order.* After such hearing, the city shall issue an order in writing sustaining, modifying or withdrawing the refusal, which order shall be served as provided in division (A)(4). Upon

failure to comply with an order by the city sustaining or modifying a decision thereof, the certificate of occupancy permit and the license of the park affected by the order shall be revoked.

(E) *Order without notice.* Whenever the city finds that an emergency exists which requires immediate action to protect the public health and safety, it may without notice or hearing issue an order reciting the existence of such an emergency and requiring that action be taken as it may deem necessary to meet the emergency. Notwithstanding any other provisions of this article, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the city shall be afforded a hearing as soon as possible. The provisions of division (D) shall be applicable to such hearing and the order issued thereafter.

(Ord. 2003-09, § 15-2-20, passed 4-28-03)

#### **§ 15-2-21 PRE-MOVE INSPECTION; FEE.**

(A) It shall be the duty of every person who engages in moving any mobile home or manufactured home structure into the corporate limits of the city or from one location to another within the corporate limits of the city, at least 14 days prior to any move, to have the Building Inspector inspect or cause to be inspected each mobile home or manufactured home or each section thereof to be moved and to certify in writing to the Director of the Planning Department that each mobile home or manufactured home to be moved is in compliance with the Standard Housing Code as adopted with modification in §§ 15-1-75 through 15-1-76 of this chapter, and the Plumbing code as adopted with modifications in §§ 15-1-20 through 15-1-26 of this chapter, and the Electrical Code as adopted in §§ 15-1-55 through 15-1-66 of this chapter. The Building Inspector shall be further required to certify in writing to the Director of the Planning Department that the mobile home or manufactured home to be moved will be in compliance with the zoning then in effect at the destination site. Should the Building Inspector determine that any mobile home and manufactured homes which are to be moved, failed to comply with any of the Standard Housing, Plumbing or Electrical Codes and the zoning at the destination site, then no permit will be issued for the moving of such mobile home or manufactured home and the Building Inspector shall notify in writing the person requesting issuance of the permit.

(B) If a manufactured home is brought in for the purposes of rehab or refurbishing, the owner has six months to obtain a certificate of occupancy for each manufactured home. There can be no more than one unit per 4800 square feet.

(C) Any person making a request for a permit shall be required to pay in addition to the electrical, plumbing and mechanical permit fees, a \$20 pre-move inspection fee at the time application is made for a manufactured housing structure to be moved into or within the corporate limits of the city.

(Ord. 2003-09, § 15-2-21, passed 4-28-03)

**OPERATION REQUIREMENTS****§ 15-2-27 LOCATION.**

No recreational vehicle parks, manufactured home parks or manufactured home subdivisions shall be located within the corporate limits of the city except in a Class MH Zone as set forth in the Zoning ordinance of the city. All parks already in existence and operation at the time of passage of this article shall be treated as a nonconforming use insofar as the requirements of this subsection are concerned, therefore shall not increase in size or usage without complying with this article.

('62 Code, § 5-9-20) (Am. Ord. 2003-09, § 15-2-27, passed 4-28-03) Penalty, see § 1-1-99

**§ 15-2-28 SPECIAL USE RECREATIONAL VEHICLE PARK; RECREATIONAL VEHICLE SPACES.**

(A) When associated with hotels/motels ,a recreational vehicle park shall maintain a minimum space width of 20 feet with a total space area of at least 1,000 square feet. The total number of spaces shall not exceed 50% of the number of guest rooms customarily available. Minimum acreage requirements for recreational and total space areas are not required. However, all other requirements of Article 2 of this chapter this article shall be satisfied prior to site plan approval.

(B) Site plans may contain a limited number of spaces designed to accommodate overnight or short-term rentals in recreational or mobile home parks notwithstanding the requirements of Article 2 of this chapter this article. The total number of such spaces shall not exceed 50% of the number of conventionally sized spaces within the park. The minimum size for overnight and short-term use shall be 1,000 square feet. The minimum space width for such spaces shall be 20 feet.

(C) Recreational vehicle parks are a permitted use in Class MH Zoning, and are allowed by special use permit in Class C-2 and Class C-4 zones as referenced in Appendix A, Land Use Chart.

(Ord. 2003-09, § 15-2-28, passed 4-28-03)

**§ 15-2-29 SITE PLAN REQUIREMENTS FOR MANUFACTURED HOME PARKS.**

(A) The application for a license to operate a manufactured home park shall be accompanied by ten copies of a site plan, drawn at a minimum scale of 1 inch equals 100 feet, and shall provide a legal description and map clearly setting out the following:

- (1) The area and dimensions of the tract of land, with identification and boundaries;
- (2) The location, width, and specification of driveways, roadways, and internal streets;
- (3) The number, location and size of all manufactured home and manufactured home spaces;

2006 S-8

(4) Location and specifications of water and sewer utility connections and riser pipes. The water and sewer systems for a recreational vehicle park, manufactured home park or subdivision shall be constructed in accordance with the city's adopted Plumbing Code;

(5) Plan of sewage disposal;

(6) Method and plan of garbage removal;

(7) The location of all water lines and utility connections, including fire mains, the size of hydrants, and any other equipment which may be provided;

(8) The location and details of electric lighting;

(9) Plan of gas distribution system;

(10) Plan of telephone and TV cable distribution systems;

(11) Existing and proposed topography of the recreational vehicle park, manufactured home park or subdivision and proposed drainage facilities;

(12) The location and specifications of all buildings constructed or to be constructed on-site within the park;

(13) Such other information as municipal reviewing officials may reasonably require.

(B) All park sites in the city or in the area extraterritorial jurisdiction shall be platted as a one-lot subdivision and be accompanied by a site plan of the manufactured home park. The site plan does not replace or supersede the subdivision plat required by the state law to be recorded in the county plat records, after review and approval by the Planning and Zoning Commission and City Commission.

(Ord. 2003-09, § 15-2-29, passed 4-28-03)

#### **§ 15-2-30 SITE DESIGN STANDARDS FOR MANUFACTURED HOME PARKS.**

All manufactured home parks established after the effective date of this section shall comply herewith and shall conform to the following requirements:

(A) *Drainage.* The ground surface in all parts of the park shall be graded and equipped to drain all surface water in a safe and efficient manner.

(B) *Setbacks and open space requirements.* Manufactured home spaces shall be provided, consisting of a minimum area of 4,800 square feet for each space, shall be at least 40 feet wide and 120 feet in length and clearly defined. Manufactured homes shall be so harbored on each space that there shall be at least 20 feet clearance between each manufactured home; provided, however, that with respect to

manufactured homes parked end to end, the end to end clearance between each manufactured home may not be less than 20 feet. The minimum front yard setback shall be 20 feet from the front line of the manufactured home space. No manufactured home shall be closer than 20 feet to the property line adjoining a public or internal street. All existing park spaces nonconforming to setbacks and spacing requirements must comply with this section as travel trailers, mobile homes, and /or manufactured homes are moved out and spaces become vacant.

(C) *Driveways.* All manufactured home spaces shall abut upon a driveway of not greater than 22 feet in width which shall have unobstructed access to a public or internal street, alley or highway. All driveways shall be hard surfaced, well marked in the daytime, and lighted at night and shall have adequate length to provide for off-street parking for at two vehicles. All existing park spaces not meeting the requirements for driveways must comply with this section as travel trailers, mobile homes, and /or manufactured homes are moved out and spaces become vacant.

(D) *Electricity.* Each manufactured home park and manufactured home space shall comply with the National Electrical Code as set forth by § 15-1-65 of this chapter or as hereafter amended.

(E) *Exposed sewer taps.* All exposed sanitary sewer taps, connections, or risers shall be protected with a tight-fitting lock-type cap that shall be kept in place until a manufactured home is connected thereto. Surface drainage shall be diverted away from the riser.

(F) *Playgrounds.* One or more playgrounds shall be provided which are easily accessible without encountering traffic hazards, and which shall have a minimum area of 150 square provided, however, this requirement may be waived when the manufactured home park is adjacent to or within 450 feet of a public park or recreational area.

(G) *Area regulations.* Each recreational vehicle park, manufactured home park or subdivision established after the effective date of this subsection shall have a minimum area of five acres; provided, however that the provisions of this subsection shall not apply to manufactured home parks already in existence and operation at the time of passage of this article; and such existing and operating parks shall be treated as a nonconforming use insofar as the requirements of this subsection are concerned. Existing manufactured home parks shall not increase in size or usage (number or trailers) without complying with this article.

(H) *Parking lots.* All parking lots shall be paved to suppress dust and shall meet the minimum requirements listed in § 15-3-48 of this chapter.

(I) *Streets.* Internal streets in recreational vehicle, mobile home or manufactured home park and subdivisions shall be privately owned, built and maintained. Streets shall be designed and constructed to city specifications and meet the requirements of §§ 15-3-33, *et seq.* See § 15-2-34 of this article for additional criteria for internal streets.

(J) *Sewage disposal.* An adequate and safe sewage system shall be provided in all manufactured home parks and subdivision for conveying and disposing of all sewage. The sewer system for a park shall constructed in accordance with the city's adopted Plumbing Code.

(K) *Natural gas.* Occupants of all parks shall connect to natural gas where it is available. All natural gas lines will be provided with a cutoff valve at each manufactured home lot and a main cutoff valve in appropriate locations at the main line running through the park.

(L) *Telephone and TV cable systems.* All telephone and cable TV distribution systems shall be under ground and in accordance with applicable codes and regulations.

(M) *Landscaping.* A strip of 15 feet in width around the outside boundary of the manufactured home park which is planted with shrubs and trees and is fenced, as recommended by the City Planner and approved by the Planning and Zoning Commission in site plan approval.  
(Ord. 2003-09, § 15-2-30, passed 4-28-03)

#### **§ 15-2-31 ACCESS, TRAFFIC CIRCULATION AND PARKING FOR MANUFACTURED HOME PARKS.**

(A) *Streets generally.* Internal streets in manufactured home parks shall be designed and constructed to city specifications for safe and convenient access to all spaces and to facilities for common use of park residents. Internal streets shall be kept open and free of obstruction in order that police and fire vehicles may have access to any area of the park . The Police Department shall be authorized to remove and impound offending vehicles.

(B) No parking signs. On all sections of internal streets on which parking is prohibited under this article, the owner of agent shall erect metal signs prohibiting parking. The sign type, size, height and location shall be approved by the city prior to installation.

(C) *Construction.* All internal streets shall be constructed to specifications established by the city and shall be maintained by the owner of agent free of cracks, holes, and other hazards. Internal streets shall be designed by a registered professional engineer and designs shall be approved by the city.

(D) *Street dimensions.* An internal street of common access route shall be provided to each manufactured home space. Such street shall have a minimum paved width of 32 feet. On-street parking shall be permitted on only one side of the street. The internal streets shall be continuous and connect with other internal streets or with public streets, or shall be provided with a cul-de-sac having a cul-de-sac shall exceed 600 feet in length.

(E) *Parking spaces.* At least two off-street parking spaces shall be provided for each recreational vehicle or manufactured home space.

(F) *Street names; lot numbers.* Within each manufactured home park or subdivision, all streets shall be named, and manufactured home lots numbered to conform with block numbers on adjacent public streets. All street name signs and house numbers shall be of reflective material. Street signs for internal streets shall be of a color and size contrasting with those public streets so that there is no confusion regarding which are private and which are public streets. These signs and numbers shall be of standard size and placement to facilitate location by emergency vehicles.

(G) *Location of public street intersections.* Interior streets shall intersect adjoining public streets at approximately 90 degrees and at locations which will eliminate or minimize interference with traffic on those public streets.

(H) *Parking vehicles in spaces only.* No vehicle may be parked on any manufactured home site except on a hard surfaced, off-street parking space.  
(Ord. 2003-09, § 15-2-31, passed 4-28-03)

#### **§ 15-2-32 OFFICE BUILDING.**

Each recreational vehicle park, mobile home or manufactured home park or subdivision shall be provided with a building to be known as the office in which shall be kept copies of all records pertaining to the management and supervision of the park, as well as rules and regulations of the park, and such records, rules and regulations to be available for inspection by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained therein.

('62 Code, § 5-9-9) (Am. Ord. 2003-09, § 15-2-32, passed 4-28-03) Penalty, see § 1-1-99

#### **§ 15-2-33 RULES AND REGULATIONS FOR PARK.**

(A) It shall be the duty of the owner, his agent, representative or manager to prescribe rules and regulations for management of the park; to make adequate provisions for the enforcement of such rules; and to subscribe to any and all subsequent rules and regulations which may be adopted for the management of such park. Copies of all such rules and regulations shall be furnished to the City Planning Department.

(B) In addition thereto, it shall be the duty of the owner, his agent, representative or manager to comply strictly with the following:

(1) Provide for at least an annual inspection of the water and sanitary conveniences by the City Plumbing Inspector;

(2) Provide for the collection and removal of garbage and other solid waste materials;

(3) Prohibit the placing or storage of unsightly material or junked vehicles of any kind;

(4) Provide for adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition;

(5) Take such other measures as may be deemed to be necessary by the city to preserve the health, comfort and safety of all persons residing in the park and the general public;

(6) Report to the City-County Health Department, within 24 hours, all cases of communicable diseases or suspected cases of communicable diseases affecting any guest or employee of the park;

(7) Report immediately to the Police Department of the city all acts of disorderly character committed by any person or persons inside of the park;

(8) See that copies of all rules and regulations are prepared and posted in conspicuous locations throughout the park;

(9) Require that all mobile homes and manufactured homes placed on individual lots are skirted, anchored, and tied down in accordance with the Texas Manufactured Housing Standards Act, Tex. Occupations Code, §§ 1201.001 *et seq.* and the City of Kingsville Code of Ordinances. ('62 Code, § 5-9-10) (Am. Ord. 2003-09, § 15-2-33, passed 4-28-03) Penalty, see § 1-1-99

#### **§ 15-2-34 MANAGEMENT OF PARK.**

Each manufactured home park shall be under the direct management of the owner or his agent or representative, for whose acts he or they shall be fully responsible. The name of the person entrusted with the direct management of a park shall be filed for reference with the Planning Department.

('62 Code, § 5-9-11) (Am. Ord. 2003-09, § 15-2-34, passed 4-28-03)

#### **§ 15-2-35 REGISTER OF OCCUPANTS.**

(A) It shall be the duty of the licensee to keep a register containing a record of all mobile home and manufactured home owners and occupants located within the park. The register shall contain the following information:

(1) Name and address of park tenant;

(2) The make, model and year of all automobiles and mobile or manufactured home;

(3) License number and owner of each recreational vehicle and automobile by which it is towed;

(4) Mobile home or manufactured home or recreational vehicle registration data, including make, length and width;

(5) The date of arrival and of departure of each mobile home, manufactured home or recreational vehicle;

(6) Whether or not each recreational vehicle is an independent or dependent trailer.

(B) The park shall keep the register available for inspection, at all times, by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register shall be retained on the premises and shall not be destroyed for at least two years following the date of retirement of the register. Registers shall be available for inspection at all reasonable times by an official of the city whose duties may necessitate access to the information contained therein.

('62 Code, § 5-9-15) (Am. Ord. 2003-09, § 15-2-35, passed 4-28-03) Penalty, see § 1-1-99

### **§ 15-2-36 SUPERVISION.**

A responsible attendant or caretaker, owner or operator shall be in charge at all times to keep the recreational vehicle park, mobile or manufactured home park or subdivision, its facilities and equipment in a clean, orderly and sanitary condition, and he shall be answerable, with the licensee, for any violation of the provisions of this article.

('62 Code, § 5-9-16) (Am. Ord. 2003-09, § 15-2-36, passed 4-28-03) Penalty, see § 1-1-99

### **§ 15-2-37 WATER SUPPLY.**

An adequate supply of pure water for drinking and domestic purposes shall be supplied to meet the requirements of this article and other applicable City codes and ordinances. Each space shall be provided with a water connection.

('62 Code, § 5-9-7) (Am. Ord. 2003-09, § 15-2-37, passed 4-28-03) Penalty, see § 1-1-99

### **§ 15-2-38 SANITARY SEWER.**

Each manufactured home park shall be provided with sanitary sewer service. Service may be provided by connection to the city's sanitary sewer system or a package wastewater treatment plant approved by the Texas Commission on Environmental Quality (TCEQ) and City Engineer. Facilities within the park shall comply with the city's adopted Plumbing Code as set forth by § 15-1-21 of this chapter or as hereafter amended.

('62 Code, § 5-9-8) (Ord. 89049, passed 11-27-89; Am. Ord. 2003-09, § 15-2-38, passed 4-28-03)

**§ 15-2-39 GARBAGE RECEPTACLES.**

Garbage receptacles shall be provided in quantities adequate to permit disposal of all solid waste. Garbage receptacles shall be located not further than 200 feet from any manufactured home space. The receptacles shall be kept in sanitary condition at all times. Garbage receptacles shall be placed at a convenient location to be designated by the city for garbage pickup.

('62 Code, § 5-9-12) (Am. Ord. 2003-09, § 15-2-39, passed 4-28-03) Penalty, see § 1-1-99

**Cross-reference:**

*Garbage, see §§ 5-1-1 et seq.*

**§ 15-2-40 FIRE PROTECTION.**

Every park shall provide fire hydrants and an adequate water distribution system to comply with the adopted fire prevention code for fire protection. No recreational vehicle or manufactured home space shall be more than 500 feet, in a direct line, from the nearest fire hydrant. Any with more than one fire hydrant shall be looped. The minimum size for any main supplying a fire hydrant shall be eight inches. ('62 Code, § 5-9-13) (Ord. 89049, passed 11-27-89; Am. Ord. 2003-09, § 15-2-40, passed 4-28-03) Penalty, see § 1-1-99

**§ 15-2-41 FUEL.**

Bottled gas for cooking purposes shall not be used at individual recreational vehicle or manufactured home spaces unless the containers are properly connected by copper or other suitable metallic tubing. Bottled gas cylinders shall be securely fastened in place. No cylinder containing bottled gas shall be located in a recreational vehicle or mobile home or within five feet of a door thereof. State and local regulations applicable to the handling of bottled gas and fuel oil must be followed.

('62 Code, § 5-9-14) (Am. Ord. 2003-09, § 15-2-41, passed 4-28-03) Penalty, see § 1-1-99

**§ 15-2-42 AREA FOR TRAVEL TRAILERS.**

A specific area may be designated by the owners or operators of mobile home or manufactured home parks for overnight parking and use by travel trailers and the provisions herein provided for mobile home or manufactured home spaces shall not apply to the area, provided the plans for such area have been approved by the city. Travel trailers or recreational vehicles which are park owned shall be limited to a tenancy of six consecutive months. Travel trailers and recreational vehicles which are privately owned shall have no time limit restriction. All existing park spaces occupying travel trailers outside of a designated recreational vehicle parking area must comply with this section as travel trailers are moved out and spaces become vacant. ('62 Code, § 5-9-22) (Am. Ord. 2003-09, § 15-2-42, passed 4-28-03)

**Statutory reference:**

*Municipal penalties, see Tex. Loc. Gov't Code, § 54.001*

**§ 15-2-43 PENALTY.**

(A) Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of any such provision of this code or any such ordinance shall be punished by:

(1) A fine not to exceed \$2,000 in all cases arising under municipal ordinances that govern fire safety, zoning and public health and sanitation;

(2) A fine not to exceed \$2,000 if a motor vehicle is used in illegal dumping or an offense under the law or city ordinance violated by the illegal dumping;

(3) A fine not to exceed \$500 in a other cases.

(B) Each day any violation of this code or any ordinance shall continue shall constitute a separate offense.

(Ord. 2003-09, § 15-2-43, passed 4-28-03)



## **ARTICLE 3: SUBDIVISIONS**

### **Section**

#### ***General Provisions***

- 15-3-1 Subdivision of land in city's jurisdiction; approval and plat requirements
- 15-3-2 Definitions
- 15-3-3 Gas utilities

#### ***Platting Procedures***

- 15-3-15 Preliminary conference
- 15-3-16 Preliminary plat and accompanying data; fees; processing procedures
- 15-3-17 Final plat; decision of commission; fees
- 15-3-18 Disapproval restricted
- 15-3-19 Platted lots

#### ***Design Standards***

- 15-3-30 Streets
- 15-3-31 Alleys
- 15-3-32 Easements
- 15-3-33 Blocks
- 15-3-34 Lots

#### ***Required Improvements***

- 15-3-45 Submission of plans and specifications; approval or disapproval procedure
- 15-3-46 Improvements required to conform
- 15-3-47 Minimum standards; generally
- 15-3-48 Roadway pavement
- 15-3-49 Lot grading
- 15-3-50 Curb and gutter
- 15-3-51 Sidewalks
- 15-3-52 Street signs
- 15-3-53 Water and sewer utilities
- 15-3-54 Street lights
- 15-3-55 Off-site improvements

## Kingsville - Land Usage

### ***Flood Hazard Areas***

- 15-3-65 Intent and purpose
- 15-3-66 Application; jurisdiction
- 15-3-67 Warning and disclaimer of liability
- 15-3-68 Land suitability
- 15-3-69 Building site improvements
- 15-3-70 Drainage facilities
- 15-3-71 Roads
- 15-3-72 Sanitary sewer and water facilities
- 15-3-73 Erosion and sediment control measures

### ***Administration and Enforcement***

- 15-3-85 Penal conviction not to bar other legal action and penalties
  - 15-3-86 Approval and compliance required prior to issuance of permits or provision of city services
  - 15-3-87 Enforcement by court action
  - 15-3-88 Resolution reciting noncompliance or failure to secure final plat approval
  - 15-3-89 Exemption for subdivisions already in existence
  - 15-3-90 Variances
  - 15-3-91 Appeals
- Appendix: Forms to be Entered on Plat

## **GENERAL PROVISIONS**

### **§ 15-3-1 SUBDIVISION OF LAND IN CITY'S JURISDICTION; APPROVAL AND PLAT REQUIREMENTS.**

(A) Before any plan, plat or replat of a lot, subdivision or addition of land inside the city or within its extra-territorial jurisdiction thereof shall be recorded with the County Clerk, it shall first be approved by the Planning and Zoning Commission of the city, as well as the City Commission, in conformity with TEX. LOC. GOV'T CODE, §§ 212.001 et seq., and the provisions of this article. Hereafter, every owner of any tract of land situated within the corporate limits or within the extra-territorial jurisdiction of the corporate limits of the city who may hereafter divide the same into two or more parts for the purpose of laying out any subdivision of any tract of land, or for laying out suburban lots or building lots, or any lots and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof which shall accurately describe all of the subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions thereof of the subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(B) *Exceptions by reference.* See definition of “subdivision” in § 15-3-2 and “platted lots” in § 15-3-19(A).

('62 Code, § 12-1-1) (Ord. 95018, passed 8-28-95)

## § 15-3-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Any office referred to in this article by title means the person employed or appointed by the city in that position, or his duly authorized representative. Definitions not expressly described herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

**AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ).** The area of the Naval Air Station, Kingsville, and adjacent areas subject to the impacts of noise or accident hazards created by current aircraft operations as depicted in the “Air Installation Compatible Use Zone Study,” dated 1994 that establishes recommended compatible uses of land as adopted by Ordinance No. 94024 by the City Commission on October 12, 1994.

**ALLEY.** A minor public right-of-way not intended to provide the primary means of access to abutting lots, but which is used primarily for location of utilities and vehicular service access for solid waste collection to the back or sides of properties (otherwise abutting on a street).

**BUILDING SETBACK LINE.** The line within a property defining the minimum horizontal distance between a building and the adjacent street line.

**CITY.** The City of Kingsville, Texas.

**CITY COMMISSION.** The City Commission of the city.

**CITY'S AUTHORIZED AGENT.** City Manager or his designated representative.

**CROSSWALK WAY.** A public right-of-way, three feet or more in width between property lines, which provides pedestrian circulation.

**CUL-DE-SAC.** A street having but one outlet to another street and terminated on the opposite end by a vehicular turn-around.

**DEAD-END STREET.** A street, other than a cul-de-sac, with only one outlet.

**ENGINEER.** A person duly authorized under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

**EXTRATERRITORIAL JURISDICTION (ETJ).** Two miles beyond the existing city limits.

**FLOOD.** A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.

**FLOODWAY.** The channel of a watercourse and portions of the adjoining floodplain which are reasonably required to carry and discharge the regulatory flood.

**LOT.** An undivided tract or parcel of land having frontage on a public street and which is or in the future may be offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract, and is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

**PAVEMENT WIDTH.** The portion of a street available for vehicular traffic where curbs are laid. **PAVEMENT WIDTH** is the portion between the outside of curbs.

**PERSON.** Any individual, association, firm, corporation, governmental agency or political subdivision.

**PLANNING COMMISSION.** The Planning and Zoning Commission of the city.

**REGULATORY FLOOD.** A flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur on a particular stream. The **REGULATORY FLOOD** generally has a flood frequency of approximately 100 years as determined from an analysis of floods on a particular stream and other streams in the same general region.

**REGULATORY FLOOD PROTECTION ELEVATION.** The elevation of a habitable area at or above the regulatory flood level.

**SHOULD.** This word is recommended.

**STREET.** A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

(1) *Major thoroughfares or arterial streets.* Principal traffic arteries more or less continuous across the city which are intended to connect various neighborhoods of the city and which are used primarily for fast or heavy volume traffic and shall include, but not be limited to, each street designated as a major street on the major street plan.

(2) *Collector streets.* Those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of residential development and streets for circulation within such a development.

(3) *Minor streets.* Those which are used primarily for access to the abutting properties and which are intended to serve traffic within a limited residential district.

(4) *Marginal access streets.* Minor streets which are parallel to and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

(5) *Alleys.* Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

**SUBDIVIDER.** Any person or any agent thereof dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term **SUBDIVIDER** shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner of land sought to be subdivided.

**SUBDIVISION.** A division of any tract of land situated within the corporate limits or within its extra-territorial jurisdiction, in two or more parts for the purpose of laying out any subdivision of any tract of land or any addition of any town or city, or for laying out suburban lots or building lots or any lots and streets, alleys or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. **SUBDIVISION** includes resubdivision and single lot development, but it does not include the division of land for agricultural purposes in parcels or tracts of five acres or more and not involving any new street, alley or easement of access.

**SURVEYOR.** A licensed surveyor or a registered public surveyor as authorized by state statute to practice the profession of surveying.

**UTILITY EASEMENT.** An interest in land granted to the city, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of the utilities.

**U.S.G.S.** United States Geological Survey.  
(‘62 Code, § 12-1-2) (Ord. 95018, passed 8-28-95)

### § 15-3-3 GAS UTILITIES.

The installation and dedication of gas distribution mains within the subdivision may be required.  
(‘62 Code, § 12-6-2) (Ord. 95018, passed 8-28-95)

## PLATTING PROCEDURES

### § 15-3-15 PRELIMINARY CONFERENCE.

Prior to the official filing of a preliminary plat, the subdivider shall consult with and present a proposed plan of subdivision to the Department of Planning and Community Development for comments

2001 S-5

and advice on the procedures, specifications and standards required by the city for the subdivision of land.

('62 Code, § 12-2-1)

### **§ 15-3-16 PRELIMINARY PLAT AND ACCOMPANYING DATA; FEES; PROCESSING PROCEDURES.**

(A) *General.* Preliminary plat shall be required when substantial water, wastewater, earthwork, roadway improvements or if unusual property circumstance require further review by city staff. When minor improvements are required a letter of explanation and detailed sketch will suffice. Waiving the preliminary plat requirement will be left to the discretion of the city's authorized agent.

(B) *Time for filing and copies required.* The subdivider shall present 15 blue or black line copies of the plat to the Director of Planning no less than 10 working days prior to the date at which formal application for the preliminary plat approval is made to the Planning and Zoning Commission.

(C) *Filing fees.*

(1) Such plat shall be accompanied by a filing fee as noted below. An additional fee of \$200 shall be collected for any replat or amending plat to defray the expense of publication and notice required by local ordinance or state statute. No action by the Planning and Zoning Commission shall be valid until the filing fee has been paid. This fee shall not be refunded should the subdivider fail to make formal application for preliminary plat approval or should the plat be disapproved.

<b><i>Preliminary Plat Filing Fees (Payable Upon Submittal)</i></b>	
Up to 0.99 acres	\$115
One acre to 4.99 acres	\$230
Five acres or more	\$46 per acre

(2) The filing fee shall be waived when a preliminary plat is not required.

(D) *Form and content.* The preliminary plat shall be drawn at a scale of one inch to 100 feet on sheets 24 inches wide and 36 inches long, with a binding margin of not less than one and one-half inches on the left side of the sheet and margins on the other three sides of not less than one-half inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:

(1) Names and addresses of the subdivider, record owner, engineer and/or surveyor.

2001 S-5

(2) Proposed name of the subdivision, which shall not have the same spelling as or be pronounced similarly to the name of any other subdivision located within the city limits or the extra-territorial jurisdiction of the city. Proposed names of streets, which shall not be the same or similar to those already assigned to other streets in other parts of the city unless there is a street continuation.

(3) Names of contiguous subdivisions.

(4) Subdivision boundary lines, indicated by heavy lines, and the computed acreage of the subdivision.

(5) Existing sites as follows:

(a) The general location, dimensions, names and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries.

(b) The general location, dimensions, description and name of all existing or recorded residential lots, parks, public areas and other sites within or contiguous with the subdivision.

(c) The general location, dimensions, description and flow line of the existing watercourses, associated floodplains and drainage structures within the subdivision or on contiguous tracts.

(6) The general location, dimensions, description and names of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots and other sites within the subdivision. Exception: specific lot dimensions do not have to be shown.

(7) The location of sanitary sewer lines.

(8) The location of water lines.

(9) The location of watercourses, drainage and flood prevention structures.

(10) Date of preparation, scale of plat and north arrow.

(11) A copy of the U.S.G.S. topographical map.

(12) Vicinity sketch or map at a scale of not more than 1,000 feet to an inch which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity.

(13) AICUZ boundaries where applicable and identified by the Department of Planning and Community Development.

(14) Staff reserves the right to request additional information to adequately enforce the intent of the preliminary plat requirements.

(15) A final plan for the proposed fills or other structure-elevating techniques, levees, channel modifications, retaining walls and other methods to overcome flood or erosion-related hazards (see § 15-3-65(B)(3) of this article).

(E) Processing the preliminary plat.

(1) On receipt of the preliminary plat and other required information, the Planning and Zoning Commission shall render a decision thereon within 30 days. Such decision may consist of approval, disapproval or conditional approval. Conditional approval shall be considered to be the approval of a plat or replat subject to conformity with prescribed conditions, but shall be deemed to be a disapproval of such plat or replat until such conditions are complied with. All objections made to the preliminary plat, or conditions imposed, shall be furnished to the subdivider in writing.

(2) When a preliminary plat and other required information has been approved, the subdivider may thereafter file a final plat or plats of sections of the subdivision upon which approval of the preliminary plat has been obtained, and upon the filing of the final plat or plats, preliminary plat shall be considered approved or conditionally approved as in subdivision (1) above; provided, however, that such approval or conditional approval of the remainder of the preliminary plat shall be limited to a one year period; provided further, however, that the Planning and Zoning Commission may, at its discretion, extend such period of validity. When a preliminary plat has been approved and thereafter the subdivider fails to file with the Planning and Zoning Commission a final plat of the subdivision or a section thereof within a period of six months, the approval of the preliminary plat shall be void except, however, the Planning and Zoning Commission may, in its discretion, extend such period of validity.

(3) The Director of Planning shall approve a Plat:

(a) If the plat consists of four or fewer lots fronting on an existing street and not creating a new street;

(b) If the plat is an amending plat as described in Section 212.016 of the Texas Local Government Code as of the date of the adoption of this subsection unless otherwise required by law.

(c) If water and sewer service for development on the proposed lots is immediately available without a service extension, and no extension of municipal facilities is required to serve the proposed lots;

(d) No variance is required for the plat to meet the requirements of subsection (e);  
and

(e) The plat complies with the subdivision ordinance applicable at the time the application for final plat approval was filed.

If the plat consists of more than four lots but is not an amending plat, or if a variance is required, the Planning and Zoning Commission shall approve the plat if the plat complies with the subdivision ordinance and, after action on the requested variance, with all requirements of this Code applicable



at the time the application for final plat approval was filed. For the purposes of this subsection, "amending plat" has the same meaning as contained in Section 212.016 of the Texas Local Government Code as of the date of the adoption of this subsection unless otherwise required by law.

('62 Code, § 12-2-2) (Ord. 81058, passed 12-14-81; Am. Ord. 85046, passed 10-21-85; Am. Ord. 95018, passed 8-28-95; Am. Ord. 98025, passed 11-9-98; Am. Ord. 200022, passed 11-20-00)

### **§ 15-3-17 FINAL PLAT; DECISION OF COMMISSION; FEES.**

The final plat and accompanying data shall conform to the preliminary plat as conditionally approved by the Planning Commission, incorporating any and all changes, modifications, alterations, corrections and conditions required by the Planning Commission.

(A) *The original and 10 copies of the final plat.* This plat shall be drawn on mylar, a minimum scale of one inch to 100 feet or larger in ink with all figures and letters legible, and the whole proper for filing for record in the office of the County Clerk with the following information given:

(1) The title or name by which the subdivision is to be identified, north point, the scale of the map and the name of the state-registered professional engineer and/or state-licensed or registered land surveyor responsible.

(2) A definite legal description and identification of the tract being subdivided. This description shall be sufficient for the requirements of title examination. The plat shall be a descriptive diagram drawn to scale. The plat shall show by reference that the subdivision is a particular portion or part of the previously filed plat; recognized grant or partition.

(3) The boundaries of the subdivided property, the location or designation of all streets, alleys, parks and other areas intended to be dedicated or deeded to the public use, with proper dimensions. The boundaries of the subdivisions shall be indicated by a heavy line and shall be tied by dimensions to the parent subdivision.

(4) The location of all adjacent streets and alleys, with their names, and the names of adjoining subdivisions with exact location and designation by number of lots and blocks.

(5) All lot, block and street boundary lines, with blocks and lots numbered or lettered consecutively. Building lines and easements shall be shown and shall be defined by dimension. The actual width of all streets shall be shown, measured at right angles or radially, where curved. All principal lines shall have the bearing and any deviations from the norm shall be indicated.



(6) Accurate dimensions, both linear and angular, of all items on the plat; the boundary survey on the site shall close within one in 10,000. Linear dimensions shall be expressed in feet and decimals of a foot; angular dimensions may be shown by bearings. Curved boundaries shall be fully described and all essential information given (radius, delta, arc), circular curves shall be defined by actual length of radius and not by degree of curve. Complete dimensional data shall be given on fractional lots.

(7) The location and description of all lot, block and subdivision corners.

(a) Lot corners shall be three-fourths inch iron pipe or five-eighths iron rod 24 inches to 30 inches long with the top set flush with the ground.

(b) Block corners shall be three-fourths inch iron pipe or five-eighths inch iron rod 24 inches to 30 inches long. They shall be double pinned with the top rod being set flush with ground and shall include the beginning and end of all curves within each block.

(c) Subdivision corners will be marked by a concrete monument that meets or exceeds the following standard. A five-eighths inch iron rod shall be set in a concrete block measuring six inches in diameter and 24 inches long.

(8) The flood hazard areas shall be delineated on the final plat, and reserved by deed restrictions as areas not suitable for development.

(9) A certificate of ownership in fee of all land embraced in the subdivision, and of the authenticity of the plat and dedication, shall be signed and acknowledged by all owners of any interest in the land. The acknowledgment shall be in the form required in the conveyance of real estate. Approval and acceptance of all lien holders shall be included.

(10) A certificate by the responsible surveyor in charge, duly authenticated, that the plat is true and correct and in accordance with the determination of surveys as staked on the ground.

(11) A disclosure statement that all or a portion of the subdivision falls within the AICUZ; the disclosure statement to be displayed prominently with other required certificates.

(12) In addition to other required certificates, the forms set out in the appendix shall be entered on the plat following the certificates of owner, engineer, and the like, and preceding the certificate of the County Clerk.

(13) The final plat submitted to the Planning and Zoning Commission, as well as the City Commission, and to be filed for record with the County Clerk, shall not show construction features such as curb lines or public utility lines or other structures not involved in the title covenant.

(14) The area of each lot shall be clearly indicated by writing the number of square feet in each lot on the final plat.

(B) *Final restrictive covenants.* A copy of the final restrictive covenants to govern the nature of the use of the property in the subdivision shall be submitted if the subdivision is planned for the use of individual septic tanks in lieu of a sanitary sewer system. The Planning and Zoning Commission may, in the public interest, require that these be filed simultaneously with the plat.

(C) *Planning and Zoning Commission to render decision within 30 days.* Upon filing of the final plat along with other required information, the Planning and Zoning Commission, as well as the City Commission, shall both render a decision thereon within 30 days after their respective regular meetings. The decision may consist of approval, disapproval or conditional approval. Reasons for disapproval or conditional approval shall be stated in writing. When a plat is conditionally approved, the subdivider may subsequently refile the final plat meeting the objections or required conditions, and the Planning and Zoning Commission shall, at the next regular meeting thereafter, sign the final plat, provided it meets the objections or imposed conditions.

(D) *When final plat approved.* Upon approval of the final plat, the plat being otherwise fully endorsed and all provisions of the Subdivision Ordinance complied with shall be filed by the city with the County Clerk of Kleberg County, Texas.

(E) *Guarantee of performance.* In order to ensure the provision of improvements in the development of subdivisions, the city requires the subdivider to provide a performance bond or allow the Department of Planning and Community Development to hold the final plat in escrow. The subdivider may choose which method he prefers.

(1) *Performance bond to be required.* The subdivider shall provide a one and one-half year performance bond. The performance bond shall be in the amount of 100% of the costs of construction.

(2) *Final plat to be held in escrow.* The final plat shall not be signed by the Mayor and allowed to be filed for record until all improvements within the subdivision have been constructed, inspected and approved by the City Engineer.

(F) *Maintenance bond to be required.* The subdivider's contractor shall provide a one year maintenance bond for faulty workmanship and/or materials utilized in the improvements of the subdivision. The maintenance bond shall be in the amount of 100% of the cost of the construction. Should the total cost of the construction be less than \$25,000, the developer or contractor may elect to post a cash deposit, or other negotiable security acceptable to the city, equivalent to 25% of the cost of the improvements.

(G) *Approval to be valid for 12 months.* Approval of a final plat shall be valid for a period of 12 months; provided, however, that this period may be extended by the Planning and Zoning Commission upon written request by the subdivider.

(H) *Filing fees.* Upon the submission of each final plat for approval, a filing fee shall be paid to the city as noted below.

<b><i>Final Plat Filing Fees (Payable Upon Submittal)</i></b>	
Up to 0.99 acres	\$100
One acre to 4.99 acres	\$200
Five acres or more	\$40 per acre

(I) *Recording fees.* Subdivider shall be responsible for all recording fees, which shall consist of \$50 for the first page and \$40 for each additional page, plus \$10 for certification of the first page and \$5 for each additional page.

('62 Code, § 12-2-3) (Ord. 81058, passed 12-14-81; Am. Ord. 86013, passed 8-4-86; Am. Ord. 88014, passed 7-11-88; Am. Ord. 95018, passed 8-28-95; Am. Ord. 200022, passed 11-20-00; Am. Ord. 2005-14, passed 4-11-05)

#### **§ 15-3-18 DISAPPROVAL RESTRICTED.**

No plat shall be disapproved nor the processing thereof delayed for noncompliance with any requirement or condition not set forth in this article or otherwise required by law.

('62 Code, § 12-2-4) (Ord. 81058, passed 12-14-81; Am. Ord. 95018, passed 8-28-95)

#### **§ 15-3-19 PLATTED LOTS.**

(A) *When replat is not required.* When any lot and a portion of a lot or portions of lots aggregating a larger tract in width and/or size than the average lot in the block in which same is situated are conveyed as a single unit for a single use purpose from a previously legally platted subdivision, no replat thereof shall be required.

(B) *Exceptions:*

(1) This exception shall not apply to any extension across an easement or public way, nor permit changing the facing of the original lots.

(2) This exception is not to be construed as a waiver of any requirement of the zoning ordinance, as amended, or other applicable ordinance or recorded restriction, and for such interpretations, the integrated tract shall thereafter be considered as a single lot.

('62 Code, § 12-6-3) (Ord. 81058, passed 12-14-81; Am. Ord. 95018, passed 8-28-95)

**DESIGN STANDARDS****§ 15-3-30 STREETS.**

(A) *Streets to conform to comprehensive plan.* The arrangement, character, extent, width, grade and location of all streets shall conform to the general plan for the city and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

(B) *Arrangement of streets.* Where such is not shown in the general plan for the city, the arrangement of streets in a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

(2) Conform to a plan for the neighborhood, approved or adopted by the Planning and Zoning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing street impracticable.

(C) *Minor streets.* Minor streets shall be so laid out that their use by through traffic be discouraged.

(D) *Existing or proposed arterial streets or highways.* Where a subdivision abuts or contains an existing or proposed main arterial street or highway, the Planning and Zoning Commission may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential property and to afford separation of through and local traffic.

(E) *Reserve strips prohibited.* Reserve strips controlling access to streets shall be prohibited, except where their control is definitely placed in the city under conditions approved by the Planning and Zoning Commission.

(F) *Street jogs to be avoided.* Street jogs with centerline offsets of less than 125 feet shall be avoided.

(G) *Tangents.* Reverse curves to be discouraged.

(H) *Streets to intersect at right angles.* Streets shall be laid out so as to intersect as nearly as possible at right angles.

(I) *Property lines to be rounded.* Property lines at street intersections shall be rounded with a radius of 10 feet for 60 foot right-of-ways and a 20 foot radius for right-of-ways greater than 60 feet.

(J) *Right-of-way widths.* Street right-of-way widths shall be as shown in the general plan for the city, and where not shown therein shall be not less than as follows:

<b><i>Street Type</i></b>	<b><i>Right-of-Way Width</i></b>
Major thoroughfares	100 feet
Collector	60 feet
Minor for apartments	60 feet
Minor for other residences	60 feet
Marginal access	60 feet

(K) *Half streets.* Half streets shall be prohibited.

(L) *Dead-end streets and cul-de-sacs.* Dead-end streets (designed to be so permanently) longer than 500 feet are to be discouraged and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 80 feet, and a street property line diameter of at least 100 feet.

(M) *Street grades.* Street grades shall be established with due regard being had for topography, contemplated land use and the existing city drainage plan and facilities in the area surrounding the land to be subdivided; provided that the minimum street grade shall be two-tenths of one percent.

(N) *Flood design section for roadway.* The flood design section for a roadway shall be taken from back of walk to back of walk; provided that in no case shall the height of curbs for subdivision be more than six inches. The runoff factor used in design of storm sewers shall be a minimum of one and three-tenths cubic feet per second per acre for a minimum time of concentration of 10 minutes.

('62 Code, § 12-3-1) (Ord. 95018, passed 8-28-95)

### **§ 15-3-31 ALLEYS.**

(A) *To be provided in commercial and industrial districts.* Alleys shall be located in industrial and commercial districts only; there shall be no alleys located in residential subdivisions platted after the passage of this section. Alleys of not less than 30 feet pavement width shall be provided in commercial and industrial districts, except that the Planning and Zoning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

(B) *Minimum width.* The minimum width of an alley shall be 20 feet.

(C) *Intersections and sharp changes to be avoided.* Alley intersections and sharp changes in

alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

2007 S-9

(D) *Dead-end alleys to be avoided.* Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities with a minimum 80 foot radius at the dead end.

('62 Code, § 12-3-2) (Ord. 95018, passed 8-28-95; Am. Ord. 2006-09, passed 4-10-06)

### **§ 15-3-32 EASEMENTS.**

(A) *Utility easements.* Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 10 feet wide to each side.

(B) *Drainage easements.* Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

('62 Code, § 12-3-3) (Ord. 95018, passed 8-28-95)

### **§ 15-3-33 BLOCKS.**

Block lengths should be limited to a maximum length of 800 feet, and a minimum length of 250 feet wherever possible.

('62 Code, § 12-3-4) (Ord. 95018, passed 8-28-95)

### **§ 15-3-34 LOTS.**

(A) *Size.* The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(B) *Dimensions.* Lot dimensions shall be as follows:

(1) Residential lots, where served by public sewer, shall be not less than 50 feet wide at the front property line; shall be at least 110 feet deep, with not less than 5,500 square feet in area.

(2) Residential lots, where not served by public sewer, shall contain a minimum area of one-half acre (0.5 acre = 21,780 sf) when public water supply is provided and one acre (one acre = 43,560 sf) when private water supply is utilized. In all cases, lot areas shall contain sufficient area to comply with the private sewer system standards of the Texas Natural Resource Conservation Commission.

(3) In case of irregularly shaped lots, the minimum width shall be measured at the front building line.

(4) Depth and width of properties served or laid out for church, club or other semi-public use or for business or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(C) Corner lots shall be at least 70 feet wide. Lots abutting on crosswalk ways shall be treated as corner lots. When such lots side upon a major thoroughfare or collector street, driveways or garage entrances that would enter on the thoroughfare or collector street are to be discouraged.

(D) *Access to be provided.* The subdividing of the land shall be such as to provide, by means of a public street, each lot with access to an existing public street.

(E) *Side lot lines.* Side lot lines shall be substantially at right angles or radial to street lines.

(F) Extra depth and width in certain cases:

(1) Where a lot in a residential area backs up to a railroad right-of-way, a high-pressure petroleum, petro-chemical or gas line, an arterial street or industrial area, additional depth may be required.

(2) In no case shall a depth in excess of 200 feet be required. Where a lot sides to any of the foregoing, additional width shall be required by the Planning Commission, but in no event shall a width in excess of 100 feet be required.

('62 Code, § 12-3-5) (Ord. 81058, passed 12-14-81; Am. Ord. 95018, passed 8-28-95)

## ***REQUIRED IMPROVEMENTS***

### **§ 15-3-45 SUBMISSION OF PLANS AND SPECIFICATIONS; APPROVAL OR DISAPPROVAL PROCEDURE.**

(A) *Plans and specifications.* When a preliminary plat of a subdivision has been approved by the Planning and Zoning Commission, the developer may submit plans and specifications to the City Engineer. The City Engineer shall, within 30 days of submission of the plans and specifications, approve same if they conform to the requirements of this article, or disapprove same giving his reasons therefore, in writing, to the subdivider. Thereafter, when the subdivider has met the objections, if any, the City Engineer shall sign the plans and specifications and forthwith deliver same to the subdivider, his agent or his engineer, any plans and specifications submitted in connection with a preliminary plat, which may be conditionally approved, as provided in § 15-3-16(F), subject to the final determination of the conditions of such approval.

(B) *Five sets of plans to be submitted.* Before beginning any construction of the improvements outlined in this section on proposed roadways or public utilities pertaining to any subdivision coming under the provisions of this article, five complete sets of plans and specifications of such construction, in the form of plats, sketches or other satisfactory written descriptions, shall be filed with the City

Engineer. These shall show such features as roadways, cross sections and longitudinal slope for drainage, full description of proposed pavement or street improvements, its grade and slope, dimensions and specifications concerning public utilities to be installed showing proposed position on the ground, specifications of materials and construction, and profile maps of all sanitary and storm sewers showing both ground surface and flow line, and any other pertinent information of similar nature.

(C) All areas disturbed during construction shall be revegetated to a minimum of 75% coverage. All construction debris shall be removed from the subdivision prior to final acceptance. ('62 Code, § 12-4-1) (Ord. 95018, passed 8-28-95; Am. Ord. 98025, passed 11-9-98)

#### **§ 15-3-46 IMPROVEMENTS REQUIRED TO CONFORM.**

All improvements shall be designed by a registered professional engineer of the state, and the construction of all improvements shall be under his or her direct supervision. All improvements shall be designed and constructed to conform with the provisions of this article, and no construction shall be commenced until this article is so complied with. ('62 Code, § 12-4-1) (Ord. 95018, passed 8-28-95)

#### **§ 15-3-47 MINIMUM STANDARDS; GENERALLY.**

The following minimum standards for improvements shall be agreed to and complied with in each subdivision or addition before final approval of a plat by the Planning and Zoning Commission. ('62 Code, § 12-4-2) (Ord. 95018, passed 8-28-95)

#### **§ 15-3-48 ROADWAY PAVEMENT.**

(A) All roadway pavement for minor and marginal access type streets shall be paved with a base of compacted caliche having a minimum thickness of six inches. All other type street pavement shall have paving with a base of compacted caliche having a minimum thickness of nine inches.

(B) The base shall be surfaced as follows or approved equal:

(1) Prime coat.

(2) One and one-half inches of hot mix, hotlaid asphaltic concrete pavement, Type D or C for minor and marginal access streets. Two inches of hot mix, hotlaid asphaltic concrete pavement, Type D or C for all other type streets.

(3) Width of paving for various types of streets, including standard two foot curb and gutter shall not be less than the following:

<i><b>Street Type</b></i>	<i><b>Pavement Width (Min.)</b></i>
Marginal access	36 ft. recommended or 30 ft. minimum required
Minor, for residences	36 ft. recommended or 30 ft. minimum required
Minor, for apartments	36 ft. recommended or 30 ft. minimum required
Collector	40 ft. minimum required
Major thoroughfares	64 ft. minimum required

(D) Pavement and right-of-way widths for business or industrial developments shall be established by the city's authorized agent on the basis of the extent and character of the proposed development.

(E) Specifications, design criteria and testing shall meet the latest requirements established by the City Engineering Department.  
( '62 Code, § 12-4-2) (Ord. 95018, passed 8-28-95)

#### **§ 15-3-49 LOT GRADING.**

A lot grading plan will be submitted for approval by the City's Engineering Department. Lot grading on subdivisions will be such that lots drain toward the street. Accordingly, all lots graded within subdivisions will be sloped at a minimum grade of one percent.  
( '62 Code, § 12-4-2) (Ord. 95018, passed 8-28-95)

#### **§ 15-3-50 CURB AND GUTTER.**

Combined curb and gutter shall be constructed on each side of each street within the boundaries of each subdivision within the city limits and within the area that the city extra-territorial jurisdiction control exists.

(A) All combined curb and gutter for all subdivisions and for all street improvements shall be of the roll-type with a minimum height of four inches. All driveways shall be a straight driveway section.

(B) The combined curb and gutter shall be reinforced concrete having a minimum section of 10 inches at the back of the curb, six inches at the flow line of the gutter and seven inches in depth in the outer edge of the gutter and shall be 24 inches in width and may be varied in section to fit particular conditions involved. Curbs for individual driveways shall be seven inches in depth in front, seven inches in depth in back, six inches in depth at the flow line, and shall be 24 inches in width.

(C) The design and specifications for combined curb and gutters shall meet the latest requirements established by the City Engineering Department.  
( '62 Code, § 12-4-2) (Ord. 95018, passed 8-28-95)

### **§ 15-3-51 SIDEWALKS.**

Concrete sidewalks having a width of not less than four feet and thickness of not less than four inches shall be constructed on each side of each street within the subdivision. The sidewalk shall be located along the back of the curb and shall extend along all street frontage, including the side of corner lots and block ends; provided however, that where it is impractical to provide such sidewalks on the side lot lines abutting major thoroughfares or drainage ditches, then in those instances sidewalks are not required. The builder will put in sidewalks at the time of building construction.

( '62 Code, § 12-4-2) (Ord. 95018, passed 8-28-95; Am. Ord. 98025, passed 11-9-98)

### **§ 15-3-52 STREET SIGNS.**

Street name signs and traffic-control signs that meet the latest requirements of the *Manual for Uniform Traffic Control Devices (MUTCD)* for the state shall be erected at all street intersections. Street signs shall be provided by the city at the developer's expense.

( '62 Code, § 12-4-2) (Ord. 95018, passed 8-28-95)

### **§ 15-3-53 WATER AND SEWER UTILITIES.**

(A) *Water lines.*

(1) Where an approved public water supply is available, each lot within the subdivision area shall be provided with access to such water supply. The layout shall be designed to form a loop system. No main shall be smaller than six inches and the minimum size for service lines shall be four inches, except that two inch stubs may be extended to serve a maximum of three lots.

(2) In areas where a public water supply is not available, the subdivider shall construct wells in such manner that an adequate supply of potable water shall be available to every lot in the subdivision. Such water supply system shall be constructed under the supervision of the City-County Health Unit of Kleberg County, and shall comply with all regulations of the State Board of Health in regard to such systems.



(B) *Fire hydrants.* Standard fire hydrants shall be installed by the subdivider as part of the water distribution system. The fire hydrants and their installation shall meet the latest standards of the State Board of Insurance and the Fire Marshal of the city.

(C) *Sanitary sewers.*

(1) All subdivisions coming under the provisions of this article and which are accessible to a public sanitary sewer shall provide each lot within the subdivision with access to such sanitary sewer. The design of such sanitary sewer layouts shall be coordinated with the city's sanitary sewers. The minimum pipe size for sewer mains shall be six inches.

(2) When any subdivision is planned that is not reasonably accessible to a public sanitary sewer, it shall provide either for the use of septic tanks or an individual sewage treatment plant as follows:

(a) *Septic tanks.* In all subdivisions planned for septic tank use, the minimum lot area shall be one-half acre (0.5 = 21,780 sf) per single-family dwelling with public water facilities and one acre (1 = 43,560 sf) for lots with a private water facilities. Within the city limits, septic tanks shall be installed on each lot concurrent with any development thereon, and the design of such system and the method of installation shall conform in all respects to the requirements of the City-County Health Unit of Kleberg County. The City-County Health Unit shall have the authority to vary the lot area requirements where satisfactory evidence is presented to indicate that soil conditions are such as to warrant a modification.

(b) *Individual sewage treatment plant.* In all subdivisions planned to be serviced by an individual sewage treatment plant, lots may be of standard area. The plant providing such sewage disposal facilities shall be constructed in accordance with the regulations and requirements of the Texas Natural Resource Conservation Commission and with the approval and under the supervision of the city's authorized agent. No multi-lot systems will be allowed.

(D) *Supervised installations required.* In order to properly protect the health, safety and general welfare of the citizens of the city, all taps, meter services and meter sets on existing public utility water lines of the city must be made and installed under the supervision and direction of the Superintendent of the Water Division for the city.

(E) *Oversized mains.* Where it shall be determined by the City Commission that larger or deeper mains or lines are required in order to provide for the future extension of the sewer and/or water utility system beyond the limits of the subdivision in question, the city shall assume the responsibility for any additional costs involved. In the event city funds are not currently available to pay for such larger or deeper mains or lines as may be required, arrangements for reimbursement shall be made by the city.

(F) *Subdivider to extend utilities.*

(1) Whenever a final plat of a subdivision within the city limits is approved for which no water or sewer facilities are available at the boundary of such subdivision, the subdivider shall extend the

2007 S-9 Repl.

utilities to his or her property at no cost to the city, unless a Residential Development Agreement with the city has been executed by all necessary parties.

(2) No utilities will be extended to any development within the AICUZ boundary which has been determined incompatible with the Navy's recommended land use.  
( '62 Code, § 12-4-2) (Ord. 95018, passed 8-28-95; Am. Ord. ORD-2003-04, passed 2-24-03)

#### **§ 15-3-54 STREET LIGHTS.**

Street lights shall be installed at all intersections and other locations deemed necessary by the city. The developer shall pay for any additional cost, if any, above the credit allowance that the city receives from the utility company. The city will energize and pay all monthly charges as soon as power is available.

( '62 Code, § 12-4-2) (Ord. 81058, passed 12-1-81; Am. Ord. 95018, passed 8-28-95)

#### **§ 15-3-55 OFF-SITE IMPROVEMENTS.**

Where any street forms any part of the boundary of a subdivision and some part of the width of the street has been dedicated or committed to dedication and improved or committed to improvement, the subdivider shall be required to dedicate and/or improve the balance of the width of any such street; otherwise, no improvements shall be required as a prerequisite to the approval of the plat for any existing dedicated street forming a boundary of a subdivision.

( '62 Code, § 12-6-1) (Ord. 95018, passed 8-28-95)

### ***FLOOD HAZARD AREAS***

#### **§ 15-3-65 INTENT AND PURPOSE.**

(A) (1) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. These flood losses are caused by increases in flood heights and velocities and the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to other lands, which are inadequately elevated or otherwise protected from flood damages.

(2) This section is based upon a reasonable method of analyzing flood hazards.  
( '62 Code, § 12-5-1) (Ord. 95018, passed 8-28-95)

(B) It is the purpose of this subarticle to promote the public health, safety and welfare and to minimize the losses described herein by provisions designed to:

(1) Restrict or prohibit subdivision of lands for uses which are dangerous to health, safety or property, in time of flood, or which with reasonably anticipated improvements will cause excessive increases in flood heights or velocities.

(2) Require that each subdivision lot in an area vulnerable to floods be provided with a safe building site with adequate access and that public facilities which serve such uses be installed with protection against flood damages at the time of initial construction.

(3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazards by prohibiting the subdivision of unprotected flood hazard lands, requiring that flood hazard areas be delineated on the final plat, and reserving through deed restrictions, areas not suitable for development. ('62 Code, § 12-5-2) (Ord. 95018, passed 8-28-95)

**Cross-reference:**

*Flood damage prevention, see §§ 15-4-1 et seq.*

**§ 15-3-66 APPLICATION; JURISDICTION.**

This subarticle shall apply to all lands within the jurisdiction of the city delineated as flood hazard areas on an official map of the community's flood insurance rate map (FIRM) issued by the Federal Insurance Administration.

('62 Code, § 12-5-3) (Ord. 95018, passed 8-28-95)

**§ 15-3-67 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required under this subarticle is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes. This subarticle does not imply that areas outside the delineated flood hazard areas or land uses permitted within such areas will be free from flooding or flood damages. This subarticle shall not create liability on the part of the city or any officer or employee thereof, for any flood damages that result from reliance on this subarticle or an administrative decision lawfully thereunder.

('62 Code, § 12-5-4) (Ord. 95018, passed 8-28-95)

**§ 15-3-68 LAND SUITABILITY.**

(A) No land shall be subdivided which is held unsuitable for its intended use by the Planning Commission for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earthslides, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature harmful to the health, safety or welfare of the future residents or property owners of the proposed

subdivision or the community at large. However, the Planning Commission may approve preliminary and final plats if subdividers improve lands consistent with the standards of this and other applicable ordinances to make subdivision areas, in the opinion of the Planning Commission, suitable for their intended uses.

(B) In determining the appropriateness of land subdivision at a site, the Planning Commission shall consider the objectives of this section, and:

(1) The danger of life and property due to the increased flood heights or velocities caused by subdivision fill, roads and intended uses;

(2) The danger that intended uses may be swept onto other lands or downstream to the injury of others;

(3) The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions;

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the subdivision for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed subdivision and land uses;

(8) The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed subdivision to the comprehensive plan and floodplain management program for the area;

(10) The safety of access to the property for emergency vehicles in time of flood.

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

(12) The costs of providing governmental services during and after flood conditions, including maintenance and repair of utilities and facilities such as sewer, gas, electrical and water system and street and bridges.

('62 Code, § 12-5-5) (Ord. 95018, passed 8-28-95)

**§ 15-3-69 BUILDING SITE IMPROVEMENTS.**

(A) No subdivision or part thereof shall be approved if proposed subdivision levees, fills, structures or other features will either individually or collectively increase flood flows, heights or damages significantly.

(B) Building sites for residences, motels, resorts or other dwelling of accommodation uses shall not be permitted in floodway areas. Sites for these uses may be permitted outside the floodway if the sites are elevated or filled to a height at or above the elevation of the regulatory flood or if other provisions are made for elevating or adapting structures to achieve the same result required fill areas must extend 10 feet beyond the limits of intended structures, and if the subdivision is not to be sewerred, must include areas for on-site waste disposal.

(C) Building sites for structures not included in division (B) herein shall similarly not be permitted in floodway areas. Such sites located outside the floodway shall ordinarily be protected as herein provided. However, the Planning Commission may allow subdivision of areas for commercial and industrial use at a lower elevation if the subdivider protects the areas to a height of the regulatory flood protection elevation by levees, seawalls, channel modifications or other protective techniques, or if the subdivider assures that uses will be protected through structural floodproofing, flood warning systems or other techniques.

(D) When the subdivider does not intend to develop the plat himself and the Planning Commission determines that additional use controls are required to ensure safe development, it may require the subdivider to impose appropriate deed restrictions on the land; such deed restrictions shall be inserted in every deed and noted on the face of the final recorded plat. ('62 Code, § 12-5-6) (Ord. 95018, passed 8-28-95)

**§ 15-3-70 DRAINAGE FACILITIES.**

Storm drainage facilities shall be designed to store and convey the flow of surface waters from a three year frequency storm without damage to persons or property. The system shall insure drainage at all points along streets and provide positive drainage away from buildings and on-site waste disposal sites. Plans shall be subject to approval by the Planning Commission. The Planning Commission may require underground system to accommodate less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. ('62 Code, § 12-5-7) (Ord. 95018, passed 8-28-95)

**§ 15-3-71 ROADS.**

The finished elevation of proposed streets shall be no more than one foot below the regulatory flood protection elevation. The Planning Commission may require, where necessary, profiles and elevations of streets to determine compliance with this requirement. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights. ('62 Code, § 12-5-8) (Ord. 95018, passed 8-28-95)

**§ 15-3-72 SANITARY SEWER AND WATER FACILITIES.**

(A) (1) The Planning Commission shall prohibit installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high groundwater, flooding or unsuitable soil characteristics. The Planning Commission shall require that the subdivider note on the face of the plat and in any deed of conveyance, that soil absorption fields are prohibited in designated areas.

(2) The Planning Commission shall prescribe adequate methods for waste disposal. ('62 Code, § 12-5-9) (Ord. 95018, passed 8-28-95)

(B) All water systems including individual wells located in flood-prone areas, whether public or private, shall be proofed to a point at or above the flood protection elevation. ('62 Code, § 12-5-10) (Ord. 95018, passed 8-28-95)

**§ 15-3-73 EROSION AND SEDIMENT CONTROL MEASURES.**

The Planning Commission shall require the subdivider to utilize grading techniques, subdivision design, landscaping, sedimentation basins, special vegetation cover and other measures to reduce erosion and sediment.

('62 Code, § 12-5-11) (Ord. 81058, passed 12-14-81; Am. Ord. 95018, passed 8-28-95)

***ADMINISTRATION AND ENFORCEMENT*****§ 15-3-85 PENAL CONVICTION NOT TO BAR OTHER LEGAL ACTION AND PENALTIES.**

No conviction or convictions under the penal provisions of this article shall be considered as any bar to any injunctive or other legal remedy, relief, right or power existing in the city, to enforce the application and provisions of this article by virtue of the Constitution and laws of the state. ('62 Code, § 12-1-5) (Ord. 95018, passed 8-28-95)

**§ 15-3-86 APPROVAL AND COMPLIANCE REQUIRED PRIOR TO ISSUANCE OF PERMITS OR PROVISION OF CITY SERVICES.**

(A) No permit shall be issued by the city for the installation of water or sewer serviceline connections upon any lot in a subdivision for which a final plat has not been approved and filed for record or upon any lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full.

(B) No building, repair, plumbing or electrical permit shall be issued by the city for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full.

(C) The city shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.

(D) The city shall not sell or supply any water, sanitation or sewage services within a subdivision for which a final plat has not been approved or filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.  
(’62 Code, § 12-1-5) (Ord. 95018, passed 8-28-95)

#### **§ 15-3-87 ENFORCEMENT BY COURT ACTION.**

On behalf of the city, the City Attorney shall, when directed by the City Commission, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this article, or the standards referred to herein with respect to any violation thereof which occurs within the city, within the extraterritorial jurisdiction of the city as such jurisdiction is determined under the Municipal Annexation Act or within any area subject to all or a part of the provisions of this article.  
(’62 Code, § 12-1-5) (Ord. 95018, passed 8-28-95)

#### **§ 15-3-88 RESOLUTION RECITING NONCOMPLIANCE OR FAILURE TO SECURE FINAL PLAT APPROVAL.**

If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, and the City Commission shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and reciting the fact that the provisions of §§ 15-3-85 and 15-3-86(A) through (C) of this section shall apply to the subdivision and the lots therein, the City Secretary shall, when directed by the City Commission, cause a certified copy of such resolution under the corporate seal of the city to be filed in the deed records of the county or counties in which such subdivision or part thereof lies. If full compliance and final plat approval are secured after the filing of such resolution, the City Secretary shall forthwith file an instrument in the deed records of such county or counties stating that §§ 15-3-85 and 15-3-86(A) through (C) no longer apply.  
(’62 Code, § 12-1-5) (Ord. 95018, passed 8-28-95)

**§ 15-3-89 EXEMPTION FOR SUBDIVISIONS ALREADY IN EXISTENCE.**

The provisions of this subarticle shall not be construed to prohibit the issuance of permits for any lots upon which a residence building exists and was in existence prior to passage of this article, nor to prohibit the repair, maintenance or installation of any street or public utility services for, to or abutting any lot, the last recorded conveyance of which prior to passage of this article was by metes and bounds, and/or any subdivision or lot therein, recorded or unrecorded, which subdivision was in existence prior to the passage of this article.

('62 Code, § 12-1-5) (Ord. 81058, passed 12-14-81; Am. Ord. 95018, passed 8-28-95)

**§ 15-3-90 VARIANCES.**

(A) Where the Planning and Zoning Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of a general community plan or these regulations. Such variances and modifications, as may be granted under this section, shall be by at least three-fourths majority of the City Commission present. ('62 Code, § 12-7-1) (Ord. 95018, passed 8-28-95)

(B) In granting variances and modifications, the Planning and Zoning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified. ('62 Code, § 12-7-2) (Ord. 81058, passed 12-14-81; Am. Ord. 95018, passed 8-28-95)

**§ 15-3-91 APPEALS.**

Any subdivider contesting any disapproval and/or interpretation and/or application of any rule, standard, regulation, determination, requirement or necessity set forth in this article directly or by delegation of authority shall have the right after filing a written request with the Chairman of the Planning and Zoning Commission, to have a hearing thereon before the City Commission within 21 days after the date of filing such request. Any subdivider not satisfied with the ruling of the Planning and Zoning Commission shall have the right to appeal such ruling or decision to the City Commission by giving written notice to the City Manager within 15 days after the final hearing before the Planning and Zoning Commission.

('62 Code, § 12-1-3) (Ord. 95018, passed 8-28-95)

## APPENDIX: FORMS TO BE ENTERED ON PLAT

### Section

1. Form No. 1
2. Form No. 2
3. Form No. 3
4. Form No. 4

### § 1 FORM NO. 1.

STATE OF TEXAS  
COUNTY OF KLEBERG

This plat of \_\_\_\_ Subdivision (Addition) approved by the Mayor and City Commission of Kingsville, Texas, on this the \_\_\_\_ day of 19 \_\_\_\_.

/s/ \_\_\_\_\_ /s/ \_\_\_\_\_  
MAYOR CITY SECRETARY

### § 2 FORM NO. 2.

STATE OF TEXAS  
COUNTY OF KLEBERG

This plat of \_\_\_\_\_ Subdivision (Addition) approved \_\_\_\_\_ (date) by the Planning and Zoning Commission of the City of Kingsville, Texas. This the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; provided, however, that this approval shall be invalid, and null and void, unless this plat is filed with the County Clerk within six months hereafter.

/s/ \_\_\_\_\_  
CHAIRMAN

**§ 3 FORM NO. 3.**

STATE OF TEXAS  
COUNTY OF KLEBERG

This the final plat of \_\_\_\_ Subdivision (Addition) approved by the Director of Planning of the City of Kingsville, Texas. This the \_\_\_\_ day of \_\_\_\_, 19\_\_.

/s/ \_\_\_\_\_  
CITY ENGINEER

**§ 4 FORM NO. 4.**

STATE OF TEXAS  
COUNTY OF KLEBERG

I, \_\_\_\_\_, Clerk of the County of Kleberg County, Texas, do hereby certify that the foregoing plat of \_\_\_\_, 19\_\_, with its certificate of authentication, was filed for record in my office the \_\_\_\_ day of \_\_\_\_, 19\_\_, at \_\_\_\_ o'clock \_\_.m., in the map records of the County, in volume \_\_, Page \_\_.

/s/ \_\_\_\_\_  
COUNTY CLERK

Kleberg County, Texas

By: \_\_\_\_\_  
Deputy

## ARTICLE 4: FLOOD DAMAGE PREVENTION

### Section

15-4-1 Findings of fact; purpose; methods of reducing flood losses

15-4-2 Definitions

15-4-3 Applicability, compliance, interpretation, and the like

15-4-4 Administration

15-4-5 Provisions for flood hazard reduction

#### **Statutory reference:**

*Subdivision regulations, see TEX. LOC. GOV'T CODE, §§ 212.001 et seq.*

#### **Cross-reference:**

*Flood hazard areas, see §§ 15-3-65 through 15-3-73*

### **§ 15-4-1 FINDINGS OF FACT; PURPOSE; METHODS OF REDUCING FLOOD LOSSES.**

#### *(A) Findings of fact.*

(1) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in flood plains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

(B) *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 flood plains;

(6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and

(7) Insure that potential buyers are notified that property is in a flood area.

(C) *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 flood plains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

('62 Code, § 11-2A-1)

## § 15-4-2 DEFINITIONS.

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

**APPEAL.** A request for a review of the City Manager's interpretation of any provisions of this article or a request for a variance.

**AREA OF SHALLOW FLOODING.** A designated AO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet. This condition occurs where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD.** Is the land in the flood plain within a community subject to one percent or greater chance of flooding in any given year.

**BASE FLOOD.** The flood having a one percent chance of being equaled or exceeded in any given year.

**DEVELOPMENT.** Any man made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**FLOOD OR FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FIRM).** An official map of a community, issued by the Federal Insurance Administration, where the areas within the boundaries of special flood hazards have been designated as Zone A.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zoned applicable to the community.

**FLOOD INSURANCE STUDY.** The official report provided by the Federal Insurance Administration. The report contains flood profiles, the water surface elevation of the base flood, as well as the Flood Hazard Boundary Floodway Map.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements.

**MANUFACTURED OR MOBILE HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term **MANUFACTURED OR MOBILE HOME** does not include park trailers, travel trailers, and other similar vehicles.

**MANUFACTURED OR MOBILE HOME PARK OR MOBILE HOME SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured or mobile home lots for rent or sale.

**MEAN SEA LEVEL.** The average height of the sea for all stages of the tide.

**START OF CONSTRUCTION.** For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348, being 16 USC 3501 et seq.) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means 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 a 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 as part of the main structure.

**STRUCTURE.** A walled and roofed building that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**VARIANCE.** It is the grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. ('62 Code, § 11-2A-2) (Ord. 84009, passed 6-18-84; Am. Ord. 87005, passed 3-23-87; Am. Ord. 2003-10, passed 4-28-03)

### **§ 15-4-3 APPLICABILITY, COMPLIANCE, INTERPRETATION, AND THE LIKE.**

(A) *Lands of which this article applies.* This article shall apply to all special flood hazard within the jurisdiction of the city.

(B) *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM) Community No. 4804248, date August 17, 1981, and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

(C) *Establishment of development permit.* A development permit shall be required to ensure conformance with the provisions of this article.



(D) *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.

(E) *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.

(F) *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.

(G) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater flood can and will occur and flood heights may be increased by man made or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

('62 Code, § 11-2A-3) Penalty, see § 1-1-99

#### **§ 15-4-4 ADMINISTRATION.**

(A) *Designation of the office of the City Manager.* The Building Official is hereby appointed to administer and implement the provisions of this article.

(B) *Duties and responsibilities of the City Manager.* Duties and responsibilities of the City Manager 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, approve or deny all applications for development permits required by § 15-4-3(C) of this article;

(3) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

(4) Where interpretation is needed to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be conflict between a mapped boundary and actual field conditions) the City Manager shall make the necessary interpretation. The person contesting the location of a boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subdivision (D)(2) of this section.

(5) Notify adjacent communities and the Texas Department of Community Affairs prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

(6) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished; and

(7) When base flood elevation data has not been provided in accordance with § 15-4-3(B) the City Manager shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of § 15-4-5.

*(C) Permit procedures.*

(1) Application for a development permit shall be presented to the Building Official 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 alteration, 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 proposed structures;

(b) Elevation in relation to mean sea level to which any non residential structure shall be flood-proofed;

(c) A certificate from a registered professional engineer or architect that the nonresidential flood-proofing structure shall meet the flood-proofing criteria of § 15-4-5(B)2.

(d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(2) Approval or denial of a development permit by the City Manager 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 flood waters 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.

(D) *Variance procedures.*

(1) The Board of Adjustment as established by the city shall hear and render judgment on requests for variances from the requirements of this article.

(2) The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the City Manager in the enforcement or administration of this article.

(3) Any person or persons aggrieved by the decision of the Board of Adjustment may appeal such decision in the courts of competent jurisdiction.

(4) The Building Official shall maintain a record of all actions involving an appeal and shall report variances to the Federal Insurance Administration upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

(6) (a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acres or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the relevant factors in subdivision (C)(2) of this article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(b) Upon consideration of the factors noted above and the intent of this article, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.

(7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(8) Prerequisites for granting variances.

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the food hazard, to afford relief.

(b) 1. Variances shall only be issued upon a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship to the applicant; and 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 to the public, or conflict with existing local laws or ordinances.

2. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation no more than zero feet below the base flood elevation, and that the cost of flood insurance will be commensurated with the increased risk resulting from the reduced lowest floor elevation.

('62 Code, § 11-2A-4)

#### **§ 15-4-5 PROVISIONS FOR FLOOD HAZARD REDUCTION.**

(A) *General standards.* In all areas of special flood hazards the following provisions are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All new construction or substantial improvements shall be constructed by methods or practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters; and

(6) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(7) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(8) All new construction and substantial improvements, 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 must meet or exceed the following minimum criteria: 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(B) *Specific standards.* In all areas of special flood hazards where base flood elevation data has been provided, as set forth in §§ 15-4-3(B), 15-4-4(B)(7), or subdivision (D)(3), the following provisions are required:

(1) *Residential construction.* New construction or substantial improvement of 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 City Manager that the standard of this division, as proposed in § 15-4-4(C)(1)(a) is satisfied.

(2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, be floodproofed 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 submit a certification to the City Manager that the standards of this division, as proposed in § 15-4-4(C)(1)(c), are satisfied.

(3) *Manufactured homes.*

(a) All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall 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 provisions of the regulations of the Texas Department of Labor and Standards.

(b) All manufactured homes shall be elevated and anchored to resist flotation, collapse or lateral movement.

(c) For new manufactured home parks and subdivisions; for expansions to existing manufactured home parks and subdivisions; for existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50% of value of the streets, utility and pads before the repair, reconstruction or improvement has commenced; and for manufactured homes not placed in a manufactured home park or subdivision require:

1. Stands or lots are elevated or compacted filled or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level. A registered professional engineer or architect, or land surveyor shall submit a certification to the City Manager that the standard of this subdivision complies with subdivision (B)(1) of this section.

2. Adequate surface drainage and access for a hauler are provided; and

3. In the instance of elevation on pilings: lots are large enough to permit steps, piling foundations are placed in stable soil not more than 10 feet apart, and reinforcement is provided for pilings more than six feet above the ground level.

4. Floodways located within area of special flood hazards established in § 15-4-3(B) are areas designed as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

a. Encroachments are prohibited, including fill, new construction, substantial improvements and other developments unless certification by a professional registered engineer or architect is provided demonstrating the encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

b. If subdivision (B)(4)(a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

c. Prohibit the placement of any manufactured homes.

(C) *Standards for areas of shallow flooding.* Located within the areas of special flood hazard established in § 15-4-3(B) are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one foot to three feet of water where a clearly defined channel does not exist and where the path of water is unpredictable and indeterminate; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the community's FIRM.

(2) All new construction and substantial improvements of nonresidential structures shall:

(a) Have the lowest floor, including basement, elevated above the crown of the nearest street or above the depth number specified on the FIRM; or

(b) Together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of restricting hydrostatic loads and effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Building Official that the standards of this section as proposed in § 15-4-4(C)(1)(a), are satisfied.

(D) *Standards for subdivision proposals.*

(1) All subdivision proposals shall be consistent with divisions (B), (C) and (D) of this section.

(2) All proposals for the development of subdivisions shall meet development permit requirements of §§ 15-4-3(C), 15-4-4(C) and the provisions of this section.

(3) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres, if not otherwise provided pursuant to §§ 15-4-3(B) or 15-4-4(B)(7) of this article.

(4) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

('62 Code, § 11-2A-5) (Ord. 84009, passed 6-18-84; Am. Ord. 87005, passed 3-23-87) Penalty, see § 1-1-99



## ARTICLE 5: HISTORIC DISTRICTS AND LANDMARKS

### Section

#### ***General Provisions***

- 15-5-1 Findings
- 15-5-2 Definitions
- 15-5-3 Creating historic districts
- 15-5-4 Designating historic landmarks
- 15-5-5 Uses

#### ***Board of Review for Historic Districts and Landmarks***

- 15-5-15 Creation; duties
- 15-5-16 Composition; membership; functions
- 15-5-17 Secretary of Board
- 15-5-18 Terms of members
- 15-5-19 Meetings
- 15-5-20 Appointment of Historic Preservation Officer

#### ***Permit Procedures***

- 15-5-30 Permit applications; duties and responsibilities of Board and staff of Planning and Urban Development Department
- 15-5-31 Criteria to be used by Board in determining its recommendation on permits
- 15-5-32 Findings of the Board concerning permit applications
- 15-5-33 Action by City Commission
- 15-5-34 Reapplication for permit
  
- 15-5-98 Violations
- 15-5-99 Penalty

**GENERAL PROVISIONS****§ 15-5-1 FINDINGS.**

(A) The City Commission finds that many improvements and landscape features having a special character or a special historical or aesthetic interest or value and many improvements representing the finest architectural products of distinct periods in the history of the city, state or nation require special consideration for their preservation.

(B) It is the opinion of the City Commission that the standing of the city as a tourist center for South Texas cannot be maintained or enhanced by disregarding the historical and architectural heritage of the city.

('62 Code, § 2-10-1) (Ord. 91034, passed 10-28-91)

**§ 15-5-2 DEFINITIONS.**

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

**HISTORIC DISTRICT.** An area which has outstanding historical and cultural significance in the nation, state, region or community, within which the buildings, structures, accessory buildings, fences, or other appurtenances are of basic and vital importance for the development of cultural sites and tourism because of their association with history, including:

(1) Historic buildings, structures, subjects, sites or areas within which the buildings, structures, appurtenances, and places exemplify the culture, political, economic or social history of the nation, state, region or community, and have a special character or special historic or aesthetic interest or value, and represent one or more periods or styles of architecture typical of one or more eras in the history of the city and have been designated as such by the provisions of this article.

(2) Historic buildings, structures, subjects, sites or areas that are identified with the lives of historic personages or with important events in national, state, regional or local history.

(3) Buildings, structures or areas that embody the distinguishing characteristics of an architectural type specimen as to color, proportion, form and architectural details.

**HISTORIC LANDMARK.** A place which has outstanding historical and cultural significance in the nation, state, region or community. The designation **HISTORIC LANDMARK** recognizes that the historic place, site, subject, area or the building(s), structure(s), accessory building(s), fences or other appurtenances at the place, are of basic and vital importance for the preservation of cultural sites and the development of tourism.

('62 Code, § 2-10-2) (Ord. 91034, passed 10-28-91; Am. Ord. 97044, passed 12-8-97)

### **§ 15-5-3 CREATING HISTORIC DISTRICTS.**

(A) The City Commission may, from time to time, designate certain areas in the city as historic districts, and define, amend or eliminate the boundaries of same. Such districts shall bear the word “historic” in their zoning designation and property therein shall continue to bear its use designation by letter as provided in the general zoning ordinance of the city.

(B) Before taking any such action, the City Commission shall submit the same to the Historical Development Board for their recommendations and reports. The Historical Development Board shall give notices, conduct its hearing and make recommendations to the City Commission in the same manner and according to the same procedures as specifically provided by statute and the general zoning ordinance of the city.  
(’62 Code, § 2-10-3) (Ord. 91034, passed 10-28-91)

### **§ 15-5-4 DESIGNATING HISTORIC LANDMARKS.**

(A) The City Commission may, from time to time, designate certain places in the city as historic landmarks. Such places bear the word “historic” in their zoning designation and shall continue to bear their use designations by letter as provided in the general zoning ordinance of the city.

(B) In designating historic landmarks, the Historical Development Board and the City Commission shall follow the procedures set forth for creating historic districts.  
(’62 Code, § 2-10-4) (Ord. 91034, passed 10-28-91)

### **§ 15-5-5 USES.**

(A) Nothing contained in this article or in the designation of property as being in an historic district or historic landmark shall affect the present legal use of property. Use classifications as to all property which may be included in an historic district or historic landmark shall continue to be governed by the general zoning ordinance of the city and the procedures therein established. In no case, however, shall any use be permitted which requires the demolition, razing, remodeling or alteration of any buildings, structures or appurtenances in such an historic district or historic landmark so as to adversely affect the character of the district or historic landmark, except upon compliance with the terms of this article. For purposes of clarity in the zoning designation of property, all zoning maps shall reflect property in historic districts or historic landmarks by the inclusion of the word “historic” as a prefix to its use designation as specified in accordance with the general zoning ordinance of the city.

(B) No provisions herein shall be constructed as prohibiting a property owner(s) from continuing to use property for a nonconforming use.  
(’62 Code, § 2-10-5) (Ord. 91034, passed 10-28-91; Am. Ord. 97044, passed 12-8-97)

***BOARD OF REVIEW FOR HISTORIC DISTRICTS AND LANDMARKS*****§ 15-5-15 CREATION; DUTIES.**

(A) There is hereby created a Board of Historical Development whose primary duties will be to act in an advisory capacity to the City Commission and to advise the city in the following particulars:

(1) To effect and accomplish the protection, enhancement and perpetuation of such historic structures and landscape features and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history;

(2) Safeguard the city's historic, aesthetic and cultural heritage;

(3) Foster civic pride in the beauty and noble accomplishments of the past;

(4) Protect and enhance the city's attraction to tourists and visitors and the support to business and industry thereby provided;

(5) Strengthen the economy of the city;

(6) Promote the use of historic districts, landmarks, and structures for the education, pleasure and welfare of the citizens of the city; and

(7) Designate historic landmarks, districts, subjects, areas and sites. ('62 Code, § 2-10-1) (Am. Ord. 97044, passed 12-8-97)

(B) Duties.

(1) The Board shall make an annual report to the City Commission on the state of historic preservation and development in the city and shall include in the report a summary of its activities for the past year and a proposed program for the next year.

(2) The Board shall have the further responsibility of recommending to the City Commission, City Manager, and city departments the adoption of policies, the sources of funds, and designation of districts and landmarks, that may further the city's preservation and development effort.

(3) The Board shall provide recommendations to the City Commission concerning the establishment of city policies, approvals or projects, designations of additional historic landmarks and any other project or efforts which might affect a designated historic landmark or historic district.

(4) The Board shall, with staff advice and support, determine a suitable emblem for marking buildings, structures, and sites within historic districts and for designated landmarks, both public and

1998 S-2

private. This emblem shall be submitted for approval to the Texas Historical Commission and then recommended for approval to the City Commission, along with a list of locations and sites and estimates as to cost, for approval by the City Commission.

(5) The Board may adopt such rules and regulations as it deems necessary to carry out its duties and responsibilities as set forth in this article. All such rules and regulations shall not be inconsistent with any law, statute or city ordinance presently in existence or hereafter enacted or amended.

(6) Maintain an inventory of designated historical buildings, structures, districts, landmarks, subjects, areas, sites within the city and surrounding areas as may be requested by citizens in the county.

(7) Approve applications as outlined in this article. ('62 Code, § 2-10-16)  
(Ord. 91034, passed 10-28-91; Am. Ord. 97044, passed 12-8-97)

#### **§ 15-5-16 COMPOSITION; MEMBERSHIP; FUNCTIONS.**

(A) The members of the Board of Historical Development shall be appointed by the City Commission and shall serve without compensation. The members of the Board, if possible, shall include the nine members representing the following professions or organizations: history, business, attractions, economic development, architectural, engineering, education, and the like. All members, at the time of their selection must be taxpayers of the city.

(B) The Board shall act in an advisory capacity only, and shall have no power to bind the city by contract or otherwise. It shall be the function of the Board to advise the City Commission concerning all applications for permits in the historic districts and historic districts and historic landmarks.  
( '62 Code, § 2-10-6) (Ord. 91034, passed 10-28-91; Am. Ord. ORD-2002-01, passed 1-14-02)

#### **§ 15-5-17 SECRETARY OF BOARD.**

The City Manager shall appoint a representative from the City Planning and Urban Development Department to act as Secretary and keep minutes of all meetings and shall not have voting rights.  
( '62 Code, § 2-10-7) (Ord. 91034, passed 10-28-91)

#### **§ 15-5-18 TERMS OF MEMBERS.**

Each member of the Board shall be appointed for a term of three years, except that of the members of the first Board to be appointed, three shall be appointed to serve for three years, three shall be appointed to serve for two years and three shall be appointed to serve for one year. The members of the Board shall likewise from the voting membership fill any vacancy in either of the offices of Chairman or Vice-Chairman. Any vacancy on the Board shall be filled by appointment by the City Commission

2004 S-6

for the remainder of the unexpired term. Any member of the Board who does not attend three consecutive Board meetings without good cause, may be replaced for the remainder of his or her term, after being sent proper notice. Proper notice shall be notice by certified mail sent to the last known address of the member.

('62 Code, § 2-10-8) (Ord. 91034, passed 10-28-91; Am. Ord. ORD-2002-01, passed 1-14-02)

#### **§ 15-5-19 MEETINGS.**

(A) The Board shall hold regularly scheduled meetings with advance notice posted according to the Texas Open Meetings Law. Additionally, meetings may be called upon request of the Chairman, or upon written request of three members, or upon notice from the Secretary of the Board that a matter requires the consideration of the Board.

(B) Upon receipt of an application for a building permit for the construction, reconstruction, alteration, restoration, relocation, demolition or razing of a building, buildings, or appurtenance in an historic district or historic landmark, the Board shall at the next regularly scheduled meeting consider the recommendation which the Board will give to the City Commission. The person applying for the permit shall be advised of the time and place of the meeting and invited to appear to explain his reasons therefor. The Board may invite such other persons or groups as it desires to attend its meetings. The Board may hold any additional meetings it considers necessary to carry out its responsibilities as enumerated in this article.

(C) A majority of the members appointed pursuant to § 15-5-16 of this article, shall constitute a quorum and action taken at a meeting shall require the affirmative vote of a majority of the members of the Board present at the meeting.

('62 Code, § 2-10-9) (Ord. 91034, passed 10-28-91; Am. Ord. ORD-2002-01, passed 1-14-02)

#### **§ 15-5-20 APPOINTMENT OF HISTORIC PRESERVATION OFFICER.**

(A) The Board shall appoint a qualified city official, staff person, or appropriate resident of the municipal entity to serve as Historic Preservation Officer. This officer shall administer this article and advise the Board on matters submitted to it.

(B) In addition to serving as representative of the Board, the officer is responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national nonprofit preservation organizations.

('62 Code, § 2-10-11) (Ord. 91034, passed 10-28-91)

**PERMIT PROCEDURES****§ 15-5-30 PERMIT APPLICATIONS; DUTIES AND RESPONSIBILITIES OF BOARD AND STAFF OF PLANNING AND URBAN DEVELOPMENT DEPARTMENT.**

(A) *Construction, reconstruction, alteration, restoration, demolition, or relocation procedure.*

(1) Upon receipt of an application for a permit in an historic district or historic landmark, a staff member from the City Planning Department shall evaluate if the desired construction, reconstruction, alteration, restoration, demolition, or relocation of a building, structure, or appurtenance will destroy the historical or architectural integrity of the site per the Secretary of the Interior's "Standards for Rehabilitation" No. 1-No. 10. If needed, the staff member shall contact the Chairman of the Historical Development Board for advice.

(2) If work to be done on the property in any way alters or destroys the property's original historical or architectural integrity, then the Board shall review the application at a regularly scheduled meeting within 30 days from the date the application is received, at which time an opportunity will be provided for the applicant to be heard. The Board will approve, deny, or approve with modifications the permit within 30 days after the review meeting. In the event the Board does not act within 60 days of the receipt of the application, a permit may be granted.

(3) All decisions of the Board shall be in writing. The Board's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant. Additional copies shall be filed as part of the public record on that property and dispersed to appropriate city departments, e.g., building inspection.

(4) The staff of the City Planning Department shall not take action upon a permit that destroys the historical integrity of a site unless such work has been approved by majority vote of the Historical Development Board as provided in § 15-5-16 of this article.

(5) City staff shall act in accordance with the procedures presently being followed in that office except as those procedures are necessarily modified by the following requirements:

(a) They shall forward to the office of the Board a copy of application for a building permit together with a copy of a plot plan and the building plans and specifications filed by the applicant.

(b) They shall maintain in the Planning Department Office a record of all such applications, actions, and final disposition of the same, which shall be in addition to and appropriately cross-referenced to his other records.

(c) They shall require applicants to submit a sufficient number of additional copies of material required to be attached to an application for a building permit in compliance with the foregoing.

(B) *Standards to be applied.* The same criteria considered by staff members of the City Planning Department as set forth in § 15-5-31 of this article shall be applied by the staff member in arriving at his determination as to issuance or denial of the permit.

(C) *Historic sites.* Property tax relief for historic structure revitalization.

(D) *Application for historic designation as a subject, site, landmark, structure, district or area.*

(1) Application process will entail a completed "city historical site register" form.

(2) The Texas Historical Commission rules will apply for designation as an historic site, area, district.

(3) The Historic Development Board will review each application and make a determination within 60 days of the application.

('62 Code, § 2-10-10) (Ord. 91034, passed 10-28-91; Am. Ord. 97013, passed 5-28-97; Am. Ord. 97044, passed 12-8-97)

#### **§ 15-5-31 CRITERIA TO BE USED BY BOARD IN DETERMINING ITS RECOMMENDATION ON PERMITS.**

(A) *Historic districts.* In determining the recommendation to be presented to the City Commission concerning the issuing of a permit for the construction, reconstruction, alteration, restoration, relocation, demolition or razing of all or part of any building, structure or appurtenance within a historic district, the Board shall consider the following matters per guidance from the Secretary of the Interior's "Standards for Rehabilitation:"

(1) The effect of the proposed change upon the general historic, cultural and architectural nature of the district.

(2) The appropriateness of exterior architectural features which can be seen from a public street, alley, road, highway or walkway.

(3) The general design, arrangement, texture, material and color of the building, structure or appurtenances and the relation of such factors to similar features of buildings, structures or appurtenances in the district. The criterion shall not be the aesthetic appeal to the Board of the structure or the proposed remodeling, but rather its conformity to the general character of the particular historic area involved.

(4) Signs which are out of keeping with the character of the historic district in question shall not be permitted.

(5) The value of the historic district as an area of unique interest and character shall not be impaired.

(B) *Historic landmark.* In determining the recommendation to be presented to the City Commission concerning the issuing of a permit for the construction, reconstruction, alteration, restoration, relocation, demolition or razing of all or part of any designated historic landmark, the Board shall consider the Secretary of Interior's "Standards for Rehabilitation" and those considerations which gave rise to the original request for the designation of the place as an historic landmark as well as the following matters:

(1) The effect of the proposed change upon the historic, architectural, or cultural nature of the landmark.

(2) The appropriateness of exterior architectural features which can be seen from a public street, alley, road, highway or walkway.

(3) The general design, arrangement, texture, material and color of the building or structure site and the similarity, contrast, or other relation of such factors to other landmarks built at or during the same period, as well as the uniqueness of such features, considering the remaining examples of architectural, historical, and cultural values.

(4) Signs which are out of keeping with the character of the historic landmark shall not be permitted.

(5) The value of the historic landmark as a place of unique interest or character shall not be impaired.

('62 Code, § 2-10-12) (Ord. 91034, passed 10-28-91; Am. Ord. 97044, passed 12-8-97)

## **§ 15-5-32 FINDINGS OF THE BOARD CONCERNING PERMIT APPLICATIONS.**

(A) If the Board decides to recommend against the granting of a permit, it shall indicate to the applicant the changes in plans and specifications, if any, which in the opinion of the Board, would protect the distinctive historical character of the historic district or historic landmark. The Board shall withhold its report to the City Commission for a period of five days following its discussion to allow the applicant to decide whether or not to make the suggested changes in his plans and specifications. If the applicant determines that he will make the suggested changes, he shall so advise the Board within that time in writing.

(B) The Board, after the meeting provided for in § 15-5-19 of this article and after the making of any changes in the plans and specifications as provided in division (A) of this section shall submit to the City Commission, in writing, its recommendation concerning the issuance of a permit for the construction, reconstruction, alteration, restoration, relocation, demolition or razing of all or part of any building, structure or appurtenance within the historic district or historic landmark. The written report shall include the opinion and recommendation of the Board as stated in subdivisions (7) and (8) of this division and may include all or any part of the matters stated in subdivisions (1) through (5) of this division.

(1) The exact location of the area or place in which the work is to be done.

(2) The exterior changes to be made or the exterior character of the building, structure or appurtenance to be erected.

(3) A list of the surrounding building, structures or appurtenances with their general exterior characteristics.

(4) The effect of the proposed change upon the general historic and architectural nature of the district or landmark.

(5) The appropriateness of exterior architectural features which can be seen from a public street, alley, trail or walkway.

(6) The general design, arrangement, texture, material and color of the building, structure or appurtenance and the relation of such factors to similar features of buildings, structures or appurtenances in a district, or to the general period of construction in a district or landmark.

(7) The opinion of the Board, including any dissent, as to the appropriateness of the work proposed as it will preserve or destroy the historic aspect and nature of the district or landmark.

(8) The specific recommendation of the Board.

('62 Code, § 2-10-13) (Ord. 91034, passed 10-28-91; Am. Ord. 97044, passed 12-8-97)

### **§ 15-5-33 ACTION BY CITY COMMISSION.**

Upon receipt of the report of the Board, as provided in § 15-5-31, the City Commission shall make its determination at the next regularly scheduled meeting following the matters to be considered enumerated in § 15-5-30, and shall immediately notify the applicant in writing of its approval, conditional approval, or disapproval. A copy of the notice of approval, conditional approval, or disapproval shall be provided to the Board.

('62 Code, § 2-10-14) (Ord. 91034, passed 10-28-91)

### **§ 15-5-34 REAPPLICATION FOR PERMIT.**

In the case of disapproval of an application by the City Commission, the application shall not be resubmitted for consideration until at least one year has elapsed from the date of disapproval unless

the indicated changes in the plans and specifications required to meet the conditions for protection the district or landmark have been incorporated into the reapplication.

('62 Code, § 2-10-15) (Ord. 91034, passed 10-28-91)

**§ 15-5-98 VIOLATIONS.**

It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, relocated, restore, demolish, raze or maintain any building, structure, accessory building, fence or other appurtenance in an historic district or historic landmark in violation of the provisions of this article; and proper city officials, or their duly authorized representatives, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful construction, reconstruction, structural alteration, remodeling, renovation, restoration, relocation, demolition, razing, or maintenance, to restrain, correct or abate such violations, to prevent any illegal act, conduct business or maintenance in and about such premises. Each day such violation continues shall constitute a separate violation.

('62 Code, § 2-10-17(A)) (Ord. 91034, passed 10-28-91) Penalty, see § 15-5-99

**§ 15-5-99 PENALTY.**

Any person violating any provision of this article shall be guilty of a misdemeanor, and each shall be deemed guilty of a separate offense for each day or portion thereof during which any violation hereof is committed, continued or permitted, and upon conviction any such violation shall be punishable by a fine not to exceed \$200.

('62 Code, § 2-10-17(B)) (Ord. 91034, passed 10-28-91)



## **ARTICLE 6: ZONING**

### **Section**

#### ***General Provisions***

- 15-6-1 Short title
- 15-6-2 Purpose
- 15-6-3 Scope
- 15-6-4 Changes and amendments; application fee

#### ***Use Regulations and Districts***

- 15-6-15 Zoning districts established
- 15-6-16 Zoning map
- 15-6-17 Zoning districts boundaries
- 15-6-18 Temporary zoning for annexed territory
- 15-6-19 Use regulations; use of land and buildings
- 15-6-20 Classification of new and unlisted uses
- 15-6-21 Definitions
- 15-6-22 Overlay zones
- 15-6-23 Mobile Home District (MH) and mobile home on individual lots
- 15-6-24 Nonconforming uses and structures

#### ***Air Installation Zoning Regulations***

- 15-6-35 Statutory authorization; findings of fact; purpose; methods
- 15-6-36 Definitions
- 15-6-37 Use restrictions
- 15-6-38 General provisions
- 15-6-39 Administration and restrictions
- 15-6-40 Nonconforming uses
- 15-6-41 Responsibility of developers; subdivisions

#### ***Wireless Telecommunications Facilities***

- 15-6-45 Purpose
- 15-6-46 General provisions
- 15-6-47 Telecommunications tower standards

- 15-6-48 Tower location standards
- 15-6-49 Antenna mounting standards
- 15-6-50 Appeal
- 15-6-51 Violation deemed nuisance

***OPUD Planned Unit Development***

- 15-6-55 Permitted uses and buildings; when OPUD status encouraged
- 15-6-56 Site plan required; necessary information
- 15-6-57 Submission, hearing and approval
- 15-6-58 General requirements in all districts
- 15-6-59 Floor area ratio, open space, recreation space
- 15-6-60 Adjacent open space bonus for Planned Unit Development
- 15-6-61 Requests not scheduled for hearing

***U.S. 77 By-Pass Regulations***

- 15-6-70 Application; jurisdiction
- 15-6-71 Driveway and access permits required; submission of site plan
- 15-6-72 Design standards
- 15-6-73 Uses restricted

***Area Regulations***

- 15-6-85 Conformance standards
- 15-6-86 Lot areas
- 15-6-87 Lot width
- 15-6-88 Lot depth
- 15-6-89 Open space
- 15-6-90 Front yard
- 15-6-91 Side yard
- 15-6-92 Rear yards
- 15-6-93 Height regulations
- 15-6-94 Special use recreational vehicle park; recreational vehicle spaces

***Parking***

- 15-6-105 General requirements
- 15-6-106 Specific requirements
- 15-6-107 Special off-street parking regulations
- 15-6-108 Driveways, street and roadway standards; access to businesses

***Sign Regulations***

- 15-6-115 Signs restricted
- 15-6-116 Residential signs permitted
- 15-6-117 Owner identification signs permitted
- 15-6-118 Advertising signs
- 15-6-119 Projecting signs
- 15-6-120 Obstructing signs
- 15-6-121 Strobe, revolving and rapidly flashing light displays prohibited
- 15-6-122 Traffic flow signs
- 15-6-123 Irregular shaped signs
- 15-6-124 Maximum size; U.S. Highway 77 bypass
- 15-6-125 Banners
- 15-6-126 Permits
- 15-6-127 Historical district
- 15-6-128 Penalty
- 15-6-129 Grandfather clause

***Permits***

- 15-6-140 Permit requirements
- 15-6-141 Creation of building site prerequisite to issuance of permit
- 15-6-142 Special use permits
- 15-6-143 Time limits on building permits

***Administration and Procedures***

- 15-6-155 Enforcement by Building Official
  - 15-6-156 Certificate of compliance and occupancy
  - 15-6-157 Board of adjustment
  - 15-6-158 Completion of buildings already under construction
- 15-6-999 Penalty



Appendix A: Land Use Categories

Appendix B: Space Requirements

Appendix C: Telecommunications

Appendix D: Air Installations Tables

**Statutory reference:**

*Municipal zoning authority, see TEX. LOC. GOV'T CODE, §§ 211.001 et seq.*

**Cross-reference:**

*Flood damage prevention, see §§ 15-4-1 et seq.*

*Historic districts and landmarks, see §§ 15-5-1 et seq.*

## **GENERAL PROVISIONS**

### **§ 15-6-1 SHORT TITLE.**

This article shall be known as the “City of Kingsville Zoning Ordinance” and may be so cited and pleaded.

('62 Code, § 11-1-1)

### **§ 15-6-2 PURPOSE.**

The zoning regulations and districts herein established have been made in accordance with a comprehensive plan for the purpose of protecting and promoting the health, safety, morals and the general welfare of the city. They have been designed to regulate and restrict the height, number of stories and size of buildings and other structures, the percentages of lot that may be occupied, the size of yards, courts and open spaces, the density of population and use of buildings, structures and land for trade, industry, residence, or other purposes.

('62 Code, § 11-1-2)

### **§ 15-6-3 SCOPE.**

(A) This article applies within the corporate boundary of the city and such additional areas as may be authorized by the State of Texas and City Commission.

(B) This article may be regarded as containing the minimum requirements for the protection of the public and shall not nullify more restrictive ordinances or laws. More restrictive covenants, conditions, or other private agreements shall not be nullified unless they contradict the public welfare or pose a hazard to life and property.

(C) Any use or occupation of land previously approved as an exception and having the status of an approved exception upon the effective date of this article shall be permitted to continue as a lawful use or exception. The approved site plan and all other terms, covenants and conditions applicable as

of the effective date of this article shall continue to apply and control the use and occupation of such land. However, any proposed change in the site plan or use shall be done in compliance with this article.

(D) No building, structure or land may hereafter be used or occupied, and no building or structure or part thereof may hereafter be erected, constructed, moved or altered except in conformity with all applicable ordinances and regulations within the district in which it is located.

(E) No part of a lot area, open space, off-street parking area or yard required for the purposes of complying with this article may be utilized to satisfy such requirements for any additional building or use.

(F) Property owned by the State of Texas or the United States is subject to the regulations of this article only insofar as such authority is specifically authorized or may be delegated.  
( '62 Code, § 11-1-3)

#### **§ 15-6-4 CHANGES AND AMENDMENTS; APPLICATION FEE.**

(A) This zoning article, including boundaries of districts and regulations, may be amended, supplemented or changed by ordinance of the City Commission. The City Commission shall receive the report of the Planning and Zoning Commission prior to adopting any change or amendment to the zoning ordinance. The Planning and Zoning Commission shall conduct a public hearing, announcement of which shall be published once in a newspaper of local circulation 15 days prior to such hearing before acting upon any zoning matter. All property owners within 200 feet of the property on which the change is proposed shall be sent written notice not less than 10 days before the hearing date. The list of property owners shall be prepared from the last city tax roll listing all property owners who have rendered their property for city taxes. Notice is adequately served by depositing properly addressed and postage paid notice with the city post office. Property owners whose names do not appear on the city tax roll are adequately notified by the publication in a newspaper of local circulation. Three-fourths vote of the City Commission shall be necessary to make any change should a petition opposed to such change be presented by the owners of 20% of either the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet therefrom. Three-fourths vote of the members of the City Commission shall be necessary to overrule a recommendation of the Planning and Zoning Commission that a proposed amendment, supplement, or change be denied. Applications for special use permits, changes of districts, or other applications which require notification or publication shall be accompanied by a fee of \$250.

(B) However, the fee for processing appeals to the Board of Adjustment shall be based on the actual costs of materials used, mailing and publication costs as determined by the Planning Division of the Management Services Department, the fee to be payable prior to the scheduling of any hearing or appeal.

( '62 Code, § 11-1-4) (Ord. 84009, passed 6-18-84; Am. Ord. 90027, passed 6-25-90)

***USE REGULATIONS AND DISTRICTS*****§ 15-6-15 ZONING DISTRICTS ESTABLISHED.**

(A) The city is hereby divided into 12 zoning districts. Portions of each district may also be designated as being within an overlay zone and thus be subject to the additional regulations of these districts. The regulations established are uniform for each class of buildings within each district.

(B) The districts established herein shall be known as:

R1	Single-Family District 1
R2	Two-Family District 2
R3	Multi-Family District 3
R4	General Residential District 4
MH	Mobile Home District
C1	Neighborhood Service District
C2	Retail District
C3	Central Business District
C4	Commercial District
I1	Light Industrial District
I2	Heavy Industrial District
Ag	Agricultural District

**SPECIAL OVERLAY DISTRICT**

OH	Historical District
OF	Flood Plain District
OAP-CZ	Accident Potential District-Clear Zone
OAP-1	Accident Potential District-Zone I
OAP-2	Accident Potential District-Zone II
ON2	Noise Impact 2 District
ON3	Noise Impact 3 District
OPUD	Planned Unit Development

('62 Code, § 11-2-1)

**§ 15-6-16 ZONING MAP.**

(A) The boundaries of the zoning districts are delineated upon the map or maps entitled "zoning map of the city," the map being a part of this article as fully as if the same were set forth herein in detail.

(B) Three original, official and identical zoning maps of the city, are hereby adopted bearing the signature of the Mayor and the certification of the City Secretary and shall be filed and maintained as follows:

(1) One copy shall be filed with the City Secretary and be retained as the original record and shall not be changed in any manner.

(2) One copy shall be filed with the Building Official and shall be maintained up to date by the City Planner by posting thereon all changes and subsequent amendments, including the ordinance number, for observation in issuing building permits, certificates of compliance and occupancy, and enforcing the ordinance.

(3) One copy shall be filed in the office of the City Planning Department and shall be maintained up to date by posting all amendments and changes thereon.

(4) Reproductions of the official zoning map may be made for public distribution or municipal use. A charge based upon the actual materials cost shall be collected.  
(‘62 Code, § 11-2-2)

#### **§ 15-6-17 ZONING DISTRICT BOUNDARIES.**

(A) District boundary lines not established by legal definition shall be determined as follows:

(1) Boundaries indicated as approximately following the centerlines of streets, alleys or easements shall be construed to follow such centerlines.

(2) Boundaries following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as following city limits shall be construed as following the city limits.

(4) Boundaries indicated as following railroad lines shall be construed to be the centerline of the right-of-way.

(5) Boundaries indicated as following shore lines shall be construed to follow the shore line and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerline of rivers, streams, or other bodies of water shall be construed as following such centerlines.

(6) Boundaries indicated as parallel to or extensions of features indicated on the map shall be so construed. Distances not specifically designated shall be determined by the scale of the map.

(7) Whenever any street, alley or other public way is vacated by official action of the City Commission, or whenever such 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 area so involved shall then and henceforth be subject to all regulations of the extended districts.

(B) Where physical features on the ground are at variance with information shown on the official zoning map or when there arises a question as to how or whether a parcel is zoned and such question cannot be administratively resolved by the application of division (A), the property shall be temporarily classified as an Agricultural District in the same manner as provided for in newly annexed territory and the issuance of a building permit and certificate of compliance and occupancy shall be in accordance with the provisions of § 15-6-18 for temporarily zoned areas. ('62 Code, § 11-2-3)

#### **§ 15-6-18 TEMPORARY ZONING FOR ANNEXED TERRITORY.**

(A) All territory hereafter annexed to the city shall be classified as Ag Agricultural District, until permanent zoning is established by the City Commission. The procedure for establishing permanent zoning shall conform to the procedure of amending this article.

(B) In an area classified as Ag Agricultural District:

(1) No person shall erect, construct, repair or alter any building or structure or initiate any occupancy of use of any structure, building, or land or cause the same to be done in any newly annexed territory to the city without first obtaining a building permit or certificate of compliance and occupancy as herein required.

(2) No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit for construction or uses which comply fully with the regulations of the Ag Agricultural District, unless and until such territory has been classified in a zoning district other than Ag Agricultural District, by the City Commission.

('62 Code, § 11-2-4) (Ord. 84009, passed 6-18-84) Penalty, see § 15-6-999

#### **§ 15-6-19 USE REGULATIONS; USE OF LAND AND BUILDINGS.**

Land and building in each of the following districts may be used for any of the following listed uses but no land hereafter will be used, and no building or structure shall hereafter be erected, altered or converted which is arranged or designed or used for other than those uses specified for the district in which it is located as set forth by the Use Chart located in Appendix A and Appendix B at the end of this article.

('62 Code, § 11-2-5) (Ord. 84009, passed 9-10-84; Am. Ord. 90036, passed 8-27-90) Penalty, see § 15-6-999

**§ 15-6-20 CLASSIFICATION OF NEW AND UNLISTED USES.**

(A) Should the Building Inspector determine that a type or form of land use which an applicant is seeking to locate in the city does not appear as a permitted or conditional use, he shall refer the request to the City Planner.

(B) The City Planner shall determine the appropriate classification of the new or unlisted use as follows:

(1) Should the City Planner determine that the new or unlisted use for all intent and purposes, is listed under another name or category he shall so inform the Building Inspector to proceed accordingly; or

(2) The City Planner shall consider all facts concerning the nature of the use, types of activities to be conducted, the amount of noise, odor, fumes, dust, toxic material, vibration, and traffic likely to be generated, and the general impact on public utilities;

(a) He shall meet with interested parties to consider the compatibility of the proposed use with the uses permitted in the various districts and determine the zoning district or districts, if any, within which such use should be allowed as a permitted or special use.

(b) The City Planner shall transmit his findings and recommendations to the Planning and Zoning Commission for recommendation. The City Commission shall by ordinance make such determination concerning the classification of such use as is determined appropriate.

(3) The Building Inspector shall maintain a copy of the ordinance and treat all subsequent requests for the use accordingly.

('62 Code, § 11-2-6)

**§ 15-6-21 DEFINITIONS.**

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

**ACCESSORY BUILDING/USE.** A subordinate building on the same lot with a principal building for exclusive use for accessory uses as defined. A use which is clearly incidental and subordinate to the use of the main use of the property; and commonly associated with the principal use, including semi-public and auxiliary parking when approved.

**ALTERNATIVE MOUNTING STRUCTURE.** A manmade tree, clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, or similar structure, designed to support and camouflage or conceal the presence of telecommunications antennas.

**AMUSEMENT, COMMERCIAL (INDOOR).** Any amusement enterprise offering entertainment or games of skill, not elsewhere listed, wholly enclosed in a building including a bowling alley, billiard or pool hall, pinball parlor, electronic games, or similar activities.

**AMUSEMENT, COMMERCIAL (OUTDOOR).** Any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge, not elsewhere listed, wherein any portion of the activity takes place in the open, including a golf driving range, amusement park, miniature golf, or similar activities.

**ANTENNA.** A structure or device used to collect or radiate electromagnetic waves, including directional antennas, such as panels, wireless cable and satellite dishes, and omnidirectional antennas, such as whips, but not including satellite earth stations.

**ANTENNA, AMATEUR RADIO.** An antenna used by an amateur radio operator that is less than 50 feet (15 meters) in height, and whip antennas less than 4 inches in diameter and less than 10 feet (3 meters) in height.

**ANTENNA ARRAY.** An arrangement of antennas and their supporting structure.

**ANTENNA, DISH.** A parabolic or bowl-shaped device that receives and/or transmits signals in a specific directional pattern.

**ANTENNA, PANEL.** An antenna that receives and/or transmits signals in a directional pattern.

**ANTENNA, RADIO AND TELEVISION BROADCAST.** An antenna used to broadcast commercial radio and television signals, including digital broadcasts and other digital transmissions by a licensed radio or television broadcast station.

**ANTENNA, STEALTH.** A telecommunications antenna that is effectively camouflaged or concealed from view.

**ANTENNA, TELECOMMUNICATIONS.** An antenna used to provide a telecommunications service. This excludes lightning rods, private mobile radio systems, amateur radio antennas less than 50 feet (15 meters) in height, whip antennas less than 4 inches in diameter and less than 10 feet (3 meters) in height, and radio and television broadcast antennas.

**ANTENNA, WHIP.** An omnidirectional dipole antenna of cylindrical shape that is no more than 6 inches (15 centimeters) in diameter.

**APPLIANCE SERVICE OR REPAIR.** This term includes major and small appliances as well as radio and television.

**BAKERY OR CONFECTIONERY SHOP, RETAIL.** A place for preparing, baking, or selling all products on the premises where prepared (no deliveries to buyers, wholesaler, or other retail outlets).

**BASEMENT.** A story below the first story as hereinafter defined.

**BOARDING OR ROOMING HOUSE.** A building other than a hotel, where lodging is permitted or meals are served for compensation.

**CLEANING OR LAUNDRY SELF SERVICE SHOP.** Self service shop with customer operated machines.

**CLEANING SHOP OR LAUNDRY, LIMITED AREA.** A custom cleaning shop not exceeding 5,000 square feet of floor area.

**CLUB (PRIVATE).** An organization, group or association supported by the members thereof, the sole purpose of which is to render a service customarily rendered for members and the guests, the chief activity of which is customarily carried on as a business and does not include labor union organizations or similar labor or business organizations.

**CO-LOCATION.** A single telecommunications tower and/or site used by more than one telecommunications service provider.

**COMMUNITY CENTER (PRIVATE).** A central social and recreational building as part of a housing development.

**COUNTRY CLUB (PRIVATE).** A private recreational club with restricted membership, which provides a golf course, clubhouse, swimming pool, tennis court or similar facilities, none of which are available to the general public.

**DAY NURSERY OR KINDERGARTEN.** An establishment possessing all necessary licenses where five or more children are left for care or training, not admitting or taking children above the age of eight.

**DORMITORIES.** Any building arranged or designed for two or more dwelling units and with two or more sleeping positions per room for students.

**DWELLING, MULTIPLE-FAMILY.** Any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as three or more dwelling units or apartments which is occupied as a home or place of residence by three or more families living in independent dwelling units.

**DWELLING, ONE-FAMILY ATTACHED.** A dwelling joined to another dwelling at one or more points by a party wall or abutting separate walls, which is erected upon a separate lot of record and is designed for occupancy by one family.

**DWELLING, ONE-FAMILY DETACHED.** A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract, and having no physical connection to a building located on any other lot or tract.

**DWELLING, TWO-FAMILY.** A single structure designed and constructed with two living units under a single roof for occupancy by two families.

**DWELLING UNIT.** A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters and includes sanitary, sleeping and food preparation facilities.

**FAMILY.** Defined for purposes of R1, R2 and MH Zones: Any number of individuals living together in a dwelling unit which are related by blood, marriage, or adoption, or up to and including three unrelated individuals. Defined for purposes of R3 and R4 Zones: Any number of individuals living together in a dwelling unit which are related by blood, marriage, or adoption, or up to and including four unrelated individuals.

**FAMILY FOOD PRODUCTION.** Raising of crops for family use.

**FARM ACCESSORY BUILDING.** A structure other than a dwelling on a farm for the shelter, protection or storage of the usual farm equipment, animals or crops.

**FARM, RANCH OR ORCHARD.** An area of 10 or more acres which is used for the commercial production of crops or the keeping of the usual farm poultry and animals and normal accessory uses for these purposes.

**FRATERNITY OR SORORITY HOUSE.** A building designed as group living quarters for members only and offering social and recreational activities.

**GASOLINE SALES.** An automobile service station which excludes the repairing, painting, or upholstering of motor vehicles.

**HOBBY.** An accessory use carried on by the occupant of the premises in a shop, studio or other workroom, purely for personal enjoyment, amusement or recreation; provided that the articles produced or constructed in the shop, studio or workroom are not sold either on or off the premises, and provided such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.

**HOME OCCUPATION.** Any occupation which is customarily incidental to the main use of the premises as a dwelling place, and is conducted by a member of a family residing in the dwelling, and in connection with which there is kept no stock in trade nor commodity to be sold or prepared upon the premises; provided that no person is employed other than a member of the immediate family, residing on the premises; provided further that no mechanical equipment shall be used which will be obnoxious or offensive by reason of vibrations, noise, odor, dust, smoke or fumes. The operation of beauty culture schools, beauty parlors, barber shops, dancing schools, and food product preparation shall not be considered home occupations.

**HOSPITAL (ACUTE CARE).** An institution where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas.

**HOTEL OR MOTEL.** Any building which is designed to cater to transient occupancy, offering temporary abiding space to individuals and families. To be classified as a hotel or motel an establishment shall contain individual guest rooms and furnish services such as linens, maids and furnishings.

**INSTITUTIONS OF RELIGIOUS OR PHILANTHROPIC NATURE.** An institution sponsored or operated by organizations established for religious or philanthropic purposes.

**LIGHT MANUFACTURING PROCESSES.** Manufacturing processing which do not emit detectable dust, odor, smoke, gas, or fumes beyond the property lines of the lot or tract upon which the use is located and which do not generate noises or vibrations above the ambient level of noise.

**LOT.** A parcel of land platted in a subdivision occupied or to be occupied by a main building, or group of buildings (main and accessory), together with such yards, open spaces, lot width and lot area as are required by this article and having frontage upon or access to a street. Except for group dwellings, not more than one dwelling structure shall occupy any one lot.

**KENNEL.** The keeping of three or more dogs or other animals at least four months old.

**MANUFACTURED HOUSING OR MANUFACTURED HOME.** A HUD-CODE manufactured home or a mobile home and collectively means and refers to both. The definition of **MOBILE HOME HUD-CODE MANUFACTURED HOME**, and **MANUFACTURED HOME** as set forth in this section are binding on all persons and agencies in this state and under the jurisdiction of the city. For the purposes of this article, a mobile home is not a HUD-CODE manufactured home and a HUD-CODE manufactured home is not a mobile home. Recreational vehicles, however, may be located and used only in approved recreational vehicle parks or approved manufactured home parks.

**MOBILE HOME.** 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 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.

**NURSING HOME.** An institution licensed by the State of Texas where those persons suffering from illness, injury, deformity, deficiency or age are given care or treatment on a prolonged or permanent basis.

**PARCEL.** Any contiguous land under common ownership which does not satisfy the definition of a lot.

**PRIVATE SCHOOL, PRIVATE COLLEGE OR PRIVATE UNIVERSITY.** An institution established for educational purposes and offering a curriculum similar to the public schools or an accredited college or university.

**PUBLIC SCHOOL.** A school under the sponsorship of a school district established under Texas law.

**RAILROAD TRACT AND RIGHT-OF-WAY.** This does not include railroad stations, team tracks, yards, or maintenance areas.

**RESIDENCE HOME FOR THE AGED.** A home where elderly people are provided with lodging and meals with or without nursing care.

**SECONDARY RESIDENTIAL STRUCTURE.** A subordinate dwelling unit (detached), other than a mobile home.

**SERVANT OR CARETAKER QUARTERS.** A subordinate dwelling unit, used solely as living quarters by a person(s) or family(ies) employed at least 20 hours per week on the premises.

**SEXUALLY ORIENTED BUSINESS.** Any sexual encounter center, adult cabaret, adult theater, escort agency, nude modeling studio, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers. All terms defined in Title XV, Article 7 shall be given the same meaning for purposes of interpreting the definition of a sexually oriented business under the zoning ordinance.

**STEALTH.** The design of a tower or tower structure that blends into the surrounding environment and is visually unobtrusive. Examples of a stealth design or tower are: architecturally screened, roof-mounted antenna/array/equipment; building-mounted antenna/array/equipment that is painted and treated as an architectural element to blend with the existing building; designs that conceal the antenna/array/equipment, such as manmade trees, clock towers, bell towers, steeples, light poles, and similar alternative-design mounting structures.

**STORAGE OF AUTOS.** A tract of land devoted to storing operative and/or inoperative automobiles and/or other vehicles that is enclosed by a fence of at least eight feet in height, and which accommodates, on a continuing basis, the storage of such automobiles and/or vehicles. In no instance shall wrecking and/or salvage operations be affiliated with the use of the land, or the stored autos be partially disassembled or dismantled.

**STRUCTURE.** Anything, other than a fence, constructed or erected, requiring location on the ground or attachment to something located on the ground. This includes, but is not limited to: advertising signs, billboards, poster boards, buildings, poles, water towers, cranes, smokestacks, earth formations and overhead transmission lines.

**TAVERN.** Any enterprise which has as its principle business the selling of alcoholic beverages for consumption on the premises.

**TELECOMMUNICATIONS.** The transmission, between or among points specified by the user, of audio and/or visual information of the user's choosing, without change in the form or content of the information as sent and received.

**TELECOMMUNICATIONS FACILITY.** A telecommunication tower, antennas, and related equipment buildings, but the term also includes antennas and related equipment installed on roof tops.

**TELECOMMUNICATIONS SERVICE.** The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**TENNIS OR SWIM CLUB, PRIVATE.** A private recreational club with restricted membership, usually smaller in area than a country club, but including a clubhouse, swimming pool, tennis courts, handball courts, or similar facilities, none of which are available to the general public.

**TIA/EIA-222.** Telecommunications Industry Association/Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures."

**TOWER, ELECTRIC TRANSMISSION.** A self-supporting structure over 50 feet (15 meters) in height, designed to support high-voltage electric lines. This does not include local utility or distribution poles (with or without transformers) designed to provide electric service to individual customers.

**TOWER, GUYED.** Any telecommunications tower supported, in whole or in part, by cables anchored to the ground.

**TOWER, HEIGHT.** The distance measured from grade to the highest point of any and all components of the structure, which includes antennas, hazard lighting and other appurtenances, but excludes lightning rods.

**TOWER, MONOPOLE.** A self-supporting telecommunications tower that consists of a single vertical pole fixed into the ground and/or attached to a foundation.

**TOWER, SELF-SUPPORTING LATTICE.** A telecommunications tower that consists of an open network of metal braces forming a tower, which is usually triangular or square in cross-section.

**TOWER, TELECOMMUNICATIONS.** A self-supporting lattice, monopole, or guyed structure more than 20 feet (6 meters) in height, built primarily to support one or more telecommunications antennas.

**TRADE OR COMMERCIAL SCHOOL.** A school, operated for profit, teaching vocational skills.

**UTILITY, OTHERS NOT LISTED.** Any utility facility franchised or approved by the city.



**UTILITY SHOPS OR STORAGE YARDS AND BUILDINGS.** An area or building used by utilities for the repair and/or storage of equipment, vehicles or supplies.

**WRECKING OR SALVAGE YARD FOR AUTOS OR PARTS.** A tract of land devoted to wrecking, dismantling, or salvage operations where automobiles, other vehicles and/or machinery are subject to being dismantled, compacted, or similarly processed. All such operations, inclusive of storage of vehicles, shall be completely enclosed by a wall at least eight feet in height, except for a maximum of two gates no more than 20 feet wide. ('62 Code, § 11-2-7) (Ord. 99036, passed 10-25-99; Am. Ord. ORD-2001-15, passed 8-13-01; Am. Ord. 2003-11, passed 5-12-03)

#### **§ 15-6-22 OVERLAY ZONES.**

Overlay zones are designed to deal with unusual conditions which affect large areas of the city. Special regulations associated with these districts shall be complied with prior to the issuance of any permit in areas designated. ('62 Code, § 11-2-8) (Ord. 84009, passed 6-18-84)

#### **§ 15-6-23 MOBILE HOME DISTRICT (MH) AND MOBILE HOME ON INDIVIDUAL LOTS.**

(A) *Area regulations.* The minimum lot area for a mobile home/manufactured home district shall be five acres.

(B) *Yard and width regulations.* Yard, width and layout for mobile home/manufactured home parks as indicated on the Space Requirement Chart (Appendix B) shall be complied with.

(C) *Mobile homes/manufactured homes and mobile home/manufactured home park regulations.* Mobile home/manufactured home parks and mobile homes/manufactured homes shall meet the following requirements:

(1) Minimum individual mobile home/manufactured home space or lot of 25 feet in width and a minimum area of 3,000 square feet.

(2) A minimum separation of 15 feet shall be maintained between all mobile homes/manufactured homes. End to end clearance shall not be less than 10 feet. No mobile home/manufactured home may be nearer than 10 feet to any building.

(3) A strip 15 feet in width around the outside boundary of the mobile home/manufactured home park which is planted to screening shrubs and trees or fencing or both, as recommended by the City Planner and approved by the Planning and Zoning Commission in site plan approval.

(4) A playground or open space of not less than 10% of the total area of the development set aside for recreational purposes and equipped adequately.

(5) The mobile home/manufactured home park shall be approved with sewer and water facilities for mobile home space as approved by the City Engineer.

(6) Street shall conform to municipal design and engineering standards.

(7) Site plan shall be approved of the mobile home/manufactured home park by the Planning and Zoning Commission and City Commission.

(8) Mobile homes/manufactured homes shall comply with the tie down requirements of the Building Code. Mobile home/manufactured home parks shall provide anchors and tie downs.

(9) Mobile homes/manufactured homes placed on individual lots shall have wheels removed, be skirted, and have concrete driveways and adequate space to meet off-street parking regulations.

(10) Mobile homes/manufactured homes may be placed in Industrial Districts (I1 and I2) for offices or dwellings by special use permit. No more than one mobile home/manufactured home per business may be so placed.

(11) All parking lots shall be paved to suppress dust.  
(62 Code, § 11-4-5) (Ord. 84009, passed 6-18-84; Am. Ord. 2003-11, passed 5-12-03) Penalty, see § 15-6-999

**Cross-reference:**

*Trailers and trailer parks, see §§ 15-2-1 et seq.*

**§ 15-6-24 NONCONFORMING USES AND STRUCTURES.**

(A) *Nonconforming status.* A nonconforming status shall exist under one of the following conditions:

(1) When a use does not conform to the regulations prescribed in the district in which it is located, and was lawfully existing and operating prior to the adoption of this article, or any amendment thereto which creates nonconformity, and where there has been no discontinuance of the use for a period of time exceeding six months or;

(2) When a structure does not conform to the regulation prescribed in the district in which it is located, and was lawfully existing and constructed prior to the adoption of this article, or any amendment thereto which creates nonconformity.

(B) *Maintenance permitted.* A nonconforming building or structure may be maintained.

(C) *Repairs and alterations.* Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.

(D) *Additions, enlargements and moving.*

(1) A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard regulations shall not be added to or enlarged in any manner or removed to another location except as provided by subdivision (2) of this division hereof.

(2) A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area, or yard regulations may be added to or enlarged or moved to a new location on the lot upon a permit authorized by the Board of Adjustment, which may issue, provided that the Board of Adjustment, after hearing, shall find:

(a) The addition to, enlargement of, or moving of the building will be in harmony with one or more of the purposes of this article as stated in § 15-6-2 hereof, and shall be in keeping with the intent of this article.

(b) The proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

(c) **LOT** shall mean that parcel of land owned at the time the use became nonconforming and upon which the use existed, whether defined in one or more legal descriptions provided that all legal descriptions are contiguous.

(E) *Alteration where parking insufficient.* A building or structure lacking sufficient automobile parking space in connection therewith as required by this article may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this article for such alteration or enlargement.

(F) *Restoration of damaged buildings.* A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building, structure, or part thereof, which existing at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of six months and is diligently prosecuted to completion and is not located in an overlay zone.

(G) *Six month vacancy.* A building or structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of six months, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

(H) *Continuation of use.* The occupancy of a building or structure by a nonconforming use, existing at the time this Title became effective, may be continued.

(I) *Occupation within six months.* A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of six months after the use became nonconforming.

(J) *Change of use.* The nonconforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a nonconforming use.

(K) *Nonconforming use of land.* The nonconforming use of land, existing at the time this article became effective, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of six months or more, any future use of such land shall be in conformity with the provisions of this article.

('62 Code, § 11-6-4) Penalty, see § 15-6-999

### **AIR INSTALLATION ZONING REGULATIONS**

#### **§ 15-6-35 STATUTORY AUTHORIZATION; FINDINGS OF FACTS; PURPOSE; METHODS OF MITIGATION.**

(A) *Statutory authorization.* In TEX. LOCAL GOV. CODE § 51.001 *et seq.* and § 241.001 *et seq.*, the legislature of the state of Texas has delegated the responsibility to local government to adopt regulations to minimize airport hazards and incompatible development.

(B) *Findings of fact.*

(1) An airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;

(2) An airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft tending to destroy or impair the utility of the airport and the public investment in the airport:

(3) The creation of any airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;

(4) It is necessary in the interest of the public health, public safety, and general welfare to prevent, the creation of an airport hazard;

(5) The creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation;

(6) The prevention of the creation of an airport hazard and the elimination, the removal, the alteration, the mitigation, the marking and lighting of an airport hazard are the public purposes for which a political subdivision may raise and spend public funds and acquire land or interests in land;

(7) The Naval Air Station (NAS) Kingsville fulfills an essential community purpose by training naval aviators to support the nation's defense;

(8) The Air Installations Compatible Use Zones (AICUZ) footprint has been revised to reflect the results of recent mission changes and analysis of aircraft noise, accident potential, and use compatibility, operational alternatives associated with aircraft now in use and aircraft to be used in the reasonably immediate future;

(9) Adoption of the land use recommendations for noise zones, contained in Table 2, Air Installations Compatible Use Zones Suggested Land Use Compatibility in Noise Zones, Chief of Naval Operations Instruction (OPNAVINST) 11010.36B, 19 Dec 2002, and Accident Potential Zones, contained in Table 3, Air Installations Compatible Use Zones Suggested Land Use Compatibility in Accident Potential Zones, OPNAVINST 11010.36B, 19 Dec 2002, balances the rights of private landowners, the public interest in protecting NAS Kingsville from encroachment and in protecting the need to minimize injury to person and property due to noise and accident;

(10) The revised AICUZ footprint shall be filed as a matter of public record with the city;

(11) The area covered by the AICUZ footprint referred to in division (B)(10) is within the "controlled compatible land use area;" and

(12) Due to changing seasonal wind patterns, NAS Kingsville has four primary runways. To determine the most northern, southern, eastern, and western boundaries of the area subject to regulation, the "controlled compatible land use area," as defined in 241.003(7) of the Texas Airport Zoning Act, must be measured from the center line of the runway situated to the outside relative to its adjacent runway.

(C) *Purpose.*

(1) Protect human life and health;

(2) Minimize expenditures of public money for land acquisition, easements, or other methods of mitigation;

(3) Minimize damage to property from aircraft operations and accidents;

(4) Help maintain a sound local economy and stable tax base by assuring the continued operation and efficiency of the Naval Air Station; and

(5) Insure that potential buyers of property are notified the property is near an airport and affected by aircraft operations.

(6) Insure that allowed development in noise zones is built to achieve noise decibel mitigation and that allowed development in Accident Potential Zones (APZs) is built to achieve density mitigation, as defined in the Chief of Naval Operations Instruction (OPNAVINST) 11010.36B (December 22, 2002) and as shown in the AICUZ footprint defined by the NAS Kingsville AICUZ Study (1998) as developed by the Department of Navy or as subsequently updated.

(D) *Methods of mitigation.* In order to accomplish its purpose this article uses the following methods:

- (1) Restriction or prohibition of uses sensitive to aircraft noise or that constitutes an incompatible, use or risk;
- (2) Restriction of minimum lot size, maximum lot coverage or floor area ratio; and
- (3) Require construction techniques and materials that will achieve maximum noise attenuation consistent with the purposes herein.  
(Am. Ord. 2005-25, passed 7-11-05)

#### **§ 15-6-36 DEFINITIONS.**

(A) There are hereby created and established certain airport hazard zones. These zones are defined as follows:

**ACCIDENT POTENTIAL ZONE, (APZ).** An area where an accident is most likely to occur if one occurs. APZ's are not predictors of accidents.

**ACCIDENT POTENTIAL ZONE 1, (APZ 1).** The area normally beyond the Clear Zone (CZ), which possesses a significant potential for accidents.

**ACCIDENT POTENTIAL ZONE 2, (APZ 2).** The area normally beyond APZ 1 which has a measurable potential for accidents. (See Map)

**CLEAR ZONE.** The area at the ends of the runways that possesses a high potential for accidents and in which no development is permitted. The designation for the Clear Zone is "CZ." (See Map)

**HEIGHT LIMITATIONS.** Areas where the height of structures is considered to be hazardous due to the flight operations of the airport. Except as otherwise provided, no structure shall be constructed or maintained or tree permitted to grow, within any zone created in excess of the height limitation established herein. An area located in more than one of the described zones shall be considered to be only in the zone with the more restrictive height limitation. (See Map) The various zones and height limitations are more fully defined as follows:

- (1) **PRIMARY ZONE.** The area longitudinally centered on each runway, and extending 200 feet beyond the runway end and 2200' wide (750' out from the center line of each runway and the 700' distance between the center lines of each runway. No structure or obstruction that is not a part of the landing and take-off area is permitted in the primary zone if it is of a greater height than the nearest point on the runway. (See Map)

(2) **CLEAR ZONE.** The fanned shaped area extending outward from the end of the primary zone. The inner boundary commences at and is the same width as the primary zone (2200') and extends outward for a distance of 2800' to an outer width of 3012'. No structure or obstruction not a part of the landing and takeoff area is permitted if it is of a greater height than the end of the runway. (See Map)

(3) **INNER HORIZONTAL ZONE.** The area (excluding the primary zone, clear zone, transitional zone, and the approach-departure zone) with an outer perimeter formed by swinging arcs 7,500 feet radius about the extended center line of each runway at the end of each primary zone and connecting adjacent arcs by lines tangent to these arcs. No structure or obstruction will be permitted in the inner horizontal zone of a greater height than 150 feet above airport elevation. (See Map)

(4) **CONICAL ZONE.** The area extending outward from the periphery of the inner horizontal zone for a distance of 7,000 feet. Height limits in the conical zone commence at a height of 150 feet above airport elevation at the inner boundary where it adjoins the inner horizontal distance measured outward from the inner boundary to a height of 500 feet above airport elevation at the outer boundary. (See Map)

(5) **OUTER HORIZONTAL ZONE.** The area extending outward from the outer periphery of the conical zone for a distance of 30,000 feet. The height limit within the outer horizontal zone is 500 feet above airport elevation. (See Map)

(6) **APPROACH; DEPARTURE ZONE.** The area longitudinally centered on each runway extended center line, with an inner boundary 200 feet out from the end of the primary zone and the same width as the primary zone then extending outward for a distance of 50,000 feet expanding uniformly in width to 16,700 feet at the outer boundary. Height limits within the approach zones commence at the height of the runway end and increase at the rate of one foot vertically for every 50 feet horizontally for a distance of 25,000 feet at which point it remains level at 500 feet above airport elevation to the outer boundary. (See Map)

(7) **TRANSITIONAL ZONE.** The area with an inner boundary formed by the periphery of the primary zone, the sides of the clear zone and the approach-departure zone, extended outward at right angle to the runway center line and extended center line until the height matches the adjoining inner horizontal zones, conical zone and outer horizontal zone height limit. The height limit at the inner boundary is the same as the height of the adjoining inner horizontal zone and increases at the rate of one foot vertically for every seven feet horizontally to the outer boundary of the transitional zone, where it again matches the height of the adjoining outer horizontal zone. (See Map)

**NOISE ZONES.** Areas between noise contours, having certain land use recommendations. The noise contours are given in decibels for a Day-Night Average Sound Level, DNL (sometimes also called Ldn). Areas where the restriction or prohibition of development or use sensitive to aircraft noise or that constitutes an incompatible use or risk. The designation for the Noise Zones in this article are less than 65 DNL, 65-70 DNL, 70-75 DNL and greater than 75 DNL. (See Map)



(B) The zones created herein, and the maps and tables referenced, are based in substantial part on the Air Installation Compatible Use Zone (AICUZ) 1992, NAS Kingsville Zones, as developed by the Department of Navy or as subsequently updated.  
(Am. Ord. 2005-25, passed 7-11-05)

#### **§ 15-6-37 USE RESTRICTIONS.**

Notwithstanding any provisions of the Air Installation Zoning Regulations, the permitted land use for any property within the controlled compatible land use area, as shown on the Map, shall be in conformity with Tables 2 and 3 attached hereto and incorporated by reference.  
(Am. Ord. 2005-25, passed 7-11-05)

#### **§ 15-6-38 GENERAL PROVISIONS.**

(A) *Land to which this article applies.* This article shall apply to all areas designated as being an Air Installation Compatible Use Zone within the jurisdiction of the city or as may hereafter come within said jurisdiction, to the extent that such areas lie within the area defined in 241.003(7) of the Airport Zoning Act.

(B) *Permit required.* A building permit is required to ensure conformance with this article.

(C) *Compliance.* No structure, building, or land shall hereafter be located, moved, built, altered or have its use changed without full compliance with the terms of this article and other applicable regulations.

(D) *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 or another conflict or overlap, whichever imposes the more stringent restriction shall apply.

(E) *Interpretation.* In the interpretation 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 statute.

(F) *Warning and disclaimer of liability.* The measures required by this article are considered reasonable for regulatory purposes and are based on scientific and engineering considerations. Accidents and noise impacts outside of the areas designated may occur. Alteration in flight paths, operations, and aircraft type can increase or decrease the nature of the impact and geographic area affected. This article does not imply land outside the AICUZ areas will be free from aircraft noise or accidents. This article

does not imply or create liability on the part of the city or, any officer or employee thereof for any damages or harm that may result from reliance on this article or any administrative decision lawfully made thereunder.

(Am. Ord. 2005-25, passed 7-11-05)

#### **§ 15-6-39 ADMINISTRATION AND RESTRICTIONS.**

(A) *Planning Director designated.* The Director of Planning is hereby appointed to administer and implement the provisions of this article. The Director may assign appropriate duties to the Building Official or other personnel.

(B) *Duties and responsibilities.* The Planning Director's duties shall include, but not be limited to:

(1) Maintain and hold open for public inspection all records pertaining to this article;

(2) Review, approve, deny or otherwise process applications made under the provisions of this article;

(3) Interpret, as needed, the exact boundaries of noise and accident zones on the AICUZ map. Where actual field conditions or data supplied by licensed public surveyors conflict with the mapped boundary, the Planning Director shall establish the boundary; and

(4) Any decision or interpretation of Planning Director or regulation of this article may be appealed to the Zoning Board of Adjustment. Any decision to overturn a ruling by the Planning Director or grant a variance must be supported by findings of fact and specifically enumerated by the Board.

(C) *Permit procedures.*

(1) Applications shall be made by submission of a site plan indicating the location, dimensions, existing and proposed structures, floor area (square footage) of all structures and proposed use(s);

(2) Permits shall be issued upon a finding that the proposed land use is compatible with the land use limitations contained in Table 1, as further amplified and explained in Table 2, supra.

(D) *Authority of Zoning Adjustment Board.*

(1) Variance authority.

(a) A person who desires to erect or increase the height of a structure, permit the growth of an object of natural growth, or otherwise use property in violation of an airport zoning regulation, may apply to the Board of Adjustment for a variance from the regulation.

(b) The Board shall allow a variance from an airport zoning regulation if:

1. A literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and
2. The granting of the relief would:
  - a. Result in substantial justice being done;
  - b. Not be contrary to the public interest; and
  - c. Be in accordance with the spirit of the regulation and this article.

(c) The Board may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this article.

(2) Variance procedure.

(a) The Zoning Board of Adjustment as established by the city shall hear and render judgments on requests for variances from the requirements of this title.

(b) The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the Board of Adjustment may appeal such decision in the court of competent jurisdiction.

(d) Variance shall be granted only upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship rather than economic loss to the applicant; and
3. The conditions causing the hardship are unique to the property in the area and not caused or created by the applicant or some previous owner.

(E) *Subdivisions*. Subdivisions shall comply with all use and density requirements contained in this title.

(Am. Ord. 2005-25, passed 7-11-05)

**§ 15-6-40 NONCONFORMING USES.**

(A) Nonconforming uses may be continued unless abandoned for a continuous period of six months after which they may not be resumed.

(B) A nonconforming use shall not be changed to any other type of nonconforming use within any AICUZ area.

(C) Any nonconforming structure or building may be maintained unless damaged in excess of 50% of the market value of the building or structure. Repairs to a structure or building so damaged shall be in conformance with all current regulations.

(D) Existing buildings and structures may be remodeled, enlarged, expanded or altered provided additions, expansions and enlargements conform to this code and the remodeling/alteration does not decrease the degree of conformance.

(Am. Ord. 2005-25, passed 7-11-05)

**§ 15-6-41 RESPONSIBILITY OF DEVELOPERS: SUBDIVISIONS.**

(A) Each developer or landowner who owns property lying within the "controlled compatible land use area" must notify any prospective purchaser of such property of the existence of this article by having each buyer execute a "Disclosure Statement" containing the following language:

"I have been advised that this property is adjacent to a military airport and installation and lies within the 'controlled compatible land use area' as defined by the legislature of the state of Texas in Tex. Local Gov. Code § 241003. I understand that I shall have to include special noise attenuation materials and construction techniques in any construction undertaking designated as having decibel readings above 65 DNL. I am aware that development and construction within this area must conform to guidelines contained in the CITY OF KINGSVILLE AIR INSTALLATION ZONING REGULATION and other applicable law."

(B) Such "Disclosure Statement" shall be executed simultaneously with any "earnest money" contract or other agreement to buy land, and if no "earnest money" contract or other agreement to buy land is executed, prior to the "date of closing" as that term is understood in real estate transactions.

(C) Development within the noise zones designated on the current AICUZ map shall be built to mitigate the noise level to 45 DNL (indoors). It shall be the responsibility of the developer to provide to the Director of Development Services how this will be accomplished, to include site layout and type of material used.

(Am. Ord. 2005-25, passed 7-11-05)

**WIRELESS TELECOMMUNICATIONS FACILITIES****§ 15-6-45 PURPOSE.**

(A) The purpose of this subarticle is to establish guidelines regulating the location of telecommunication towers and antennas in order to minimize their number. Meeting this objective will: protect and promote public safety, minimize and mitigate any adverse visual or aesthetic impacts on the community, and promote the orderly development of telecommunication facilities within the city. It will also: avoid the creation of visual distractions, prevent obstructions to the view of pedestrians and motorists on public thoroughfares, and ensure the structural integrity of supporting structures.

(B) The regulations contained in this subarticle have been developed under the following general guidelines as provided in the Federal Telecommunications Act of 1996:

(1) Cities have local authority over “placement construction and modification” of cellular telephone facilities and other personal wireless telecommunication service facilities.

(2) Regulations “shall not unreasonably discriminate among providers of functionally equivalent services.”

(3) Regulations “shall not prohibit or have the effect of prohibiting the provision of personal wireless services.”

(4) “Denial shall be in writing and supported by substantial evidence.”

(5) Cities may not “regulate the placement, construction and modification of personal wireless service facilities on the basis of environmental or radio frequency emissions to the extent that such facilities comply with the Federal Communication Commissions regulations concerning such emissions.”

(C) Notwithstanding any other provision of this subarticle, installation, construction, alteration, modification or replacement of telecommunications towers and antennas, when permitted by federal and state laws, shall be regulated and governed by the following use regulations and requirements.

(Ord. ORD-2001-15, passed 8-13-01; Am. Ord. ORD-2004-19, passed 8-9-04)

**§ 15-6-46 GENERAL PROVISIONS.***(A) Applications.*

(1) *All applications.* All applications for building permits or a special use exception, under §§ 15-6-48(B) and 15-6-142, for a telecommunications tower, antenna or other facility to provide a telecommunications service, shall include a completed supplemental information form provided by the city. An application shall include the following information:

(a) Site and landscape plans drawn to scale.

(b) A report, including a description of the tower, with technical reasons for its design and the reason the particular location was selected. The report should disclose the technical performance goals (i.e., desired strength signal) for the provider: whether additional towers will need to be located within the city, the conditions necessary to provide adequate coverage, radio frequency coverage prediction maps showing the area to be served before the addition of a new cell, and a radio frequency coverage prediction map that shows coverage after the new cell is operational.

(c) Documentation establishing the structural integrity of the tower for its proposed uses.

(d) The general capacity of the tower, and information necessary to assure that ANSI/TIA/EIA standards are met.

(e) A statement of intent on whether space will be leased to other telecommunication providers.

(f) Proof of ownership of the proposed site or authorization to use the site.

(g) Copies of any necessary easements to provide utilities to the facility.

(h) An analysis of the area containing topographic contours.

(i) The proposed location of the interconnection, if any, between the wireless telecommunication provider and the franchised wired, cable or fiber-optic telecommunication provider. If the interconnection is not located in the equipment enclosure at the base of the tower, then a detailed description of any and all easements that are being used to carry the signal by wire, cable or fiber-optic cable.

(j) Identification of any alternative sites that were available for co-location, and the reason co-location on an existing site was not a practical alternative.

(2) *Applications for special use exceptions.* All applications for a special use exception, under § 15-6-142, for a telecommunications tower, antenna, or other facility to provide a telecommunications service, shall include a completed supplemental information form provided by the city. An application shall include a report with the following information:

(a) Description of the tower, with technical reasons for its design and the reason the particular location was selected.

(b) Any alternative sites that were available for co-location, and the reason co-location on an existing site was not a practical alternative. The technical performance goals (i.e., desired strength signal) for the provider.

(c) Whether additional towers will need to be located within the city, and under what conditions, to provide adequate coverage. A map showing the general location of future towers may be provided. If the general location of any future towers (whether by description within the report or on the map) is not provided, the fact that the telecommunication provider has antennas located on the tower being applied for may not be used to justify the location of any future towers within the city.

(d) Information relating to the number of calls being dropped within the current tower coverage area, the number of failed hand-offs between existing cell sites, and the number of people denied access to the system because there is not enough capacity to handle all calls.

(e) Any maps and information provided under this subsection will be treated by the city as privileged commercial information under § 552.110 of the Texas Public Information Act, Chapter

552, TEX. GOV'T CODE, if each page and sheet is clearly marked and identified as proprietary information that should not be made available to the public. If such a request for the information is received, it will be forwarded to the Attorney General for a determination under § 552.301 of the Act. The city will withhold the information from the requester under § 552.305 of the Act, until after the Attorney General's decision is received. The city will only release the information if directed to do so by the Attorney General.

(B) *Platted lots.* Telecommunications facilities, including towers and related equipment buildings, shall be located on a platted lot

(C) *Technical assistance.* When a special use exception is required to comply with the provisions of this subarticle, and when the technical information provided by the applicant is beyond the technical capacity of city staff to review, the applicant, in addition to the usual application fee, shall reimburse the city for the actual cost to the city for the services of a technical expert to review the application and/or information supplement, up to a maximum of \$5,000.

(D) *Pre-application meetings.* Prior to leasing, purchasing or constructing telecommunication facilities, the telecommunications provider or licensee is required to meet with the Director of Development Services and/or the Building Official, or their designees, to determine if the location will require a special use exception or other approvals, and to review the merits of potential locations

(E) *Master antenna map.* To facilitate co-location and coordination of telecommunication sites, the city shall notify the providers of telecommunication services, listed in the telephone directory or otherwise known to the city, of the enactment of this subarticle, within 30 days of its effective date. Within 90 days of the date of such notice, telecommunications providers shall provide the city with their respective master antenna maps. Each master antenna map shall: show the locations, heights and co-location capabilities of all telecommunications towers with antennas serving any portion of the city; and indicate coverage areas for current telecommunications towers. Within 90 days of the installation of an antenna on any new or existing towers not previously identified, providers shall also provide the city with any updates to the above documents, and notice of any change in ownership of any telecommunications tower. (Ord. ORD-2001-15, passed 8-13-01; Am. Ord. ORD-2004-19, passed 8-9-04)

#### **§ 15-6-47 TELECOMMUNICATIONS TOWER STANDARDS.**

(A) *Applicable federal and state standards.* All telecommunications towers and antennas shall be erected and operated in compliance with current Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and regulations, and other applicable federal, state and local standards.

(B) *Structural standards.* Telecommunications tower structures must be designed and constructed to conform to the most current revision of TIA/EIA 222 standards. However, any telecommunications



tower structures must be designed and constructed to the wind-load speeds established in the Building Code, rather than the basic wind speeds published in TIA/EIA 222.

(C) *Co-location.* If over 75 feet (23 meters) in height, towers shall be designed and built to accommodate a minimum of two telecommunication providers. The owner of the tower must certify to the city that the tower is available for use by other telecommunications service providers on a reasonable and nondiscriminatory basis.

(D) *Fencing and support structures.*

(1) Security fencing shall be installed and must be constructed of wrought-iron, steel, or chain-link fence, or a masonry wall, which is not less than 6 feet (1.8 meters) in height.

(2) The exterior of equipment buildings, within, adjacent to or visible from a residential district, shall be constructed of materials (i.e., siding, brick, masonry or stucco) and in a style and character (i.e., roofing, color and trim) similar to adjoining structures. It must blend with adjacent landscaping and other surroundings. Metal equipment cabinets are not permitted.

(3) The exterior of other equipment buildings and/or metal equipment cabinets, which are located within a nonresidential district and visible from public right-of-ways, must have a neutral finish, or be painted to reflect the color and character of adjoining structures or to blend with adjacent landscaping and other surroundings.

(4) The owner or operator of a telecommunication tower facility may request from the Board of Adjustment a waiver of the requirement for a security fence.

(E) *Setbacks.*

(1) All telecommunication towers, as well as guys and guy anchors, shall be located within the buildable area of the lot and not within the front-, rear- or side-yard building setbacks.

(2) Telecommunication towers shall be set back a minimum of one-and-a-half times the height of the tower from the right-of-way of all federal and state highways and any arterial street.

(3) Except as otherwise provided in this subarticle, telecommunications towers adjacent to residential dwellings must be a minimum of a one-to-one distance-to-height ratio from a single-family, two-family or multiple-family dwelling

(4) Amateur radio antennas must be:

(a) A minimum of a one-to-two distance-to-height ratio from nearest property line,  
and

(b) Erected with the consent of adjoining property owners.

(5) The Building Official may allow the construction of a telecommunication tower that is not adjacent to a dwelling within the setback required by § 15-6-47(E)(2), if the tower, including any antennas and other devices installed on the tower, is built to substantially higher wind-load standards. The minimum setbacks from roadways may be reduced to the minimum required yard setbacks, if the tower will withstand a sustained wind speed of 105 mph, or such wind speeds designated for wind-load design by the Texas Department of Insurance for structures located within the city.

(6) The Zoning Board of Adjustment may reduce the required setback of a telecommunication tower adjacent to a dwelling, if the tower, including any antennas and other devices installed on the tower, are built to substantially higher wind-load standards. The setback from nearest residential structure may be reduced to the minimum required yard setbacks, if the tower will withstand a sustained wind speed of 105 mph, or such wind speeds designated for wind-load design by the Texas Department of Insurance for structures located within the city.

(F) *Signage.*

(1) Except as otherwise permitted in this subarticle, no signage lettering, symbols, images or trademarks, other than one identifying sign that is not in excess of 200 square inches (1,290 square centimeters), shall be placed on or affixed to any part of a telecommunications tower, antenna or antenna array, other than as required by FCC regulations or other applicable laws.

(2) An identifying sign shall be posted on the gate of the security fence or on the door of the equipment enclosure. The identifying sign shall contain the following information to enable public safety personnel to contact the telecommunication tower operator:

(a) The name of the operator of the telecommunications tower, and

(b) A telephone number that is monitored 24 hours a day, 365 days a year.

(G) *Lighting.*

(1) Except as otherwise permitted in this subarticle, no signals, lights or illumination of any kind shall be permitted on or directed toward any tower, unless required by the FCC, the FAA or other appropriate public authority with jurisdiction over lighting of towers.

(2) Security lighting may be installed to illuminate the area surrounding the tower and the equipment building or equipment enclosures. Any lighting must be shielded and directed away from any nearby streets or residences so long as FCC or FAA guidelines, standards and regulations are satisfied.



(H) *Abandonment.*

(1) Within 30 days of its filing with the FCC, the owner of any telecommunications facility shall provide the Building Official with a copy of any notice of its intent to cease operations. Unless an extension is obtained from the Building Official, the telecommunications tower and accessory structures shall be removed within 90 days of the date operations cease.

(2) In the event the use of any wireless communication facility, which would include any telecommunications tower or other antenna support structure, has been discontinued for a period of 360 days, the antenna support structure shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Building Official, who shall have the right to request documentation from the owner/operator regarding the issue of usage.

(3) Upon the determination of abandonment, the owner/operator of the tower or antenna support structure shall remove the tower or structure, within 90 days of receipt of notice from the Building Official notifying the owner/operator of such abandonment. If it is not removed within 90 days, the Building Official shall cause it to be removed at the owner's expense.

(I) *Landscaping.*

(1) Within a residential district, any side of the security fencing surrounding a telecommunication tower antenna facility, within a residential district that is visible from a public road or residence must be screened from view by landscaping. The planting of trees within the fenced area is encouraged.

(2) Within a nonresidential district, any side of the security fencing surrounding a telecommunication tower antenna facility that is located in a front or side yard along a street, or visible from a residence must be screened from view by landscaping.

(3) Landscaping shall be designed to block, within 12 months of installation, the view of the public, from a road or residence, of: the base of the tower, equipment structures and parking areas within the fenced enclosure

(4) Plants shall be selected from those listed in Exhibit A, Preferred Plant List, of Article 12, Landscaping Policy, of Chapter XI: Business Regulations. The use of drought-tolerant trees, shrubs and vines is recommended.

(5) The owner or operator of the antenna facility shall maintain the required landscaping. (Ord. ORD-2001-15, passed 8-13-01; Am. Ord. ORD-2004-19, passed 8-9-04)

**§ 15-6-48 TOWER LOCATION STANDARDS.***(A) Towers permitted by right.*

(1) Freestanding, monopole telecommunications towers 85 feet (26 meters) or less in height, and self-supporting lattice and guyed towers 50 feet (15 meters) or less in height are permitted in the nonresidential districts indicated in Appendix C of the Zoning Ordinance ("Appendix C").

(2) Freestanding, monopole, guyed and self-supporting lattice-work towers of any height are permitted in an I-2 district.

*(B) Towers requiring a special use exception (SUE).*

(1) Except as otherwise provided in this subarticle, monopole towers in excess of 85 feet (26 meters) in height, and other telecommunication towers, including self-supporting, lattice and guyed towers in excess of 50 feet (15 meters) in height, are permitted in the nonresidential districts, and monopole telecommunications towers are permitted in residential districts, as indicated in Appendix C, with a special use exception (SUE).

(2) The following new monopole structures are permitted by right in all zoning areas upon submission of documentation required in § 15-6-46:

(a) The structure, including the equipment, must not exceed 50 feet;

(b) The monopole structure shall meet a total wind loading factor of 550 pounds (or equivalent) at a maximum of 135 mph or less for all attached equipment;

(c) The maximum wind resistance cannot exceed the ultimate resting moment for the specific pole classification as indicated in Appendix D of the Zoning Ordinance ("Appendix D"); and

(d) No single antenna shall be greater than 48 inches in length or cross section.

*(C) Historic/cultural.* Except for compatible alternative mounting structures that effectively camouflage or conceal the presence of telecommunications antennas, telecommunications facilities should not be located on or within 300 feet (90 meters) of property zoned historic or property included in a national or local historic district. In addition, such facilities should, wherever possible, be located so as to ensure that historic or culturally significant vistas and landscapes are protected, and that the views of and vistas from architecturally and/or historically significant structures are not impaired or diminished

*(D) Tower spacing.* Any new telecommunications tower in excess of 180 feet in height must be located a minimum of one mile from any existing tower in excess of 180 feet (54. 9 meters) in height, unless the telecommunications tower is located within an I-2 district.



(E) *Alternative mounting structures.*

(1) New alternative mounting structures, 100 feet (30 meters) or less in height, are permitted, by right, in the nonresidential districts indicated in Appendix C.

(2) New alternative mounting structures in excess of 100 feet (30 meters) in height are permitted, with a special use exception, in the nonresidential districts indicated in Appendix C.

(3) New alternative mounting structures 100 feet (30 meters) or less in height that are also used to provide lighting to parks, stadiums, athletic fields, school playgrounds, tennis courts and other recreational areas are permitted, by right, in the residential districts indicated in Appendix C.

(4) The following new monopole structures are permitted by right in all zoning areas upon submission of documentation required in § 15-6-46:

(a) The structure, including equipment, must not exceed 50 feet;

(b) The monopole structure shall meet a total wind loading factor of 550 pounds (or equivalent) at a maximum of 135 mph or less for all attached equipment;

(c) The maximum wind resistance cannot exceed the ultimate resting moment for the specific pole classification as indicated in Appendix D; and

(d) No single antenna shall be greater than 48 inches in length or cross section.

(5) All other new alternative mounting structures located in the residential zoning districts shall require a special use exception.

(6) Alternative mounting structures must be either:

(a) Similar in color, scale and character to adjoining buildings or structures, or blend with the immediately adjacent landscaping and other surroundings so as to generally avoid the creation of a unique, discreet visual object; or

(b) Designed as an artwork. The design of a proposed, alternative mounting structure intended to also serve as a work of art shall be submitted to the Municipal Arts Commission for review and comment.

(c) Designed as lighting standards for parks, stadiums, athletic fields, school playgrounds, tennis courts and other recreational areas.  
(Ord. ORD-2001-15, passed 8-13-01; Am. Ord. ORD-2004-19, passed 8-9-04)

## **§ 15-6-49 ANTENNA MOUNTING STANDARDS.**

(A) *Purpose.* The purpose of this section is to promote public safety and maintain order and harmony within the city's business, cultural and residential districts, by restricting the size and location of telecommunications antennas.

(B) *Whip and panel antenna mounting standards.*

(1) Provided that the total length of any antenna does not exceed 15% of the height of the structure, individual telecommunications antennas are allowed, as a matter of right, on existing electric utility poles, light standards and telecommunications towers in excess of 40 feet (12 meters) in height.

(2) The height or length of a panel or whip antenna is determined by measuring from the base or point of attachment to a tower or structure to the highest point of any and all components of the antenna.

(3) Telecommunications antennas and arrays are allowed, by right, on existing electric transmission towers.

(4) Existing towers in excess of 50 feet (15 meters) in height may, as a matter of right, be rebuilt, if necessary, to support or contain a new antenna or additional antennas, provided that the new tower is the same height and substantially the same in appearance as the structure it replaces and, at a minimum, is reconstructed to meet the current building codes, including the state's windstorm-resistant construction regulations.

(5) Panel antennas and dish antennas with a length or cross section of 48 inches or less or whip antennas extending 15 feet (4.5 meters) or less in total height, are permitted, as a matter of right, on conforming billboard structures and signs.

(6) Panel antennas that do not extend above billboards and outdoor advertising signs, or whip antennas 15 feet (4.5 meters) or less in height, are permitted, as a matter of right, on conforming billboard structures and signs.

(7) Building-mounted panel antennas are permitted, as a matter of right, on nonresidential buildings and multifamily dwellings in all zoning districts, provided that they do not project to the side more than 36 inches (91 centimeters) from the surface of the building to which they are attached. The antenna's appearance shall be such that its color and texture blends with the building's surrounding surface.

(8) Whip antennas are permitted, as a matter of right, on nonresidential buildings and multifamily dwellings in all zoning districts, provided that their total length, regardless of mounting method or location, does not exceed 25 feet (7.5 meters) or 15% of the height of the building.

(C) *Dish antenna mounting standards.*

(1) Dish antennas shall not be permitted in any front-yard or side-yard setback area adjacent to any roadway.

(2) Ground-mounted dish antennas in excess of 5 feet (1.5 meters) in height shall be screened from roadways and adjacent property with a screening fence, evergreen hedge or masonry wall that is a minimum of six feet in height.

(3) Dish antennas in excess of 10 feet (3 meters) in height, or more than 10 feet (3 meters) in diameter shall not be permitted in any residential zoning district.

(4) Building/roof mounted dish antennas 3.3 feet (1 meter) or less in diameter are permitted in all zoning districts indicated in Appendix C.

(5) Building/roof-mounted dish antennas 6.6 feet (2 meters) or less in diameter are permitted on all nonresidential buildings and multifamily dwellings in any zoning district.

(6) Building/roof-mounted dish antennas in excess of 6.6 feet (2 meters) in diameter may be permitted, in any zoning district, on buildings in excess of 100,000 square feet (9,000 square meters) of building floor area.



(D) *Structural certification.* Prior to the installation of any building/roof-mounted telecommunications antenna, antenna array, or support structure on other than a single-family residence, the Building Official shall be provided with an engineer's certification that the structure will support and not be adversely affected by the proposed antenna and associated equipment. (Ord. ORD-2001-15, passed 8-13-01; Am. Ord. ORD-2004-19, passed 8-9-04)

#### **§ 15-6-50 APPEAL.**

Any entity that desires to erect or utilize telecommunication facilities that wishes to present evidence that it would be limited, by current city ordinances or regulations dealing with zoning and land use, may apply for such use under this section. Upon a showing that strict application of the regulations would prohibit or have the effect of prohibiting personal wireless service as defined by federal law, the Zoning Board of Adjustment shall grant a special use exception, consistent with the spirit and intent of this article and section, to the extent necessary to prevent the prohibition.

(Ord. ORD-2001-15, passed 8-13-01; Am. Ord. ORD-2004-19, passed 8-9-04)

#### **§ 15-6-51 VIOLATION DEEMED NUISANCE.**

In addition to the penalties provided in this code, any violation of this subarticle is hereby declared to be a nuisance. In addition to any other relief provided by this subchapter, the city may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this subarticle, and other available relief.

(Ord. ORD-2001-15, passed 8-13-01; Am. Ord. ORD-2004-19, passed 8-9-04) Penalty, see § 15-6-999

### ***OPUD PLANNED UNIT DEVELOPMENT***

#### **§ 15-6-55 PERMITTED USES AND BUILDINGS; WHEN OPUD STATUS ENCOURAGED.**

Planned unit development shall be an optional use in the districts specified in the Use Chart in Appendix A. The uses and buildings permitted shall include any authorized use as a permitted or special use for the district within which the planned unit development is proposed. Permitted uses shall be designed so as to encourage efficient site use and maintenance. Planned unit development status is encouraged for sites posing environmental difficulties and constraints. ('62 Code, § 11-2D-1)

**§ 15-6-56 SITE PLAN REQUIRED; NECESSARY INFORMATION.**

(A) (1) No permit shall be issued for construction in a planned unit development area unless there has been a site plan approved by the City Planning and Zoning Commission and a subdivision plat thereof recorded in the county plat records. Four prints of a preferred site plan shall be submitted for review.

(2) The requirement for a new site plan may be waived when:

(a) The site has been platted for record after receiving the zoning classification which will be utilized for planned unit development; and

(b) The proposed development is in full compliance with all other planned unit development requirements. ('62 Code, § 11-2D-2)

(B) (1) The name of the record owner and the engineer, surveyor, architect or land planner responsible for preparation of the site plan. The name of the subdivision; the names of adjacent subdivisions, the designation of adjacent unsubdivided property with property owners shown; the names and location with widths of adjacent streets; and numbers of all existing and proposed lots, blocks and tracts.

(2) The subdivision plat, in addition to a subdivision name, if any, shall be clearly labeled "Planned Unit Development Site Plan."

(a) The following information shall be required on preliminary plan:

1. The location of all building setback lines, utility easements, and emergency access easements.

2. Certificates of approval to be completed by the Commission.

3. North point, scale and date.

4. Topographic map with contour intervals as required by the Commission, spot elevations may be required. Wooded areas shall be outlined.

5. Approximate outlines of the perimeter walls of buildings with their distances from property lines and each other building.

6. Identification of open space, recreation space, car parking areas, driveways and other access features.

7. A table showing the approximate net land area and the planned amounts of floor area, open space, recreation space and car parking spaces with their ratios to the net land area.

(b) The following information shall be required on a final plat:

1. An accurate boundary survey of the property with correct bearings and distances, referenced to survey lines and adjacent subdivisions, and showing the lines of all adjacent lands and the lines of adjacent streets and alleys, with their widths and names.
2. The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions and with all other information necessary to reproduce the plat on the ground.
3. A certificate of dedication of public areas and improvements on the plat and a copy of any restrictive covenants to be filed with the plat. ('62 Code, § 11-2D-3)

#### **§ 15-6-57 SUBMISSION, HEARING AND APPROVAL.**

(A) Submission, hearing and consideration and approval of a planned unit development site plan shall be in accordance with the rules of procedure of the City Planning and Zoning Commission. The Commission may deny, modify, approve, or approve with conditions.

(B) The City Planning and Zoning Commission may authorize and direct the Executive Secretary to execute its certificate of approval on planned unit development site plans which are in strict compliance with the criteria and guidelines which the Commission shall develop and promulgate for that purpose. When the City Planning and Zoning Commission finds that detailed plans for proposed construction were substantially completed on the effective date of this subarticle, and were diligently pursued for implementation within a period of six months after the effective date of this article, the Planning and Zoning Commission may, at its discretion, waive, modify or alter these requirements to the end that the spirit of the requirements shall be generally observed by substantial justice done to the applicant.  
( '62 Code, § 11-2D-4)

#### **§ 15-6-58 GENERAL REQUIREMENTS IN ALL DISTRICTS.**

(A) *Height regulations.* The maximum permitted height for a building or structure in any planned unit development shall be limited to three stories in Districts R1 and R2, four stories in Districts R3, R4, C1 and C2 and eight stories in all other districts.

(B) *Front yard.* There shall be a front yard of not less than 20 feet on any portion of the site which has frontage on a public street (This does not apply to public access easements). The required front yard cannot be paved except for necessary driveways and must remain as open space.

(C) *Side yard.* There shall be a side yard of at least 10 feet adjacent to any lot not a part of the planned unit development and which is zoned R1, R2, AG or MH, provided any wall less than five feet from any property line is rated as a four hour fire wall by the Building Code; then no side yard shall be required. Paved driveways are permissible in side yards.

(D) *Rear yard.*

(1) There shall be a rear yard of at least 10 feet when adjacent to any lot not a part of the planned unit development and which is zoned R1, R2, AG or MH, provided any wall less than five feet from any property line is rated as a four hour fire wall by the Building Code; then no rear yard shall be required. Paved driveways are permissible rear yards.

(2) When outside entrances to individual dwelling units are provided, no such dwelling unit need front upon a dedicated street.

(E) *Emergency provisions.* Emergency provisions and access shall be provided to each principal building by:

(1) A street or public alley; or by

(2) (a) A private way, alley or paved place, delineated on an approved subdivision plat conforming to the requirements of TEX. LOC. GOV'T CODE, §§ 212.001 et seq. Access may also be provided by an emergency access easement approved by the City Planning and Zoning Commission and recorded in the Kleberg County Deed Records, provided that where access is not available by a street, alley, place or recorded easement; and recorded easement access is planned, construction permits may be issued and construction may proceed but certificate of occupancy shall not be issued until the required emergency access easements are approved by the City Planning and Zoning Commission and filed for record in the Kleberg County Deed Records. Emergency access easements shall be not less than 50 feet in width, the boundaries shall be distinctly and permanently marked on the ground and the entrances shall be permanently marked by signs not less than two square feet nor more than four square feet in face area.

(b) The paved width of any emergency access easement may be reduced to, but not below, 30 feet provided that curbs shall not exceed five inches in height and further provided that there shall be no obstructions which will interfere with the use of the full 50 foot width of the easement by emergency vehicles and their appurtenances. Turnarounds with a radius of 50 feet and paved diameter of at least 60 feet shall be provided on all dead-ends.

(c) Fire hydrants will be provided and placed to city specifications.  
(62 Code, § 11-2D-5) Penalty, see § 15-6-999

**§ 15-6-59 FLOOR AREA RATIO, OPEN SPACE, RECREATION SPACE.**

The maximum floor area, the minimum open space, the minimum recreation space shall be as tabulated below for the district in which the planned unit development is located:

<i>District</i>	<i>Maximum F.A.R.<sup>1</sup></i>	<i>Minimum O.S.R.<sup>2</sup></i>	<i>Minimum R.S.R.<sup>3</sup></i>	<i>Minimum Parking</i>
R-1	30%	170%	15%	— <sup>4</sup>
R-2	40%	120%	14%	— <sup>4</sup>
R-3	45%	100%	13%	— <sup>4</sup>
R-4	55%	58%	9%	— <sup>4</sup>
<sup>1</sup> F.A.R. is ratio of floor area (all stories) to land area. <sup>2</sup> O.S.R. is ratio of open space to total floor area. <sup>3</sup> R.S.R. is ratio of recreation space to total floor area (exclusive of O.S.R.) <sup>4</sup> The minimum number of parking spaces for residential uses shall be two spaces per dwelling unit. For federally assisted housing for the elderly, the total number of car parking spaces shall be not less than 1.0 per dwelling unit. Any units exceeding 750 square feet shall meet the normal parking ratio. Nonresidential uses shall comply with the parking requirements for the type of use.				
Note: Planned unit development is not permitted in Districts AG and MH. In no case shall the number of dwelling units exceed 25% of that which is allowed for the district in which the planned unit development exists. Service areas and streets shall not be used for calculating the allowable density.				

('62 Code, § 11-2D-6) Penalty, see § 15-6-999

**§ 15-6-60 ADJACENT OPEN SPACE BONUS FOR PLANNED UNIT DEVELOPMENT.**

(A) Subject to City Planning and Zoning Commission approval, adjacent and abutting beneficial open space which has a reasonable expectance of perpetuity (such as a river or a public park) may be considered as a bonus not land area for computation of the number of dwelling units permitted on a site.

(B) Limitations.

(1) Not more than 100 feet of the depth of the abutting open space shall be counted; and

(2) The increase in the total floor area allowable by bonus open space shall not exceed 20%.

('62 Code, § 11-2D-7) Penalty, see § 15-6-999

**§ 15-6-61 REQUESTS NOT SCHEDULED FOR HEARING.**

Requests for planned unit development status that fail to supply the site plan information required (§ 15-6-56(B)) shall not be scheduled for a hearing.  
(‘62 Code, § 11-2D-8) (Ord. 84009, passed 6-18-84)

***U.S. 77 BY-PASS REGULATIONS*****§ 15-6-70 APPLICATION; JURISDICTION.**

This subarticle shall apply to all land within 300 feet of the right-of-way (R.O.W.) line of U.S. 77 By-pass that has or is intended to have driveway access onto U.S. 77 By-pass within the jurisdiction of the city.  
(‘62 Code, § 11-2E-1)

**§ 15-6-71 DRIVEWAY AND ACCESS PERMITS REQUIRED; SUBMISSION OF SITE PLAN.**

Driveway and access permits are required for all property under the provisions of this subarticle. A site plan shall be submitted for all applicants for a building permit showing all proposed access onto any site with U.S. 77 By-pass frontage.  
(‘62 Code, § 11-2E-2) Penalty, see § 15-6-999

**§ 15-6-72 DESIGN STANDARDS.**

(A) *Lot size.* The minimum lot size for any property under the jurisdiction of this subarticle developed for commercial purposes shall be one acre.

(B) *Lot orientation.* Residential lots shall be oriented in so far as practical so as to avoid access onto U.S. 77 By-pass.

(C) *Lot width.* The minimum frontage of any lot line on U.S. 77 By-pass shall be 100 feet unless access onto U.S. 77 By-pass is unnecessary. Lots with less than 100 feet of frontage shall not be given an access or driveway permit unless legally existing prior to the adoption of this subarticle.

## (D) Access.

(1) Driveways and access to property shall comply with applicable state regulations, this subarticle, or other applicable restrictions to the extent that the most stringent restriction shall prevail. The following standards shall apply to U.S. 77 By-pass access:

<i>Frontage</i>	<i>No. of Driveways Maximum</i>
Up to 151 ft.	1
151 ft. to 320 ft.	2
321 ft. to 600 ft.	3
Over 600 ft.	Design review required

(2) The minimum distance from any street R.O.W. intersection for a driveway shall be 20 feet.

(E) *Streets.* Additional street access onto U.S. 77 By-pass shall be permitted only when essential to permit development. Street access to U.S. 77 By-pass shall generally conform to the comprehensive plan and a thoroughfare plan on file with the Texas Department of Highways and Transportation. Private streets shall conform to public street standards for access.

('62 Code, § 11-2E-3) Penalty, see § 15-6-999

### § 15-6-73 USES RESTRICTED.

(A) The following streets are designated as arterial streets for the purposes of this subarticle: Corral Avenue; Santa Gertrudis Avenue; King/Kenedy Avenues; Caesar Avenue; Angle Road; General Ricard E. Cavazos Boulevard; and Trant Road.

(B) No property under the jurisdiction of this subarticle shall be zoned for any commercial use unless the property is within 600 feet of an arterial road without the recommendation of the Planning and Zoning Commission except by a vote of 75% of the members of the City Commission.

(C) Existing lots or parcels which are divided by a line 600 feet from the nearest arterial street may have commercial zoning extended up to 250 feet by a simple majority to the City Commission. Such extension shall be made in so far as possible to avoid substandard lot size, width, and to prevent multiple zoning designations of lots and parcels.

('62 Code, § 11-2E-4) (Ord. 84009, passed 6-18-84) Penalty, see § 15-6-999

**AREA REGULATIONS****§ 15-6-85 CONFORMANCE STANDARDS.**

Except as herein provided, no building or structure or part thereof shall be erected, altered, or converted for any use permitted in the district in which it is located unless it is in conformity with all the minimum regulations specified herein and on the Space Requirements Chart (Appendix B) for lot area, lot width, lot depth, lot area per unit, lot coverage, open space, height, and front, rear and side yard.

('62 Code, § 11-3-1) Penalty, see § 15-6-999

**§ 15-6-86 LOT AREAS.**

(A) The minimum lot area for uses in the various districts shall be in accordance with the information indicated on the Space Requirements Chart (Appendix B), except that a lot having less area than required which was an official lot of record prior to the adoption of this article may be used provided that other requirements set forth are satisfied.

(B) No lot may hereafter be reduced or further reduced in area below the minimum requirement set forth.

(1) Special area regulations for the R3 and R4 Zones:

(a) For each single-family dwelling 6,000 square feet.

(b) For each two-family dwelling or more, 6,000 square feet for the first separate dwelling structure plus 1,000 additional square feet for each additional family unit in the dwelling structure.

(c) For group dwelling, 6,000 square feet for the first separate dwelling structure and 1,000 additional square feet for each additional family unit in the structure; and 2,000 square feet for each additional separate dwelling structure and 1,000 additional square feet for each additional family unit in the dwelling structure.

(2) No business or enterprise located in an industrial district (I1 or I2) may devote more than 10% of the floor area of any building(s) on the lot to the purpose of display or on premises sale of its products.

(3) Minimum lot size for single-family dwellings attached shall be 2,500 square feet with a minimum lot width of 25 feet and minimum depth of 80 feet.

(4) The minimum lot size for lots with direct access onto U.S. 77 By-pass shall be one acre unless legally existing prior to the adoption of this article.

('62 Code, § 11-3-2) Penalty, see § 15-6-999

**§ 15-6-87 LOT WIDTH.**

The minimum lot width for uses in the various districts shall be in accordance with the information indicated on the Space Requirements Chart (Appendix B), except that a lot having less width than herein required which was an official lot of record prior to the adoption of this article may be used provided that other requirements set forth herein are satisfied. No lot may hereafter be reduced or further reduced in width below the minimum requirement set forth. Lots directly accessing onto U.S. 77 By-pass shall have a minimum lot width of 100 feet.

('62 Code, § 11-3-3) Penalty, see § 15-6-999

**§ 15-6-88 LOT DEPTH.**

The minimum lot depth for uses in the various districts shall be in accordance with the information indicated on the Space Requirements Chart (Appendix B), except a lot having less depth than herein required which was an official lot of record prior to the adoption of this article may be used provided that other requirements set forth herein are satisfied. No lot may hereafter be reduced or further reduced in width below the minimum requirement set forth.

('62 Code, § 11-3-4) Penalty, see § 15-6-999

**§ 15-6-89 OPEN SPACE.**

All residential uses shall provide and maintain a minimum of 400 square feet of usable open space for each dwelling unit. Usable open space shall mean outdoor area excluding parking and other service areas, which is utilized for liability and related amenity, such as outdoor living, associated recreation and landscaping and which is unobstructed from its lowest level to the sky except for normal roof overhangs or architectural projections. All usable open space shall be accessible to and usable by all residents residing on the site. Usable open space may include areas at the ground level and no roofs, decks or balconies for common use; provided that such areas meet such criteria as is hereinafter set forth. The minimum dimensions for usable open space at ground level shall be 10 feet and the minimum area shall be 100 square feet. The minimum dimensions for usable open space located on roofs, decks, or balconies available for common use shall be 15 feet and the minimum area shall be 300 square feet. At least one-half of the required usable open space shall be at ground level. Private courts, decks, or balconies may be utilized to satisfy up to 30% of the total required usable open space. ('62 Code, § 11-3-5) Penalty, see § 15-6-999

**§ 15-6-90 FRONT YARD.**

(A) The minimum required front yard for uses in various districts shall be in accordance with the information indicated on the Space Requirement Chart (Appendix B), except that where a lawfully existing building at the effective date of this article has a smaller front yard than herein prescribed may be altered provided such alteration in no way increases the degree of nonconformity and provided all other requirements are satisfied. No front yard may hereafter be reduced below the minimum requirement set forth.

(B) Special front yard regulations.

(1) Where a building line has been established by plat or covenant and such line requires a greater front yard setback than is prescribed by this article, the building line established by plat or covenant shall be complied with. Where no building line is dictated by plat or covenant, and a building line has been established by the majority of the existing homes within a subdivision, the existing building line may be followed.

(2) The front yard shall be measured from the property line to the front face of the building, covered porch, covered terrace, or attached accessory building. Steps, uncovered porches, eaves, and roof extensions may project into the required front yard for a distance not to exceed four feet. Where no front yard is required, all stairs, eaves, roofs, and other projections shall be located behind the property line.

(3) Gasoline service station pump islands may not be located nearer than 10 feet to any front property line. Awnings for gasoline pump islands may extend within one foot of any street right-of-way line.

('62 Code, § 11-3-6) (Ord. 84009, passed 6-18-84; Am. Ord. 87007, passed 3-23-87; Am. Ord. 90039, passed 10-22-90) Penalty, see § 15-6-999

**§ 15-6-91 SIDE YARD.**

(A) The minimum required side yard for uses in various districts shall be in accordance with the schedule indicated on the Space Requirement Chart (Appendix B), except that where a lawfully existing building at the effective date of this article has a smaller side yard then prescribed, it may be altered provided such alteration in no way increases the degree of nonconformity and provided all other requirements are satisfied. No side yard may hereafter be reduced below the minimum requirement set forth.

(B) Special side yard regulations.

(1) Every part of the required side yard shall be open and unobstructed except for the normal projections of window sills, belt courses, cornices, chimneys, and other architectural features projecting no more than 12 inches into the required side yard and roof eaves projecting no more than 36 inches into the required side yard.

(2) Attached dwellings. Where a fire wall of a dwelling, garage, or carport is located on a property line, the roof shall be so designed and constructed as not to drain water onto the adjoining lot.

(3) Whenever any use or district not normally requiring a side yard adjoins a use or district in which side yards are required, a minimum five foot side yard shall be maintained.

(4) A one-family attached dwelling separated from another by a fire or party wall need not provide a side yard except that no complex of attached one-family dwellings shall exceed 300 feet in length. A minimum required side yard of five feet shall be provided so that any building shall be at least 10 feet from any other building.

(5) A complex of multiple-family dwelling units shall maintain a minimum side yard separation of 10 feet so that any two adjacent complexes shall be at least 20 feet apart.

(6) Gasoline pumps shall be located at least 10 feet from any side property line.

(7) Any building within five feet of a side yard must satisfy a four hour fire wall standard, unless a common wall agreement exists and is recorded upon the deed.  
( '62 Code, § 11-3-7) (Ord. 84009, passed 6-18-84; Am. Ord. 87007, passed 3-23-87) Penalty, see § 15-6-999

#### **§ 15-6-92 REAR YARDS.**

(A) No building or structure shall hereafter be located, erected, or altered to have a rear yard smaller than prescribed on the Space Requirement Chart (Appendix B), except that where a lawfully existing building at the effective date of this article may have smaller rear yard than herein required, such building shall have the status of a lawful nonconforming structure, and no rear yard existing shall be reduced below the minimum set forth.

(B) Special rear yard regulations.

(1) No rear yard is required for non residential uses upon lots which have rear lot lines adjacent to an alley of at least 20 feet in width.

(2) Nonresidential uses which have a rear lot line adjacent or contiguous to another nonresidential use require no minimum rear yard provided the rear wall satisfies four hour fire wall standards.

(3) Nonresidential uses abutting or adjacent to a residential district shall maintain a minimum rear yard of 10 feet.

(4) Accessory buildings may be located in the required rear yard provided the building is at least five feet from the rear lot line and the rear yard does not abut an alley.

(5) The ordinary projections of window sills, belt courses, cornices, chimneys, and roof overhangs may extend three feet into the required rear yard.  
( '62 Code, § 11-3-8) Penalty, see § 15-6-999

**§ 15-6-93 HEIGHT REGULATIONS.**

(A) *Buildings and structures.* No building or structure shall be located, erected or altered so as to exceed the height limit specified on the Space Requirement Chart (Appendix B), for the district in which the building is located. Airport height regulation promulgated by the Federal Aviation Authority shall be considered part of this article and shall be given full force and effect.

(B) *Utility equipment.* Water tanks, radio, microwave, and television towers may exceed the required height regulation, except as restricted by the Federal Aviation Authority.  
(‘62 Code, § 11-3-9) (Ord. 84009, passed 6-18-84) Penalty, see § 15-6-999

**§ 15-6-94 SPECIAL USE RECREATIONAL VEHICLE PARK; RECREATIONAL VEHICLE SPACES.**

(A) When associated with hotels/motels, a recreational vehicle park shall maintain a minimum space width of 20 feet with a total space area of at least 1,000 square feet. The total number of spaces shall not exceed 50% of the number of guest rooms customarily available. Minimum acreage requirements for recreational and total space areas are not required. However, all other requirements of Article 2 of this chapter shall be satisfied prior to site plan approval. (‘62 Code, § 11-3-10)

(B) Site plans may contain a limited number spaces designed to accommodate overnight or short term rentals in recreational or mobile home/manufactured home parks notwithstanding the requirements of Article 2 of this chapter. The total number of such spaces shall not exceed 50% of the number of conventionally sized spaces within the park. The minimum size for overnight and short term use shall be 1,000 square feet. The minimum space width for such spaces shall be 20 feet. (‘62 Code, § 11-3-11) (Ord. 89048, passed 11-27-89; Am. Ord. 2003-11, passed 5-12-03)  
Penalty, see § 15-6-999

**PARKING****§ 15-6-105 GENERAL REQUIREMENTS.**

Except as herein provided no building or structure shall be erected, altered or converted for or to any use unless there shall be provided on the lot or parcel vehicle parking of at least the following ratio of vehicle spaces for the uses specified in the designated districts and all roadways comply with the standards contained herein, except that an established use lawfully existing at the effective date of this article need not provide parking or roadways as herein set forth and that no existing vehicle parking or roadways may be reduced or further reduced below the minimum standards herein required. All required parking spaces shall be paved to suppress dust.  
(‘62 Code, § 11-4-1) Penalty, see § 15-6-999

**§ 15-6-106 SPECIFIC REQUIREMENTS.**

In all districts other than the Central Business District (C-3) for which no off-street parking is required, the following schedule shall apply:

- (A) *House or apartment.* Two spaces for each unit except as elsewhere provided.
  - (B) *Bowling alley.* Four spaces for each lane.
  - (C) *Boarding houses, dormitories, fraternities or sororities.* Two spaces per three individuals.
  - (D) *Clinics or doctor's office.* Seven spaces per doctor provided a minimum of 10 spaces/clinic.
  - (E) *Hospitals.* One space for each bed.
  - (F) *Hotel or motel.* One and one-quarter space for each unit, room or guest accommodation.
  - (G) *Restaurant or cafeteria.* One space for each four fixed seats and one space for each 50 square feet of floor area for moveable seats open to the public.
  - (H) *Storage or warehouse.* One space for each 5,000 square feet of floor area.
  - (I) *Manufacturing, processing or repair.* One space for each two employees working on the highest employment shift.
  - (J) *Office, general.* One space for each 200 square feet.
  - (K) *Commercial, recreation and amusement (other than listed).* One space for every 250 square feet in use.
  - (L) *Retail or personal service.* One space for each 250 square feet of floor area.
  - (M) *Mortuaries.* Thirty spaces for each chapel or area in which services are to be held.
  - (N) *Theaters, meeting rooms, churches and places of public assembly.* One space for each four fixed seats and one space for 50 square feet of floor area for moveable seats under maximum seating arrangement in each main assembly room.
  - (O) *Terminal facilities, including airport, railroad, freight, bus depots and similar facilities.* Spaces to be determined by special procedure.
- ('62 Code, § 11-4-2) Penalty, see § 15-6-999

**§ 15-6-107 SPECIAL OFF-STREET PARKING REGULATIONS.**

(A) In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building or development.

(B) Parking in R1 and R2 Districts shall be provided only in areas properly located for a future garage.

(C) Prior to the issuance of any building permit, a plan which clearly and accurately designates parking spaces, access aisles, driveways, and the relationship to the use to be served by the off-street parking shall be forwarded to the Department of Planning for approval. Approval will be based on:

(1) Adequate number of spaces.

(2) Relation of parking to use.

(3) Parking stall to be nine feet by 18 feet paved surface.

(4) All parking spaces must be usable and accessible by adequate roadway parking configuration to be approved by the City Planner.

(D) In residential zones no driveway shall be wider than 22 feet. No residential lot may have more than two curb cuts or driveways per street frontage. Complexes which require more than the 22 foot maximum or more than two driveways must be approved by the Planning and Zoning Commission.

(E) Location of parking space. Parking space as required above shall be on the same lot with the main building, or in the case of nonresidential buildings, may be located not further than 300 feet therefrom.

('62 Code, § 11-4-3) Penalty, see § 15-6-999

**§ 15-6-108 DRIVEWAYS, STREET AND ROADWAY STANDARDS; ACCESS TO BUSINESSES.**

(A) Service stations, roadside stands, public parking lots, and all other businesses, requiring motor vehicles access shall meet the requirements as hereinafter provided or as prescribed in the Texas State Department of Highways Manual entitled *Regulations for Access Driveways to State Highways* (located in the appendix of Chapter IX, Article 10), or §§ 9-10-1 et seq. of this code.

(B) Access to the station or other structure or parking lot shall be controlled as follows:

(1) Access shall be by not more than two driveways for each 100 feet or fraction thereof frontage on any street. The Planning Director shall prohibit excessive driveways on parcels with the frontages in excess of 200 feet.

(2) No two of the driveways shall be closer to each other than 20 feet on the same parcel, and no roadway shall be closer to a side property line than one and one-half feet, unless a driveway agreement for both properties exists.

(3) Each driveway shall be not more than 35 feet in width measured at right angles to the center line of the street, except as increased by permissible curb return radius. The entire flare of any return radius shall fall within the right-of-way.

(4) No driveway shall be closer than 20 feet to the point of intersection of two property lines at any corner as measured along the property line, and no roadway shall extend across such extended property line.

(5) In all cases where there is an existing curb and gutter or sidewalk on the street, the applicant for a permit shall provide a safety island along the entire frontage of the property, except for the permitted roadways. On the two ends and street side of each such island shall be constructed a concrete curb, the height, location and structural specifications of which shall be approved by the City Engineer. Maximum and minimum curb return radius permitted and minimum roadway approach angles to the center line of the street are required as shown in the manual and made by this reference as much a part of this article as if fully described and detailed herein.

(6) Where there is no existing curb and gutter or sidewalk, the applicant may at his option install such safety island and curb, or, in place thereof shall construct along the entire length of the property line, except in front of the permitted roadways, a curb, fence, or pipe rail not exceeding two feet or less than eight inches in height.

(7) Private streets may be approved provided the designated engineering and construction fully comply with municipal standards.

(8) Driveways onto U.S. 77 By-pass shall comply with the provisions of §§ 15-6-70 through 15-6-73 of this article.  
(62 Code, § 11-4-4) Penalty, see § 15-6-999

## ***SIGN REGULATIONS***

### **§ 15-6-115 SIGNS RESTRICTED.**

(A) The size, number, characteristics, and location of signs are restricted by this Article. Signs owned by or required by governmental entities are not regulated by this Article. Advertising signs (signs not on the lot occupied by the business identified or signs aimed at products sold on site) are limited to business, industrial, and agricultural districts with property having frontage on numbered U.S. and State Highways.

(B) Owner identification signs are permitted in all retail, commercial, industrial and agricultural districts (C-1, C-2, C-3, C-4, I-1, I-2, Ag).  
(Ord. 97041, passed 12-8-97)

#### **§ 15-6-116 RESIDENTIAL SIGNS PERMITTED.**

No signs other than one real estate sign per street frontage (for rent or for sale) with a maximum area of ten square feet, political signs (any number) with a maximum area of 80 square feet, per sign, occupant's name signs (two) with no business reference and a maximum area of three square feet shall be permitted in the R-1 Single-Family and R-2 Two-Family Districts. In the R-3 Multi-Family and R-4 General Residential Districts, all signs permitted in the R-1 District and one sign per street frontage (maximum size of 80 square feet per sign) identifying the name of apartments are permitted. No sign shall be placed within 20 feet of the point of intersection of any two right-of-way lines.  
(Ord. 97041, passed 12-8-97)

#### **§ 15-6-117 OWNER IDENTIFICATION SIGNS PERMITTED.**

(A) Owner identification signs in permitted districts shall comply with the standards of this section. Freestanding signs are limited to one sign per street frontage. The maximum size of any freestanding owner identification sign shall be 200 square feet. Freestanding signs shall have at least eight feet minimum clearance or be of such a design as to preclude pedestrians from walking beneath the sign. No sign shall be placed within an arc formed by a 20 foot radius from the point of intersection of two street right-of-way lines unless it complies with § 15-6-120. Each business may possess one sign intended for temporary or portable use, not including banners. Temporary or portable signs if electrically connected are limited to a three foot cord. Projecting wall signs shall have a maximum size of 80 square feet.

(B) Flat wall signs shall have no maximum size. Roof signs shall not exceed 200 square feet and be limited to one sign per building. Roof and wall signs shall not project more than one foot from the building and it shall be anchored to withstand wind conditions as specified by the Building Code.

(C) Temporary sandwich board signs may only be located in front of commercial properties within the Historic District where sidewalks are a minimum of eight feet wide. These temporary signs shall be located on the sidewalk during business hours. Under no exception shall the signs be placed over any commemorative pavers. The total size of the sign is not to exceed 42 inches by 24 inches (height x width). The signs must be internally weighted to withstand strong winds. The temporary sandwich board signs shall be placed on the sidewalk one foot from the curb. Only one sandwich board sign shall be permitted per business, and the sign shall be located in front of that specific business, not at another location. If the business is a corner property, the sign may only be placed in one location. Historical Development Board design approval is required prior to a permit being issued by the city.  
(Ord. 97041, passed 12-8-97; Am. Ord. 98003, passed 2-23-98; Am. Ord. 98013, passed 7-13-98; Am. Ord. 2006-57, passed 10-23-06)



**§ 15-6-118 ADVERTISING SIGNS.**

Advertising signs shall not exceed 200 square feet.  
(Ord. 97041, passed 12-8-97)

**§ 15-6-119 PROJECTING SIGNS.**

No sign shall be permitted on or to project into the public right of way except in the Central Business District (C-3) upon receipt of a special use permit. In no case shall any sign be less than eight feet above the sidewalk. Special use permits for signs may be revoked upon 30 days notice by the City Commission and signs must be removed from the public right of way by the end of the 30 day period.  
(Ord. 97041, passed 12-8-97)

**§ 15-6-120 OBSTRUCTING SIGNS.**

Signs shall be designed and located so as not to significantly obstruct sight lines of driveways or intersections of public streets.  
(Ord. 97041, passed 12-8-97; Am. Ord. 98013, passed 7-13-98)

**§ 15-6-121 STROBE, REVOLVING AND RAPIDLY FLASHING LIGHT DISPLAYS PROHIBITED.**

Any light displayed every 60 cycles per minute shall be prohibited. Any display resembling traffic-control devices, emergency signals, or caution signals are prohibited. Any display utilizing sirens, bells, whistles, or otherwise emitting noise detectable beyond the property line shall be prohibited. Revolving signs shall be limited to no more than one revolution every ten seconds.  
(Ord. 97041, passed 12-8-97)

**§ 15-6-122 TRAFFIC FLOW SIGNS.**

Signs to facilitate or direct traffic flow shall be permitted as needed. Traffic signs containing advertising or owner identification information shall be counted as owner identification or advertising signs. All such signs shall meet the requirements of the manual and specifications for a uniform system of traffic control devices adopted by the Texas Transportation Commission. No sign may be posted on or in view of a highway which attempt to direct the movement of traffic or prohibits viewing of a traffic sign or signal.  
(Ord. 97041, passed 12-8-97)

**§ 15-6-123 IRREGULAR SHAPED SIGNS.**

Signs of irregular shape (other than square, rectangle, triangle, or circle) shall have their area computed by drawing a rectangle around the sign and computing the enclosed area.

(Ord. 84-009, passed 6-18-84; Am. Ord. 97041, passed 12-8-97)

**§ 15-6-124 MAXIMUM SIZE; U.S. HIGHWAY 77 BYPASS.**

(A) Owner identification and advertising signs located within 300 feet of the U.S Highway 77 Bypass right of way, which utilize steel poles, shall not have their total display face area exceed 400 square feet, with a maximum height of ten feet and a maximum length of 40 feet, inclusive of border and trim, but excluding the base or apron.

(B) The maximum size limitations apply to each side of the sign structure or structures visible to approaching traffic.

(C) Signs may be placed back-to-back, side by side, or stacked, with not more than two display faces visible to approaching traffic on the Highway 77 Bypass. Such sign structure or structures shall be considered one sign.

(D) Signs that exceed 200 square feet in area, including cutouts, may not be stacked or placed side by side.

(Ord. 97041, passed 12-8-97)

**§ 15-6-125 BANNERS.**

Banners are allowed and shall be located as allowed by Sections 15-6-117 through 15-6-124.

The term "Temporary signs" or "Portable signs" do not include banners.

(Ord. 97041, passed 12-8-97; Am. Ord. 98003, passed 2-23-98; Am. Ord. 98013, passed 7-13-98)

**§ 15-6-126 PERMITS.**

All signs and banners are required to be permitted prior to installation. Political, real estate, and nonprofit organization signs are exempted from permitting fees. Political signs must be removed within ten days of applicable election. Temporary or portable signs must be issued a new permit at the beginning of each calendar year. Permit fees will be as follows: \$0.20 per square foot, with a minimum permit fee of \$15.

(Ord. 97041, passed 12-8-97; Am. Ord. 98003, passed 2-23-98; Am. Ord. 98013, passed 7-13-98; Am. Ord. 200022, passed 11-20-00)

**§ 15-6-127 HISTORICAL DISTRICT.**

Any sign or banner to be located within the Historical District shall be reviewed by the Historical Development Board to determine if the sign or banner is in compliance with the Historical Ordinance. (Ord. 91034, passed - - ; Am. Ord. 97041, passed 12-8-97)

**§ 15-6-128 PENALTY.**

If the owner fails to obtain a permit within three business days of being notified to obtain a permit, a written notice shall be sent by certified mail notifying the owner that he has two days from receipt of the written notice to obtain the required permit. Failure to comply with the written notification will result in a complaint being filed in Municipal Court. For each day the permit is not obtained, it will result in a separate offense. The fine per offense shall not exceed \$500.00 per offense.

(Ord. 97041, passed 12-8-97)

**§ 15-6-129 GRANDFATHER CLAUSE.**

Signs already in existence are exempted from permitting, but in the event of repair and/or replacement, other than routine maintenance, all existing signs shall comply with this Sections 15-6-115 through 15-6-128 at that time. Notwithstanding anything else herein, all signs must comply with Section 15-6-120.

(Ord. 98013, passed 7-13-98)

***PERMITS*****§ 15-6-140 PERMIT REQUIREMENTS.**

(A) The construction, alteration, repair, removal, use or occupancy of any building structure, or part thereof shall not be commenced or proceeded with, except after the issuance of a written permit for the same by the Building Inspector.

(B) No building permit shall be issued for any proposed use, construction, or action which is not in compliance with the ordinances of the city.

(C) Plans for all proposed construction or uses shall be circulated to those departments which may be required to review such plans or require such information for the proper functioning of their department.

(D) Should any permit or license issued conflict with the provisions of this article, such permit or license shall be null and void.

('62 Code, § 11-6-2) Penalty, see § 15-6-999

**§ 15-6-141 CREATION OF BUILDING SITE PREREQUISITE TO ISSUANCE OF PERMIT.**

No permit for the construction, alteration, use of occupancy of any building, structure or part thereof upon any tract or plot shall be issued until a building site, tract or lot has been created by compliance with one of the following conditions:

(A) The lot or tract is a plot or record, properly filed with the county.

(B) The site plot or tract is all or part of a site plan officially approved by the city of which provides for all utility and drainage easements, alleys, streets, and other public improvements necessary to meet the normal requirements for platting including the designation of building areas, dedication of easements, alleys, streets and other property required to be dedicated, and provisions for necessary improvements.

(C) The plot, tract, or lot is located on a dedicated street and was separately owned prior to the effective date of this article or prior to annexation to the city.

(D) The site is comprised of a recombination of platted lots whereby no increase occurs in the number of originally platted lots within a block, nor is there any reduction in the area or dimensions of any lot below the minimum area or dimensions prescribed by the ordinance. ('62 Code, § 11-6-3)

**§ 15-6-142 SPECIAL USE PERMITS.**

(A) All requests for permits in districts which involve uses listed as special uses in § 15-6-19 and areas designated as an overlay district shall be referred to the City Planner.

(B) Special uses are conditional upon a demonstration of conditions and facts by the applicant that the special use is appropriate to the site.

(C) The Planning Department shall collect a fee of \$250 to cover the cost of advertising and the mailing of announcements regarding pending special use permit applications to all property owners within 200 feet of the site for which the special use permit is requested.

(D) Applicants shall supply suitable plans and information concerning the location, function and characteristics of any use proposed to the Planning Department prior to the scheduling of any hearing. The Planning Department shall evaluate the proposed use and submit preliminary recommendations to the Planning and Zoning Commission.

(E) The City Planner shall evaluate all requests for special use permits and shall submit the application to the Planning Commission and to the City Commission unless he finds:

(1) There is inadequate information upon which to evaluate the request;

- (2) The applicant requests a deferral; or
- (3) The applicant withdraws the application.

(F) The Planning Department, after receiving authorization from the City Commission by ordinance, shall authorize the Building Inspector to issue a special use permit. Conditions may be attached to the permit to assure compliance with the intent and purposes of this article and further the public welfare.

('62 Code, § 11-6-6)



**§ 15-6-143 TIME LIMITS ON BUILDING PERMITS.**

Building permits secured under the provisions of this article shall be rendered null and void if construction is not begun within six months of issuance of the permit, the construction is not completed within one year of the issuance of the permit, or should this article be amended, prior to the start of construction, in such manner as to make the construction or intended use illegal. The applicant may reapply for a permit in such cases, but shall be treated as a new applicant being evaluated in light of all ordinances currently in effect, following all procedures and paying all fees as would be required for the initiation of new construction.

('62 Code, § 11-6-9)

***ADMINISTRATION AND PROCEDURES*****§ 15-6-155 ENFORCEMENT BY BUILDING OFFICIAL.**

The Building Official appointed under the provisions of the Building Code of the city, is hereby charged with the enforcement of this article. The City Manager may charge such other city officers or officials with the enforcement of this article, in whole or in part, as may be necessary without amending this article.

('62 Code, § 11-6-1)

**§ 15-6-156 CERTIFICATE OF COMPLIANCE AND OCCUPANCY.**

No land shall be used or occupied and no building hereafter structurally altered or erected shall be used or changed in use, until a certificate of occupancy shall have been issued by the Building Inspector, stating that the building or the proposed use of the land, complies with the provisions of this renewing, changing or extending of nonconforming use. A certificate of occupancy either for the whole or a part of a building or structure shall be applied for coincidentally with the application for a building permit, and shall be issued within the 10 days after the erection or structural alteration of such building or structure, or part thereof, shall have been completed in conformity with the provisions of this article.

('62 Code, § 11-6-5) Penalty, see § 15-6-999

**§ 15-6-157 BOARD OF ADJUSTMENT.**

(A) *Organization.* The Board of Adjustment shall consist of five members each to be appointed by the City Commission for a term of two years. Any member may be removed by the City Commission upon written charges after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(B) *Chairman.* The Board shall elect a chairman and adopt rules to govern its proceedings in accordance with this article and the statutes of the State of Texas. Meetings shall be held at the call of the chairman or such times as designated by the Board. The Board shall have the power to administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon the question, or if absent and failing to vote, indicating such fact, and shall keep records of its examinations and other official action; all of which shall be immediately filed in the office of the Planning Department and shall be a public record.

(C) *Appeals.* Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or department municipality affected by any decision of an administrative officer. Such appeal shall be made within a reasonable time as provided by the rules of the Board by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall secure all papers and facts constituting the basis of the action being appealed for transmittal to the Board.

(D) *Stay of proceeding.* An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board of Adjustment that by reason of acts stated in his certificate that a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order granted by the Board of Adjustment or by the District Court on applications and notice and on the cause shown.

(E) *Notice.* The secretary of the Planning Division of the Management Services Department in charge of handling Board of Adjustment appeals shall: mail announcements of appeals to all property owners within 200 feet of the site or parcel in question; advertise the hearing; and collect an application fee of \$250 (to cover the actual costs of materials used, mailing and publication costs), which must be collected prior to scheduling any hearing or appeal. Interested parties may appear in person, or be represented by an agent or attorney.

(F) *Powers of the Board of Adjustment.* The Board of Adjustment shall have the following powers: to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official. To authorize upon appeal such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hardship; provided, that the spirit of the ordinance shall be observed and substantial justice done. Before any variance may be authorized, the Board shall find specifically all of the following conditions exist:

(1) The variance will not authorize the operation of a use other than those uses specifically enumerated for the district in which is located the property for which the variance is sought.



(2) The development or use of the property for which the variance is sought, if limited by a literal enforcement of the provisions of this article, cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same district.

(3) The variance will not substantially or permanently injure the appropriate use of adjacent conforming property in the same district.

(4) The variance will not alter the essential character of the district in which is located the property for which the variance is sought.

(5) The variance will not weaken the general purposes of this article or the regulations herein established for the specific district.

(6) The variance will be in harmony with the spirit and purposes of this article.

(7) The variance will not adversely affect the public health, safety, or welfare.

(8) The variance will not substantially affect the comprehensive plan or zoning in the city and that adherence to the strict letter of the article will cause difficulties and hardships, the imposition of which upon the petitioner is unnecessary in or to carry out the general purpose of the plan.

(9) Special circumstances attached to the property covered by the application which do not generally apply to the other property in the same district.

(10) Because of the special circumstances, property covered by application is deprived of privileges possessed by other properties in the same district; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.

(G) *Findings of fact.* Every decision of the Board shall be based upon findings of fact and every finding of fact shall be supported in the record of its proceedings. The enumerated conditions required to exist on any matter upon which the Board is required to pass under this article shall be construed as limitation on the power of the Board to act. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific fact shall not be deemed findings of fact, and shall not be deemed compliance with this article.

(H) *Decisions permitted.* The Board may affirm, modify, or reverse the order, requirement, decision or determination appealed.

(I) *Vote for modification or reversal.* The concurring vote of four members of the Board shall be necessary to modify or reverse any order, requirement, decision or determination of any administrative officer or to decide in favor of the appellant or to effect any variation in the ordinance.

(J) *Appeal from Board.* The city or any person aggrieved by any decision of the Board may have and maintain plenary action for relief therefrom in any court of competent jurisdiction; provided, petition for such relief is presented to the court within 10 days after the filing of such decision in the office of the City Recorder.

(K) *Advertisement and announcement procedure.* When required, advertisement giving the time, place and subject of the hearing shall be published in a newspaper of general circulation in the city no less than 15 days prior to such hearing for the Board of Adjustment. Mailings to property owners in the vicinity, when required, shall contain the time, place, and subject of the hearing and be mailed at least 10 days prior to the hearing.

('62 Code, § 11-6-7) (Ord. 84009, passed 6-18-84; Am. Ord. 90027, passed 6-25-90; Am. Ord. 200022, passed 11-20-00)

***Statutory reference:***

*Board of Adjustment, see TEX. LOC. GOV'T CODE, §§ 211.008 et seq.*

**§ 15-6-158 COMPLETION OF BUILDINGS ALREADY UNDER CONSTRUCTION.**

Nothing contained herein shall require any change in the plans, construction, or designated use of a building actually under construction at the time of passage of this article provided that the entire building shall be completed within one year from the date of the passage of this article. ('62 Code, § 11-6-8)

**§ 15-6-999 PENALTY.**

Any person, group, firm, or corporation where as principle, agent, employee or otherwise, violating, causing or permitting the violation of the provisions of this article shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$1,000. Such person, group, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any violation of this article is committed, continues or results from the action or inaction of such person, group, firm or corporation. ('62 Code, § 11-6-10) (Ord. 84009, passed 6-18-84)

## **APPENDIX A: LAND USE CATEGORIES**

### Section

#### 1. Land Use Chart

### **§ 1. LAND USE CHART.**

The following chart shall set out the land uses within the city:

- P = Permitted
- S = Special use permit required
- X = Special review required
- = Not permitted (absence of any symbol)

[Land Use Chart on the following pages]



























## **APPENDIX B: SPACE REQUIREMENTS**

### **Section**

1. Space requirements for residential use
2. Space requirements for non-residential use

### **§ 1. SPACE REQUIREMENTS FOR RESIDENTIAL USE.**

The following chart sets out the space requirements for residential uses within the city:

[Space Requirements Chart on following pages]



**§ 2. SPACE REQUIREMENTS FOR NON-RESIDENTIAL USE.**

The following chart sets out the space requirements for non-residential uses within the city:

[Space Requirements Chart on following page]



## APPENDIX C: TELECOMMUNICATIONS

### Section

1. Zoning districts where telecommunications facilities are authorized

### § 1. ZONING DISTRICTS WHERE TELECOMMUNICATIONS FACILITIES ARE AUTHORIZED.

<b>Telecommunication Facility Type</b>	<b>Zoning District Type</b>			<b>Code Reference</b>
	<b><i>nonresidential</i><sup>1</sup></b>	<b><i>residential</i><sup>2</sup></b>	<b><i>historical/cultural</i></b>	
Amateur Radio Towers under 50 feet (15 m)	Yes	Yes	No	§ 15-6-48(B)
Self-supporting Lattice, Guyed and Other Towers				
-0 to 50 feet (15 m)	Yes	No	No	§ 15-6-48(D)
-over 50 feet (15 m)	SUE <sup>3,4</sup>	No	No	§ 15-6-48(D)
Monopole Towers				
-0 to 85 feet (26 m)	Yes	SUE <sup>3</sup>	No	§ 15-6-48(C)
-over 85 feet (26 m)	SUE <sup>3,4</sup>	No	No	§ 15-6-48(D)
Alternative Mounting Structures				
-0 to 100 feet (30 m)	Yes	SUE <sup>3,5</sup>	Stealth	§ 15-6-48(E)(1) )
-over 100 feet (30 m)	SUE <sup>3</sup>	SUE <sup>3</sup>	Stealth	§ 15-6-48(E)(2) )
Antenna Only Mountings				
-electronic transmission towers	Yes	Yes	Stealth	§ 15-6-49(B)(3) )
-existing telecom towers over 40 feet (12 m)	Yes	Yes	Stealth	§ 15-6-49(B)(1) )

-utility poles over 40 feet (12 m)	Yes	Yes	Stealth	§ 15-6-49(B)(1) )
---------------------------------------	-----	-----	---------	----------------------

2001 S-5

Telecommunication Facility Type	Zoning District Type			Code Reference
	nonresidential <sup>1</sup>	residential <sup>2</sup>	historical/cultural	
Antenna Only Mountings (continued)				
-light poles over 40 feet (12 m)	Yes	Yes	Stealth	§ 15-6-49(B)(1)
-conforming billboards	Yes	Yes	Stealth	§ 15-6-49(B)(5)
-building-mounted panels	Stealth	Stealth <sup>6</sup>	Stealth	§ 15-6-49(B)(6)
-building-mounted whips	Yes	Yes <sup>6</sup>	Stealth	§ 15-6-49(B)(7)
-roof-mounted arrays	Yes <sup>7</sup>	Yes <sup>7</sup>	Stealth	§ 15-6-49(B)(7)
Dish Antenna Mountings				
-building/roof-mounted under 3.3 feet (1 m) in diameter	Yes	Yes	Stealth	§ 15-6-49(C)(4)
-building/roof-mounted under 6.6 feet (2 m) in diameter	Yes <sup>7</sup>	Yes <sup>7</sup>	Stealth	§ 15-6-49(C)(5)
-building/roof-mounted over 6.6 feet (2 m) in diameter	Yes <sup>8</sup>	Yes <sup>8</sup>	Stealth	§ 15-6-49(C)(6)
-ground-mounted under 10 feet (3 m) in diameter	Yes	Yes	Stealth	§ 15-6-49(C)(3)
-ground-mounted over 10 feet (3 m) in diameter	Yes	No	Stealth	§ 15-6-49(C)(3)
Notes: 1. For the purpose of this article and table, <b>NONRESIDENTIAL</b> means zoning districts C-1, C-2, C-3, C-4, I-1 and I-2. 2. For the purpose of this article and table, <b>RESIDENTIAL</b> means zoning districts R-1, R-2, R-3, R-4, MH and Ag. 3. SUE means a special use exception, obtained under § 15-6-142, is required by § 15-6-48(B). 4. In an I-2 zoning district, there is no tower-height limitation and SUE is not required.				

5. Alternative mounting structures 100 feet (30 meters) or less in height that are also used to provide lighting to parks, stadiums, athletic fields, school playgrounds, tennis courts and other recreational areas are permitted, by right, in residential districts.
6. Nonresidential and multifamily structures only.
7. Nonresidential and multifamily structures.
8. Structures in excess of 100,000 square feet (900 square meters) of floor area.

(Ord. ORD-2001-15, passed 8-13-01)

## APPENDIX D: AIR INSTALLATIONS TABLES

### Section

1. Table 1 - Air Installations Compatible Use Zones Suggested Land Use Compatibility in Noise Zones
2. Table 2 - Air Installations Compatible Use Zones Suggested Land Use Compatibility I Accident Potential Zones

### § 1. TABLE 1 - AIR INSTALLATIONS COMPATIBLE USE ZONES SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES.

(adapted from OPNAVINST 11010.36B, Dec. 22, 2002)

Land Use		Suggested Land Use Compatibility						
SLUCM NO.	LAND USE NAME	<55 DNL	55 - 65 DNL	65 - 70 DNL	70 - 75 DNL	75 - 80 DNL	80 - 85 DNL	85+ DNL
	<b><i>Residential</i></b>							
11	Household Units	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
11.11	Single units: detached	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
11.12	Single units: semidetached	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
11.13	Single units: attached row	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
11.21	Two units: side-by-side	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
11.22	Two units: one above the other	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
11.31	Apartments: walk-up	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
11.32	Apartment: elevator	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
12	Group quarters	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
13	Residential Hotels	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N
14	Mobile home parks or courts	Y	Y <sup>1</sup>	N	N	N	N	N
15	Transient lodgings	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N
16	Other residential	Y	Y <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N	N	N



Land Use		Suggested Land Use Compatibility						
SLUCM NO.	LAND USE NAME	<55 DNL	55 - 65 DNL	65 - 70 DNL	70 - 75 DNL	75 - 80 DNL	80 - 85 DNL	85+ DNL
<b>20</b>	<b><i>Manufacturing</i></b>							
21	Food and kindred products; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
22	Textile mill products; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
23	Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
24	Lumber and wood products (except furniture); manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
25	Furniture and fixtures; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
26	Paper and allied products; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
27	Printing, publishing, and allied industries	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
28	Chemicals and allied products; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
29	Petroleum refining and related industries	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
31	Rubber and misc. plastic products; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
32	Stone, clay and glass products; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
33	Primary metal products; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
34	Fabricated metal products; manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
35	Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y	Y	Y	25	30	N	N

Land Use		Suggested Land Use Compatibility						
SLUCM NO.	LAND USE NAME	<55 DNL	55 - 65 DNL	65 - 70 DNL	70 - 75 DNL	75 - 80 DNL	80 - 85 DNL	85+ DNL
39	Miscellaneous manufacturing	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
<b>40</b>	<b><i>Transportation, Communication and Utilities</i></b>							
41	Railroad, rapid rail transit, and street railway transportation	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
42	Motor vehicle transportation	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
43	Aircraft transportation	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
44	Marine craft transportation	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
45	Highway and street right-of-way	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
46	Automobile parking	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
47	Communication	Y	Y	Y	25 <sup>5</sup>	30 <sup>5</sup>	N	N
48	Utilities	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
49	Other transportation, communication and utilities	Y	Y	Y	25 <sup>5</sup>	30 <sup>5</sup>	N	N
<b>50</b>	<b><i>Trade</i></b>							
51	Wholesale trade	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
52	Retail trade - building materials, hardware and farm equipment	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
53	Retail trade - shopping centers	Y	Y	Y	25	30	N	N
54	Retail trade - food	Y	Y	Y	25	30	N	N
55	Retail trade - automotive, marine craft, aircraft and accessories	Y	Y	Y	25	30	N	N
56	Retail trade - apparel and accessories	Y	Y	Y	25	30	N	N



Land Use		Suggested Land Use Compatibility						
SLUCM NO.	LAND USE NAME	<55 DNL	55 - 65 DNL	65 - 70 DNL	70 - 75 DNL	75 - 80 DNL	80 - 85 DNL	85+ DNL
57	Retail trade - furniture, home, furnishings and equipment	Y	Y	Y	25	30	N	N
58	Retail trade - eating and drinking establishments	Y	Y	Y	25	30	N	N
59	Other retail trade	Y	Y	Y	25	30	N	N
<b>60</b>	<b>Services</b>							
61	Finance, insurance and real estate services	Y	Y	Y	25	30	N	N
62	Personal services	Y	Y	Y	25	30	N	N
62.4	Cemeteries	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4, 11</sup>	Y <sup>6, 11</sup>
63	Business services	Y	Y	Y	25	30	N	N
63.7	Warehousing and storage	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
64	Repair services	Y	Y	Y	Y <sup>2</sup>	Y <sup>3</sup>	Y <sup>4</sup>	N
65	Professional services	Y	Y	Y	25	30	N	N
65.1	Hospitals, other medical fac.	Y	Y <sup>1</sup>	25	30	N	N	N
65.16	Nursing homes	Y	Y	N <sup>1</sup>	N <sup>1</sup>	N	N	N
66	Contract construction services	Y	Y	Y	25	30	N	N
67	Government services	Y	Y <sup>1</sup>	Y <sup>1</sup>	25	30	N	N
68	Educational services	Y	Y <sup>1</sup>	25	30	N	N	N
69	Miscellaneous	Y	Y	Y	25	30	N	N
<b>70</b>	<b>Cultural, entertainment and recreational</b>							
71	Cultural activities (and churches)	Y	Y <sup>1</sup>	25	30	N	N	N
71.2	Nature exhibits	Y	Y <sup>1</sup>	Y <sup>1</sup>	N	N	N	N
72	Public assembly	Y	Y <sup>1</sup>	Y	N	N	N	N

Land Use		Suggested Land Use Compatibility						
SLUCM NO.	LAND USE NAME	<55 DNL	55 - 65 DNL	65 - 70 DNL	70 - 75 DNL	75 - 80 DNL	80 - 85 DNL	85+ DNL
72.1	Auditoriums, concert halls	Y	Y	25	30	N	N	N
72.11	Outdoor music shells, amphitheaters	Y	Y <sup>1</sup>	N	N	N	N	N
72.2	Outdoor sports arenas, spectator sports	Y	Y	Y <sup>7</sup>	Y <sup>7</sup>	N	N	N
73	Amusements	Y	Y	Y	Y	N	N	N
74	Recreational activities (include golf courses, riding stables, water rec.)	Y	Y <sup>1</sup>	Y <sup>1</sup>	25	30	N	N
75	Resorts and group camps	Y	Y <sup>1</sup>	Y <sup>1</sup>	Y <sup>1</sup>	N	N	N
76	Parks	Y	Y <sup>1</sup>	Y <sup>1</sup>	Y <sup>1</sup>	N	N	N
79	Other cultural, entertainment and recreation	Y	Y <sup>1</sup>	Y <sup>1</sup>	Y <sup>1</sup>	N	N	N
<b>80</b>	<b><i>Resource Production and Extraction</i></b>							
81	Agriculture (except livestock)	Y	Y	Y <sup>8</sup>	Y <sup>9</sup>	Y <sup>10</sup>	Y <sup>10, 11</sup>	Y <sup>10, 11</sup>
81.5	Livestock farming	Y	Y	Y <sup>8</sup>	Y <sup>9</sup>	N	N	N
81.7	Animal breeding	Y	Y	Y <sup>8</sup>	Y <sup>9</sup>	N	N	N
82	Agriculture related activities	Y	Y	Y <sup>8</sup>	Y <sup>9</sup>	Y <sup>10</sup>	Y <sup>10, 11</sup>	Y <sup>10, 11</sup>
83	Forestry activities	Y	Y	Y <sup>8</sup>	Y <sup>9</sup>	Y <sup>10</sup>	Y <sup>10, 11</sup>	Y <sup>10, 11</sup>
84	Fishing activities	Y	Y	Y	Y	Y	Y	Y
85	Mining activities	Y	Y	Y	Y	Y	Y	Y
89	Other resource production or extraction	Y	Y	Y	Y	Y	Y	Y



**Key to Table 1 - Suggested Land Use Compatibility in Noise Zones**

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (Yes)	Land use and related structures compatible without restrictions.
N (No)	Land use and related structures are not compatible and should be prohibited.
Y* (Yes with restrictions)	The land use and related structures are generally compatible. However, see note(s) indicated by the superscript.
N* (No with exceptions)	The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
NLR (Noise Level Reduction)	Noise level reduction (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure.
25, 30, or 35	The numbers refer to noise level reduction levels. Land use and related structures generally compatible however, measures to achieve NLR of 25, 30 or 35 must be incorporated into design and construction of structures. However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted. Also, see notes indicated by superscripts where they appear with one of these numbers.
DNL	Day-night average sound level.
CNEL	Community noise equivalent level (normally within a very small decibel difference of DNL)
Ldn	Mathematical symbol for DNL.

**Notes for Table 1 - Suggested Land Use Compatibility in Noise Zones**

1.
  - a) Although local conditions regarding the need for housing may require residential use in these zones, residential use is discouraged in DNL 65 - 70 and strongly discouraged in DNL 70 - 75. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these zones.
  - b) Where the community determines that these uses must be allowed, measures to achieve an outdoor to indoor noise level reduction (NLR) of at least 25 dB in DNL 65 - 70 and NLR of 30 dB in DNL 70 - 75 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75 - 80.
  - c) Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded Sound Transmission Class (STC) ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.
  - d) NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.
2. Measures to achieve NLR of 25 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
3. Measures to achieve NLR of 30 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
4. Measures to achieve NLR of 35 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas or where the normal noise level is low.
5. If project or proposed development is noise sensitive, use indicated NLR; if not, land use is compatible without NLR.
6. No buildings.
7. Land use compatible provided special sound reinforcement systems are installed.

8. Residential buildings require a NLR of 25.
9. Residential buildings require a NLR of 30.
10. Residential buildings not permitted.
11. Land use not recommended, but if community decides use is necessary, hearing protection devices should be worn.

**§ 2. TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES SUGGESTED LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES<sup>1</sup>.**

(Adapted from OPNAVINST 11010.36B, Dec. 22, 2002)

SLUCM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
<b>10</b>	<b><i>Residential</i></b>				
11	Household units				
11.11	Single units: detached	N	N	Y <sup>2</sup>	Maximum density of 1-2 Du/Ac
11.12	Single units: semidetached	N	N	N	
11.13	Single units: attached row	N	N	N	
11.21	Two units: side-by-side	N	N	N	
11.22	Two units: one above the other	N	N	N	
11.31	Apartments: walk-up	N	N	N	
11.32	Apartment: elevator	N	N	N	
12	Group quarters	N	N	N	
13	Residential hotels	N	N	N	
14	Mobile home parks or courts	N	N	N	
15	Transient lodgings	N	N	N	
16	Other residential	N	N	N	

2006 S-8

SLUCM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
20	<b>Manufacturing<sup>3</sup></b>				
21	Food and kindred products; manufacturing	N	N	Y	Maximum FAR 0.56
22	Textile mill products; manufacturing	N	N	Y	Same as above
23	Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	N	N	N	
24	Lumber and wood products (except furniture; manufacturing	N	Y	Y	Maximum FAR of 0.28 in APZ I & 0.56 in APZ II
25	Furniture and fixtures; manufacturing	N	Y	Y	Same as above
26	Paper and allied products; manufacturing	N	Y	Y	Same as above
27	Printing, publishing, and allied industries	N	Y	Y	Same as above
28	Chemicals and allied products; manufacturing	N	N	N	
29	Petroleum refining and related industries	N	N	N	
31	Rubber and misc. plastic products; manufacturing	N	N	N	
32	Stone, clay and glass products; manufacturing	N	N	Y	Maximum FAR 0.56

33	Primary metal products; manufacturing	N	N	Y	Same as above
----	--	---	---	---	---------------

2006 S-8

## Kingsville - Land Usage

SLUCM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
34	Fabricated metal products; manufacturing	N	N	Y	Same as above
35	Professional scientific, & controlling instrument; photographic and optical goods; watches and clocks	N	N	N	
39	Miscellaneous manufacturing	N	Y	Y	Maximum FAR of 0.28 in APZ I & 0.56 in APZ II
<b>40</b>	<b><i>Transportation, communication and utilities<sup>4</sup></i></b>				See Note 3 below
41	Railroad, rapid rail transit, and street railway transportation	N	Y <sup>5</sup>	Y	Same as above
42	Motor vehicle transportation	N	Y <sup>5</sup>	Y	Same as above
43	Aircraft transportation	N	Y <sup>5</sup>	Y	Same as above
44	Marine craft transportation	N	Y <sup>5</sup>	Y	Same as above
45	Highway and street right-of-way	N	Y <sup>5</sup>	Y	Same as above
46	Auto parking	N	Y <sup>5</sup>	Y	Same as above
47	Communication	N	Y <sup>5</sup>	Y	Same as above
48	Utilities	N	Y <sup>5</sup>	Y	Same as above
485	Solid waste disposal (Landfills, incineration, etc.)	N	N	N	
49	Other transport, comm. and utilities	N	Y <sup>5</sup>	Y	See Note 3 below

2006 S-8

# Zoning

194K

SLUCM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
<b>50</b>	<b>Trade</b>				
51	Wholesale trade	N	Y	Y	Maximum FAR of 0.28 in APZ I & .56 in APZ II
52	Retail trade - building materials, hardware and farm equipment	N	Y	Y	Maximum FAR of 0.14 in APZ I & 0.28 in APZ II
53	Retail trade - shopping centers	N	N	Y	Maximum FAR of 0.22
54	Retail trade - food	N	N	Y	Maximum FAR of 0.24
55	Retail trade - automotive, marine craft, aircraft and accessories	N	Y	Y	Maximum FAR of 0.14 in APZ I & 0.28 in APZ II
56	Retail trade - apparel and accessories	N	N	Y	Maximum FAR 0.28
57	Retail trade - furniture, home furnishings and equipment	N	N	Y	Same as above
58	Retail trade - eating and drinking establishments	N	N	N	
59	Other retail trade	N	N	Y	Maximum FAR of 0.22
<b>60</b>	<b>Services<sup>6</sup></b>				
61	Finance, insurance and real estate services	N	N	Y	Maximum FAR of 0.22 for "General Office/Office park"
62	Personal services	N	N	Y	Office uses only. Maximum FAR of 0.22
62.4	Cemeteries	N	Y <sup>7</sup>	Y <sup>7</sup>	

## Kingsville - Land Usage

SLUCM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
63	Business services (credit reporting; mail, stenographic, reproduction; advertising)	N	N	Y	Max. FAR of 0.22 in APZ II
63.7	Warehousing and storage services	N	Y	Y	Max. FAR 1.0 in APZ I; 2.0 in APZ II
64	Repair services	N	Y	Y	Max. FAR of 0.11 APZ I; 0.22 in APZ II
65	Professional services	N	N	Y	Max. FAR of 0.22
65.1	Hospitals, nursing homes	N	N	N	
65.1	Other medical facilities	N	N	N	
66	Contract construction services	N	Y	Y	Max. FAR of 0.11 APZ I; 0.22 in APZ II
67	Government services	N	N	Y	Max. FAR of 0.24
68	Educational services	N	N	N	
69	Miscellaneous	N	N	Y	Max. FAR of 0.22
<b>70</b>	<b><i>Cultural, entertainment and recreational</i></b>				
71	Cultural activities	N	N	N	
71.2	Nature exhibits	N	Y <sup>8</sup>	Y <sup>8</sup>	
72	Public assembly	N	N	N	
72.1	Auditoriums, concert halls	N	N	N	
72.11	Outdoor music shells, amphitheaters	N	N	N	



# Zoning

194M

SLUCM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
72.2	Outdoor sports arenas, spectator sports	N	N	N	
73	Amusements - fairgrounds, miniature golf, driving ranges; amusement parks etc.	N	N	Y	
74	Recreational activities (including golf courses, riding stables, water recreation)	N	Y <sup>8</sup>	Y <sup>8</sup>	Max. FAR of 0.11 APZ I; 0.22 in APZ II
75	Resorts and group camps	N	N	N	
76	Parks	N	Y <sup>8</sup>	Y <sup>8</sup>	Same as 74
79	Other cultural, entertainment and recreation	N	Y <sup>8</sup>	Y <sup>8</sup>	Same as 74
<b>80</b>	<b><i>Resource production and extraction</i></b>				
81	Agriculture (except livestock)	Y <sup>4</sup>	Y <sup>9</sup>	Y <sup>9</sup>	
81.5, 81.7	Livestock farming and breeding	N	Y <sup>9, 10</sup>	Y <sup>9, 10</sup>	
82	Agriculture related activities	N	Y <sup>9</sup>	Y <sup>9</sup>	Max. FAR of 0.28 APZ I; 0.56 APZ II no activity which produces smoke, glare, or involves explosives
83	Forestry activities <sup>11</sup>	N	Y	Y	Same as above
84	Fishing activities <sup>12</sup>	N <sup>12</sup>	Y	Y	Same as above
85	Mining activities	N	Y	Y	Same as above
89	Other resource production or extraction	N	Y	Y	Same as above



SLUCM NO.	LAND USE NAME	CLEAR ZONE Recommendation	APZ - I Recommendation	APZ - II Recommendation	Density Recommendation
90	<i>Other</i>				
91 93	Undeveloped land Water areas	Y N <sup>13</sup>	Y N <sup>13</sup>	Y N <sup>13</sup>	

### **Key to Table 2 - Suggested Land Use Compatibility in Accident Potential Zones**

SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (Yes)	Land use and related structures are normally compatible without restrictions.
N (No)	Land use and related structures are not normally compatible and should be prohibited.
Y* (Yes with restrictions)	The land use and related structures are generally compatible. However, see note(s) indicated by the superscript.
N* (No with exceptions)	The land use and related structures are generally incompatible. However, see notes indicated by the superscript.
FAR (Floor Area Ratio)	A floor area ratio is the ratio between the square feet of floor area of the building and the site area. It is customarily used to measure non-residential intensities.
Du/Ac	This metric is customarily used to measure residential densities.

### **Notes for Table 2 - Suggested Land Use Compatibility in Accident Potential Zones**

The following notes refer to Table 2.

1. A "Yes" or a "No" designation for compatible land use is to be used only for general comparison. Within each, uses exist where further evaluation may be needed in each category as to whether it is clearly compatible, normally compatible, or not compatible due to the variation of densities of people and structures. In order to assist installations and local governments, general suggestions as to floor/area ratios are provided as a guide to density in some categories. In general, land use restrictions which limit commercial, services, or industrial buildings or structure occupants to 25 per acre in APZ I, and 50 per acre in APZ II are the range of occupancy levels considered to be low density. Outside events should normally be limited to assemblies of not more than 25 people per acre in APZ I, and maximum assemblies of 50 people per acre in APZ II.

2006 S-8

2. The suggested maximum density for detached single-family housing is one to two Du/Ac. In a Planned Unit Development (PUD) of single family detached units where clustered housing development results in large open areas, this density could possibly be increased provided the amount of surface area covered by structures does not exceed 20% of the PUD total area. PUD encourages clustered developemnt that leaves large open areas.
3. Other factors to be considered: Labor intensity, structural coverage, explosive characteristics, air pollution, electronic interference with aircraft, height of structures, and potential glare to pilots.
4. No structures (except airfield lighting), buildings or aboveground utility/communications lines should normally be located in clear zone areas on or off the installation. The clear zone is subject to severe restrictions. See NAVFAC 9-80.3 or Tri-Service Manual AFM 32-1123(I); TM 5-803-7, NAVFAC P-971 "Airfield and Heliport Planning & Design" dated 1 May 99 for specific design details.
5. No passenger terminals and no major above ground transmission lines in APZ I.
6. Low intensity office uses only. Accessory uses such as meeting places, auditoriums, etc. are not recommended.
7. No chapels are allowed within APZ I or APZ II.
8. Facilities must be low intensity, and provide no tot lots, etc. Facilities such as clubhouses, meeting places, auditoriums, large classes, etc. are not recommended.
9. Includes livestock grazing, but excludes feedlots and intensive animal husbandry. Activities that attract concentrations of birds creating a hazard to aircraft operations should be excluded.
10. Includes feedlots and intensive animal husbandry.
11. Lumber and timber products removed due to establishment, expansion, or maintenance of clear zones will be disposed of in accordance with appropriate DOD Natural Resources Instructions.
12. Controlled hunting and fishing may be permitted for the purpose of wildlife management.
13. Naturally occurring water features (e.g., rivers, lakes, streams, wetlands) are compatible. (Ord. 2005-25, passed 7-11-05)



## **ARTICLE 7: SEXUALLY ORIENTED BUSINESSES**

### **Section**

#### ***Generally***

- 15-7-1 Purpose and scope
- 15-7-2 Definitions
- 15-7-3 Classification of sexually oriented businesses
- 15-7-4 Amendments to article
- 15-7-5 Territory affected
- 15-7-6 Exempt businesses

#### ***Enforcement***

- 15-7-20 Violations
- 15-7-21 Injunction

#### ***License***

- 15-7-30 License required; application
- 15-7-31 Procedures for issuance
- 15-7-32 Fees
- 15-7-33 Inspections
- 15-7-34 Expiration
- 15-7-35 Suspension
- 15-7-36 Revocation
- 15-7-37 Appeals; notice
- 15-7-38 Transfer prohibited

#### ***Location and Operation***

- 15-7-50 Location restrictions
- 15-7-51 Exemption from location restrictions
- 15-7-52 Exterior portions and signage of sexually oriented businesses
- 15-7-53 Escort agencies
- 15-7-54 Nude model studios
- 15-7-55 Adult theaters and adult motion picture theaters
- 15-7-56 Adult motels

- 15-7-57 Exhibition of sexually explicit films
- 15-7-58 Display of sexually explicit material to minors
- 15-7-59 Miscellaneous prohibitions
- 15-7-60 Certificate of occupancy

**Statutory reference:**

*Regulating sexually oriented businesses, see TEX. LOC. GOV'T CODE §§ 243.001 et seq*

## **GENERALLY**

### **§ 15-7-1 PURPOSE AND SCOPE.**

(A) The purpose of this article is to regulate sexually oriented businesses to promote the public health, safety and welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses in the city.

(B) The provisions of this Article have neither the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials, nor is it the intent of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the U.S. Constitution, or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(C) It is the intent of the City Commission that the provisions of this article as they apply to adult cabarets, bookstores, video stores, motels, adult theaters and escort services are promulgated pursuant to the City Charter and TEX. LOC. GOV'T CODE §§ 54.004 and 215.075. It is the intent of the City Commission that all other provisions of this article are promulgated pursuant to TEX. LOC. GOV'T CODE Chapter 243.

(Ord. 99035, passed 10-25-99)

### **§ 15-7-2 DEFINITIONS.**

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

**ADULT BOOKSTORE or ADULT VIDEO STORE.** A commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas, as defined in this section; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities as defined in this section.

**ADULT CABARET.** A nightclub, bar, restaurant, or similar commercial establishment which:

- (1) Regularly features persons who appear in a state of nudity;
- (2) Regularly features live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities, as defined in this section;
- (3) Regularly features films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, as defined in this section;
- (4) Requires as a condition for employment that one or more employees or performers regularly appear in a state of semi-nudity or nudity; or
- (5) Advertises nude or seminude performances on a sign visible from the public right-of-way.

**ADULT MOTEL.** A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, as defined in this section, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than ten hours for multiple occupancy for sexual purposes; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

**ADULT MOVIE ARCADE or ADULT VIDEO ARCADE.** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas, as defined in this section.

**ADULT MOVIE THEATER.** A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, as defined in this section.

**ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity, or live performances which are

characterized by the exposure of specified anatomical areas or by specified sexual activities, as defined in this section, or which advertises nude or seminude performances on a sign visible from the public right-of-way.

**ESCORT AGENCY.** A person or business association that furnishes, offers to furnish, or advertises to furnish the escorts as defined in this section as one of its primary business purposes, for a fee, tip, or other consideration.

**ESTABLISHMENT.** Means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business from one physical location within the city to another physical location within the city.

**LICENSEE.** A person in whose name a license to operate a sexually oriented business has been issued, as well as the person(s) listed as an applicant on the application for a license.

**NUDE MODEL STUDIO.** Any place where a person, who appears in a state of nudity or displays specified anatomical areas, is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration for such services.

**NUDITY or STATE OF NUDITY.** The appearance of a bare human buttock, anus, male genitals, female genitals, or female breast.

**PERSON.** An individual, proprietorship, partnership, corporation, association, or other legal entity.

**SEMINUDE.** A state of dress in which clothing covers no more than the genitals, anus, buttocks, pubic region, and areolas of the female breast, as well as portions of the body covered by supporting straps or devices.

**SEXUAL ENCOUNTER CENTER.** A massage parlor or business or commercial enterprise under any other name that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

**SEXUALLY ORIENTED BUSINESS.** Any sexual encounter center, adult cabaret, adult theater, escort agency, nude modeling studio, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers.

**SIGN.** Any display, design, pictorial, or other representation that is:

(1) Constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever so that it is visible from the outside of a sexually oriented business; and

(2) Used to seek the attraction of the public to any goods, services, or merchandise available at the sexually oriented business.

**SPECIFIED SEXUAL ACTIVITIES.** Means and includes any of the following:

(1) The fondling or other touching of human genitals, pubic region, buttocks, anus, or female breasts (herein referred to as specified anatomical areas);

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

**SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS.** The increase in floor area occupied by the business by more than 25%.

**TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS.** Means and includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for the transfer by request or other operation of law upon the death of the person possessing the ownership control.

(Ord. 99035, passed 10-25-99)

**§ 15-7-3 CLASSIFICATION OF SEXUALLY ORIENTED BUSINESSES.**

(A) Sexually oriented businesses are classified as follows:

- (1) Adult video and adult movie arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult movie theaters,
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers.

(Ord. 99035, passed 10-25-99)

**§ 15-7-4 AMENDMENTS TO ARTICLE.**

§§ 15-7-50 and 15-7-51 of this article may be amended only after compliance with the procedure required to amend the zoning ordinance. Other sections of this article may be amended by a vote of the City Commission.

(Ord. 99035, passed 10-25-99)

**§ 15-7-5 TERRITORY AFFECTED.**

Pursuant to TEX. LOC. GOV'T CODE § 243.003, this article shall apply only to sexually oriented businesses located in the corporate limits of the city.

**§ 15-7-6 EXEMPT BUSINESSES.**

The following businesses are exempt from regulation under this article:

(A) A bookstore, movie theater, or video store unless that business is an adult bookstore, adult movie theater or adult video store as defined in this article;

(B) A business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions under the license held; or

(C) A business operated by a licensed physician or licensed chiropractor engaged in practicing the healing arts.  
(Ord. 99035, passed 10-25-99)

***ENFORCEMENT***

**§ 15-7-20 VIOLATIONS.**

(A) Violation of any provision of this article is, upon conviction, a Class C misdemeanor punishable by a fine of not less than \$50 and not to exceed \$500 for each offense, except however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of any provision of law that governs fire safety, zoning, or public health and sanitation, the penalty shall be a fine not to exceed the sum of \$2,000 for each offense; and each and every day said violation is continued shall constitute a separate offense.

(B) It is a defense to prosecution under § 15-7-54 that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school licensed by the state; a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(b) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude model is on the premises at any one time.  
(Ord. 99035, passed 10-25-99)

**§ 15-7-21 INJUNCTION.**

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this article is subject to a suit by the City Attorney for injunction as well as prosecution for criminal violations.  
(Ord. 99035, passed 10-25-99)

***LICENSE*****§ 15-7-30 REQUIRED; APPLICATION.**

(A) A person commits an offense if he operates a sexually oriented business within the city limits without a valid license issued by the city.

(B) An application for a license for a sexually oriented business must be made on a form provided by the Director of Planning. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram must be professionally prepared and must be drawn to a designated scale. Applicants who must comply with § 15-7-57 shall submit a diagram meeting the requirements of § 15-7-56.

(C) The applicant for a license for a sexually oriented business must be qualified according to the provisions of this article and the premises must be inspected and found to be in compliance with the law by the Police Department, Fire Department and Planning Department.

(D) Upon receiving an application for a license for sexually oriented business, the Director of Planning shall immediately notify the Police Department and Fire Department to perform inspections and direct an inspection by the Planning Department. All such inspections must be made within two weeks of initial application. Findings must be immediately forwarded to the Director of Planning in order for the Planning and Zoning Commission to consider such application.

(E) Notice to all owners of real property within 300 feet of the property for which application under this section has been made shall be mailed, but in no case shall this notification occur less than ten working days prior to consideration at a meeting of the Planning and Zoning Commission to consider such application.

(F) Each application for a license for a sexually oriented business must be accompanied by an initial application fee of \$1000 at the time the application for a license is submitted.

(G) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, but not a corporation, each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. If no individual has 20% or greater

interest, then all persons holding an interest in the establishment must sign the application. If the applicant is a corporation, the application must be signed by the president of the corporation and include a copy of the corporate resolution authorizing the president to sign on behalf of the corporation, which resolution must be certified by the corporate secretary. Each applicant must be qualified under § 15-7-31 and each applicant shall be considered a licensee if a license is granted.

(H) Each applicant for a license for a sexually oriented business must submit their application in person to the Director of Planning and must present two proofs of identity (birth certificate, baptismal certificate, social security card, driver's license, military I. D., police I. D., are acceptable). The applicant must submit one proof of residence (a current utility bill will suffice). The stated residence must be applicant's principal residence at which they reside on a regular basis.

(I) The fact that a person or entity possesses any other valid license does not exempt them from the requirement of obtaining a sexually oriented business license. A person who operates a sexually oriented business and possesses any other valid license shall comply with the requirements of this article as well as the requirements and provisions of other applicable chapters of this code.  
(Ord. 99035, passed 10-25-99)

#### **§ 15-7-31 PROCEDURES FOR ISSUANCE.**

(A) The Chief of Police shall conduct a thorough background check of the business and applicant for a license under this division. He must then, within 30 days of receipt of the application, submit his findings together with his recommendation to the Director of Planning for or against the issuance of the license, who shall present the application to the Planning and Zoning Commission at its next public meeting. If the business property is already properly zoned for industrial use, the Planning and Zoning Commission shall recommend that the City Commission approves the issuance of a license by the city clerk's office, unless the Planning and Zoning Commission finds one or more of the following to be true:

- (1) An applicant is under 18 years of age.
- (2) An applicant or an applicant's spouse is overdue in their payment to the city for taxes, fees, fines, or penalties assessed against them or imposed upon them in relation to a sexually oriented business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- (4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this article, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect on this provision.

(5) An applicant is residing with a person who has been denied a license by the city to operate a sexually oriented business within the preceding 12 months, or is residing with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months.

(6) The applicant has not proven bona fide ownership of the establishment.

(7) The premises to be used for the sexually oriented business have not been approved by the Health Department, Police Department, Fire Department, and the Building Official as being in compliance with applicable laws and ordinances.

(8) The license fee required by this article has not been paid.

(9) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding 12 months and has demonstrated that he is unable to operate or manage a sexually oriented business premises in a peaceful and law abiding manner.

(10) An applicant or the proposed establishment is in violation of or is not in compliance with any section of this article.

(11) An applicant or an applicant's spouse has been convicted of or is under indictment or misdemeanor information for a crime:

(a) Involving:

1. Any of the following offenses as described in TEX. PENAL CODE Chapter 43:

- a. Prostitution;
- b. Promotion of prostitution;
- c. Aggravated promotion of prostitution;
- d. Compelling prostitution;
- e. Obscenity;
- f. Sale, distribution, or display of harmful material to a minor;
- g. Sexual performance by a child;
- h. Possession of child pornography;

2. Any of the following offenses as described in TEX. PENAL CODE Chapter 21:
  - a. Public lewdness;
  - b. Indecent exposure;
  - c. Indecency with a child;
3. Engaging in organized criminal activity as described in TEX. PENAL CODE Chapter 71;
4. Sexual assault or aggravated sexual assault as described in TEX. PENAL CODE Chapter 22;
5. Prohibited sexual conduct or harboring a runaway child as described in TEX. PENAL CODE Chapter 25;
6. Kidnapping or aggravated kidnapping as described in TEX. PENAL CODE Chapter 20;
7. Robbery or aggravated robbery as described in TEX. PENAL CODE Chapter 29;
8. Bribery or retaliation as described in TEX. PENAL CODE Chapter 36;
9. A violation of the Texas Controlled Substances Act (TEX. HEALTH & SAFETY CODE Chapter 481) or Dangerous Drugs Act (TEX. HEALTH & SAFETY CODE Chapter 483) punishable as a felony, Class A misdemeanor, or Class B misdemeanor;
10. Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or
11. A violation of any federal statute which includes in its description all of the elements of any one of the foregoing state statutes;

(b) For which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
2. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

3. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or a combination of misdemeanor offenses occurring within any 24-month period.

(B) For purposes of this article, pleading guilty, nolo contendere or no contest is the same as a conviction and being on probation is the same as being under confinement.

(C) The fact that a conviction under this article is being appealed shall have no effect on the disqualification of the applicant for license under this article.

(D) An applicant for a license under this article who has been convicted or whose spouse has been convicted of an offense listed in division (a)(11) of this section, for which the required time period has elapsed since the date of conviction or the date of release from confinement imposed for conviction, may qualify for a sexually oriented business license only if it is determined that the applicant or the applicant's spouse is presently fit to operate a sexually oriented business. In determining present fitness under this section, the Planning and Zoning Commission and City Commission shall consider the following factors concerning the applicant or the applicant's spouse, whichever had the criminal conviction:

(1) The extent and nature of their past criminal activity;

(2) The age at the time of the commission of the crime;

(3) The amount of time that has elapsed since the last criminal activity;

(4) The conduct and work activity prior to and following the criminal activity;

(5) Evidence of the rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) Other evidence of their present fitness, including letters of recommendation from prosecution, law enforcement, and the correctional officers who prosecuted, arrested, or had custodial responsibility of the person; the Sheriff and Chief of Police in the community where the person resides; and any other persons in contact with such person.

(E) It is the responsibility of the applicant for a license for a sexually oriented business, to the extent possible, to secure and provide to the Planning Department the evidence required to determine present fitness under division (C) of this section.

(F) Upon receiving the Planning and Zoning Commission's findings and recommendation, the City Commission shall consider the application at its earliest possible public meeting after providing public notice that the matter will be under consideration. At that meeting, the City Commission will approve issuance of the license, unless it determines that one or more applicants are disqualified under any provision of this article from obtaining such a license.

(G) The license for a sexually oriented business, if granted, shall state on its face the name of the person or entity to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(H) The license for a sexually oriented business must be granted or denied by the City Commission within 90 days of initial receipt of the application by the Director of Planning. Written notice of the decision must be provided to the applicant within five city workdays of the City Commission's decision.

If the license is denied, the notification letter must inform the applicant of the reason(s) for denial and must offer a rehearing at such time as the applicant is in compliance with the requirements which were not initially complied with. A similar letter must be provided the applicant after any rehearing. If the denial is for zoning reasons, the letter must inform the applicant that he has ten days from the date of the decision to request an exemption from the Board of Adjustment through the Director of Planning.

(Ord. 99035, passed 10-25-99)

#### **§ 15-7-32 FEES.**

(A) The initial application fee for a sexually oriented business license is \$1,000. The initial application fee must be paid by the applicant at the time of submission of an application for a license. An initial application fee is not required for an application for renewal of such license.

(B) The annual renewal fee for a sexually oriented business license is \$1,000.

(C) If an applicant is required by this code to obtain any other license for the business at a single location, payment of the fee for the sexually oriented business license does not exempt the applicant from payment of the fees for the other license.

(Ord. 99035, passed 10-25-99)

#### **§ 15-7-33 INSPECTIONS.**

(A) An applicant or licensee shall permit representatives of the Police Department, Fire Department and Planning Department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time the premises are occupied or open for business.

(B) A person who operates a sexually oriented business or their agent or employee commits an offense if they refuse to permit an inspection of the premises by a representative of the city at any time the premises are occupied or open for business.

(Ord. 99035, passed 10-25-99)

**§ 15-7-34 EXPIRATION.**

(A) Each sexually oriented business license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 15-7-30. Application for renewal should be made at least 90 days before the expiration date, and when made less than 90 days before the expiration date, the expiration of the license will not be affected by the fact that the renewal is in process. That is, the license will expire by its own terms if not renewed prior to the stated expiration date.

(B) When the City Commission denies issuance or renewal of a license under this division, the applicant shall not be issued a license for one year from the date of denial subsequent to denial unless the City Commission finds that the basis for denial of the license has been corrected or abated, in which case the applicant may be granted a license or renewal as of the date of such finding.

(Ord. 99035, passed 10-25-99)

**§ 15-7-35 SUSPENSION.**

(A) The City Commission shall suspend a license issued under this division for a period not to exceed 30 days if the City Commission determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with any provision of this article;

(2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises so as to be legally intoxicated under applicable state statutes;

(3) Refused to allow an inspection of the sexually oriented business premises as authorized by this article;

(4) Knowingly permitted illegal gambling by any person on the sexually oriented business premises;

(5) Demonstrated the inability to operate or manage a sexually oriented business in a peaceful and law abiding manner thus necessitating action by law enforcement officers.

(Ord. 99035, passed 10-25-99)

**§ 15-7-36 REVOCATION.**

(A) The City Commission shall revoke a license issued under this division if a cause of suspension in § 15-7-35 occurs and the license has been previously suspended within the preceding 12 months.

(B) The City Commission shall revoke a license issued under this division if it determines that:

(1) A licensee gave false or misleading information in the material submitted to the city during the application process;

(2) A licensee or an employee has knowingly allowed the possession, use, or sale of a controlled substance on the premises;

(3) A licensee or an employee has knowingly allowed prostitution on the premises;

(4) A licensee or an employee knowingly operated the sexually oriented business during a period of time when such licensee's license was suspended;

(5) A licensee has been convicted of an offense listed in § 15-7-31(A)(11)(a) for which the time period required in § 15-7-31(A)(11)(b) has not elapsed;

(6) A person committed an offense occurring in or on the licensed premises of a crime listed in § 15-7-31(A)(11), for which a conviction has been obtained, and the person was an employee of the sexually oriented business at the time of the offense was committed;

(7) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as is defined in TEX. PENAL CODE § 21.01; or

(8) A licensee is delinquent in payment to the city for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the sexually oriented business.

(C) The fact that a conviction is being appealed shall have no effect on the revocation of the sexually oriented business license.

(D) Division (B)(7) of this section does not apply to adult motels as grounds for revoking the license.

(E) When the City Commission revokes a license issued under this article, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date such revocation became effective. If subsequent to revocation, the City Commission finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 60 days have elapsed since the date the revocation became effective. If the license was revoked under division (B)(5) of this section, an applicant may not be granted another license until the appropriate number of years required under § 15-7-31(A)(11)(b) has elapsed since the termination of any sentence, parole, or probation.  
(Ord. 99035, passed 10-25-99)

**§ 15-7-37 APPEALS; NOTICE.**

(A) If the Planning Department decides to recommend to the City Commission the suspension or revocation of a sexually oriented business license, the Planning Department shall notify the licensee by certified mail, return receipt requested, at least ten city workdays prior to the effective date of the suspension or the decision to recommend suspension or revocation of the license, the reasons for such action, and the time, place, and date the matter will be considered by the City Commission.

(B) If the City Commission decides to suspend a sexually oriented business license, it shall send to the licensee by certified mail, return receipt requested, at least two city working days prior to the effective date of the suspension or of its decision to suspend the license, the reasons for such suspension and the length of time of the suspension.

(C) Written notice of the decision of the City Commissioners to revoke a sexually oriented business license must be mailed to the licensee by certified mail, return receipt requested, within two city working days after the decision, stating the reasons for revocation.  
(Ord. 99035, passed 10-25-99)

**§ 15-7-38 TRANSFER PROHIBITED.**

A licensee under this article shall not transfer such license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the license application.  
(Ord. 99035, passed 10-25-99)

***LOCATION AND OPERATION*****§ 15-7-50 LOCATION RESTRICTIONS.**

(A) A person commits an offense if he operates or causes to be operated a sexually oriented business within 1,000 feet of

- (1) A church or chapel;
- (2) A public or private elementary or secondary school;
- (3) A boundary of a residential district as defined by the zoning ordinance;
- (4) A public park adjacent to a residential district as defined by the zoning ordinance; or

(5) The property line of a lot devoted to residential use, including the lot upon which the sexually oriented business is located, if any part of such lot includes the residence of any individual.

(B) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

(C) A person commits an offense if he causes or permits the operation, establishment or maintenance of more than one sexually oriented business in the same building, structure or portion thereof, or the expansion of the floor area, of any sexually oriented business within 1,000 feet of another sexually oriented business.

(D) For the purpose of division (A) of this section, measurement shall be made in the same manner and as other distances are measured by the City Planning Department.

(E) Any sexually oriented business lawfully operating on October 1, 1999, that is in violation of divisions (A), (B), or (C) of this section is a nonconforming use. The nonconforming use will be permitted to continue unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. The nonconforming use may not be increased, enlarged, extended, or altered, except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1000 feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

(F) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, public or private elementary or secondary school, public park, residential district, or residential lot within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

(Ord. 99035, passed 10-25-99)

#### **§ 15-7-51 EXEMPTION FROM LOCATION RESTRICTIONS.**

(A) If the City Commission denies the issuance of a license to an applicant because the location of the sexually oriented business establishment is in violation of § 15-7-50, then the applicant may, not later than ten calendar days after receiving notice of the denial, file with the Planning Department a written request for an exemption from the locational restrictions of § 15-7-50.

(B) If the written request for an exemption from the location restrictions of § 15-7-50 is filed within the ten day limit provided in division (A) of this section, the Board of Adjustment shall consider the request within 30 days from the date the written request is received. The Board of Adjustment shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(C) The Board of Adjustment may, in its discretion, grant an exemption from the location of restrictions of § 15-7-50 if it makes the following findings:

(1) That the location of the sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;

(2) That the granting of the exemption will not violate the spirit or intent of this article;

(3) That the location of the proposed sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of blight;

(4) That the location of an additional sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and

(5) That all other applicable provisions of the article will be observed.

(D) The Board of Adjustment shall grant or deny the exemption from the locational restrictions of this division by a majority vote. Failure to reach a majority vote shall result in denial of the exemption. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the Board of Adjustment is final.

(E) If the Board of Adjustment grants the exemption from the locational restrictions of this division, the exemption is valid for one year from the date of the Board's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of § 15-7-50 until the applicant applies for and receives another exemption.

(F) If the Board of Adjustment denies the exemption from the location]. restrictions of this division, the applicant may not reapply for an exemption until at least 12 months have lapsed since the date of the Board's action. If the exemption is denied, written notice of denial must be given to the applicant by certified mail, returned receipt requested, within two city workdays of the decision of the board.

(G) The grant of an exemption under this section does not exempt the applicant from any provisions of this article other than the locational restrictions of § 15-7-50.

(Ord. 99035, passed 10-25-99)

## **§ 15-7-52 EXTERIOR PORTIONS AND SIGNAGE OF SEXUAL ORIENTED BUSINESS.**

(A) An owner or operator of a sexually oriented business commits an offense if he allows the exterior portions of the establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by this article.

(B) Notwithstanding any provision of any other city ordinance, code, or regulation to the contrary, the owner or operator of any sexually oriented business or any other person commits an offense if he erects, constructs, or maintains any sign for the establishment other than one primary sign and one secondary sign, as provided in this section.

(C) A primary sign may have no more than two display surfaces. Each display surface must:

- (1) Not contain any flashing lights;
- (2) Be a flat plane, rectangular in shape;
- (3) Not exceed 75 square feet in area; and
- (4) Not exceed 10 feet in height or 10 feet in length.

(D) A secondary sign may have only one display surface. The display surface must:

- (1) Not contain any flashing lights;
- (2) Be a flat plane, rectangular in shape;
- (3) Not exceed 20 square feet in area;
- (4) Not exceed five feet in height or four feet in width; and
- (5) Be affixed or attached to a wall or door of the establishment.

(E) A primary or secondary sign must contain no photographs, silhouettes, drawings, or pictorial representations of any manner, and may contain only:

- (1) The name of the establishment; and/or
- (2) One or more of the following phrases:
  - (a) "Sex parlor";
  - (b) "Nude studio";
  - (c) "Modeling studio";
  - (d) "Topless bar";
  - (e) "Love parlor";
  - (f) "Adult bookstore";
  - (g) "Adult movie theater";

- (h) "Adult video arcade";
- (l) "Adult movie arcade";
- (j) "Adult video store";
- (k) "Adult motel";
- (l) "Adult cabaret";
- (m) "Adult theater";
- (n) "Escort agency";
- (o) "Sexual Encounter Agency".

(F) A primary sign for an adult motion picture theater may contain the phrase, "Movie Titles Posted on Premises", in addition to the phrases listed in division (E)( 2) of this section.

(G) Each letter forming a word on a primary or secondary sign must be of solid color, and each letter must be the same print-type, size, and color. The background behind the lettering on the display surface of a primary or secondary sign must be of a uniform and solid color.

(H) Notwithstanding the sign requirements of this section, any sign lawfully existing on the premises of a lawfully operating sexually oriented business on October 1, 1999, may continue to be maintained on the premises, until:

(1) The sign is intentionally removed or destroyed by the owner or operator of the sexually oriented business or abandoned by the owner or operator of the sexually oriented business; or

(2) The city requires removal, relocation, or reconstruction of the sign in accordance with applicable state law.

(Ord. 99035, passed 10-25-99)

### **§ 15-7-53 ESCORT AGENCIES.**

(A) An escort agency shall not employ any person under the age of 18 years.

(B) A person commits an offense if he or she acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ord. 99035, passed 10-25-99)

**§ 15-7-54 NUDE MODEL STUDIOS.**

(A) A nude model studio shall not employ any person under the age of 18 years.

(B) A person under the age of 18 years commits an offense if the person appears in a state of nudity in or on the premises of a nude studio. It is a defense to prosecution under this section if the person under 18 years of age was in a restroom not open to the public view or persons of the opposite sex.

(C) A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.  
(Ord. 99035, passed 10-25-99)

**§ 15-7-55 ADULT THEATERS AND ADULT MOTION PICTURE THEATERS.**

(A) A person commits an offense if the person knowingly allows a person under the age of 18 years to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(B) A person under the age of 18 years commits an offense if the person knowingly appears in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(C) It is a defense to prosecution under division (A) and (B) of this section if the person under 18 years of age was in a restroom not open to the public view or persons of the opposite sex.  
(Ord. 99035, passed 10-25-99)

**§ 15-7-56 ADULT MOTELS.**

(A) Evidence that a sleeping room at a hotel, motel, or similar commercial establishment has been rented for multiple occupancy and vacated two or more times in a period of time that is less than ten hours creates a rebuttal presumption that the establishment is an adult motel as that term is defined in this article.

(B) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, such persons rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, the person rents or subrents the same sleeping room again.

(C) For the purpose of division (B) of this section the terms **RENT** or **SUBRENT** mean the act of permitting a room to be occupied for any form of consideration.  
(Ord. 99035, passed 10-25-99)

**§ 15-7-57 EXHIBITION OF SEXUALLY EXPLICIT FILMS.**

(A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room a film, videocassette, or other video reproduction which depicts specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall be required; each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Director of Planning may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director of Planning.

(4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the owner or operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in division (A)(5) of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to division (A)(1) of this section.



(7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 1.0 foot-candle as measured at the floor level.

(8) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described in division (A)(7) of this section is maintained at all times that any patron is present in the premises.

(B) A person having a duty under divisions (A)(1) through (A)(8) of this section commits an offense if he or she fails to fulfill that duty.

(Ord. 99035, passed 10-25-99)

#### **§ 15-7-58 DISPLAY OF SEXUALLY EXPLICIT MATERIAL TO MINORS.**

(A) A person commits an offense if, in a business establishment open to persons under the age of 18 years, the person displays a book, pamphlet, newspaper, magazine, film, or videocassette, the cover of which depicts any of the following:

(1) Human sexual intercourse, masturbation, or sodomy;

(2) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;

(3) Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola;

(4) Human male genitals in a discernible turgid (aroused) state, whether covered or uncovered.

(B) In this section, **DISPLAY** means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:

(1) It is available to the general public for handling and inspection; or

(2) The cover or outside packaging on the item is visible to members of the general public.

(Ord. 99035, passed 10-25-99)

#### **§ 15-7-59 MISCELLANEOUS PROHIBITIONS.**

(A) A sexually oriented business, other than an adult motel, shall not place or permit a bed, sofa, or mattress in any other room on the premises, including mobile homes and other out buildings, except that a sofa may be placed in a reception room open to the public.

(B) A sexually oriented business shall not employ anyone under the age of 18 years nor allow anyone on the premises under the age of 18 years.  
(Ord. 99035, passed 10-25-99)

**§ 15-7-60 CERTIFICATE OF OCCUPANCY.**

A Certificate of Occupancy is required prior to opening for business.  
(Ord. 99035, passed 10-25-99)

## ARTICLE 8: LANDSCAPING POLICY

### Section

- 15-8-1 General
- 15-8-2 Reserved
- 15-8-3 Exemptions
- 15-8-4 Specified by the City Code
- 15-8-5 Not clarified by City Code
- 15-8-6 Basic requirements
- 15-8-7 Street yard
- 15-8-8 Landscape in parking lots
- 15-8-9 Buffering/screening
- 15-8-10 Landscape of other areas
- 15-8-11 Soil conditioning and mulching
- 15-8-12 Irrigation of landscape areas
- 15-8-13 Protection of landscape area
- 15-8-14 Alternative compliance
- 15-8-15 Screening standards
- 15-8-16 General
- 15-8-17 Certificate of occupancy
- 15-8-18 Violations; penalties
- Exhibit A - Preferred plant list
- Exhibit B - Landscape/irrigation notes
- Exhibit C - Sample alternative compliance letter
- Exhibit D - Figures

### § 15-8-1 GENERAL.

(A) The information in this article is intended to define the technical design criteria needed to achieve the landscape policy goals of the City of Kingsville, Texas. These rules apply to all land located within the city limits and to those projects outside the city limits which have agreed to comply with these provisions as part of a contractual agreement with the city.

(B) The site plan approval process is outlined in the City Code of Kingsville. Procedures for inspection and enforcement are also found in the City Code.

(C) Appeals concerning the enforcement of these rules shall be brought to attention of the Director of Planning.

(Ord. 97040, passed 11-24-97; Am. Ord. 98027, passed 11-28-98; Am. Ord. 2005-13, passed 4-11-05)

#### **§ 15-8-2 RESERVED.**

#### **§ 15-8-3 EXEMPTIONS.**

(Reserved)

#### **§ 15-8-4 SPECIFIED BY THE CITY CODE.**

The code identifies certain types of development projects which are specifically noted as being exempt from the Landscape Provisions of the Code, as follows, to wit:

(A) Single family residences where only one such structure is constructed per lot.

(B) Duplex residences (containing fewer than six bedrooms per lot) where only one structure is constructed per lot.

(C) Restoration of damage to a structure within the 12 months subsequent to a fire, explosion, flood, tornado, riot or accident of any kind.

(D) Building restoration for historic structures.

(E) Remodeling of any structure where the front and side exterior walls remain in the same location. Two variations on this condition are illustrated in Figure 2-1.

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05)

#### **§ 15-8-5 NOT CLARIFIED BY CITY CODE.**

Other types of projects are exempt for other reasons. These include:

(A) Projects on federal and state owned land.

(B) Carports, canopies and free-standing covers supported by columns less than two feet wide and four feet long.

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05)

**§ 15-8-6 BASIC REQUIREMENTS.**

The following text explains the basic landscape requirements common to all commercial sites under the jurisdiction of the City Code.

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05)

**§ 15-8-7 STREET YARD.**

(A) Landscape area.

(1) At least 10% of street yard must be landscaped. Grass areas not using grasses indigenous listed on the Preferred Plant List (see Exhibit A) are not credited as landscaped area except in shaded areas (areas that receive less than six hours of sunlight per day).

(B) Determining street yard.

(1) The exact configuration of a street yard (or street yards) on a site will depend on how a number of factors interrelate on that site. Among these factors are:

- (a) Type and location of building walls.
- (b) Number of streets that border the site.
- (c) Number, size, and orientation of buildings on the site.
- (d) Whether there is a building on the site or just a parking lot.

(2) The street yard area is calculated by finding the total lot square footage which lies between the street right of way line and the front wall of a building or buildings on a site. This street yard boundary extends from the outward most corners of the front wall, parallel to the street until it intersects with the side property lines.

(3) The building wall line shall include irregular shapes or indentions of the building wall, but exclude unenclosed porches, canopies and exterior columns. Some examples of variations on this concept are illustrated in Figure 2-2.

(4) On a site or portion of a site used only for parking purposes or as a commercial or private parking lot, the street yard shall consist of the area between the street right-of-way and the back property line.

## (C) Drip line credit.

(1) In order to encourage the preservation and continued growth of smaller trees, the following credit toward landscape area is possible. Each square foot of landscape area which is permeable and within the area encompassed by the drip line of a surveyed tree at least two inches in trunk diameter measured at 4½ feet above the ground, shall count as 1.25 square feet of landscape area.

(2) The foregoing credit shall be subject to the following limitations:

(a) Overlapping drip line area cannot be counted twice.

(b) No credit will be given if more than half of the drip line area is impervious.

(c) No credit will be given where damaging grade changes within the drip line (of a tree) has occurred.

(d) In no case can the actual landscape area in the street yard of a lot be less than one-third of the required 10%.

(D) Street yard trees. Within the area described as street yard in Section 11-12-71 a minimum amount of trees are required to be planted or preserved with at least 60% of the trees planted from the Preferred Plant List (see Exhibit A) to the area. Planted trees shall be no less than 6 feet initial height and no less than 1½ inch caliper measured at 4½ feet above the ground. No more than 50% of planted trees will be from the same genus or species (if more than ten trees are required), as follows:

<b>TOTAL STREET YARD AREA</b>	<b>REQUIRED TREES</b>
1,000-10,000 sq. ft.	1 tree/2,000 sq. ft.
10,000-110,000 sq. ft.	5 trees for first 10,000 sq. ft. plus 1 tree for every 5,000 sq. ft. over 10,000 sq. ft.
over 110,000 sq. ft.	25 trees for first 110,000 sq. ft. plus 1 tree for every 10,000 sq. ft. over
110,000	sq. ft.

(E) Existing tree credit. All existing surveyed trees over two inches in trunk diameter or tree clusters of at least four one-inch diameter trees preserved within the street yard boundaries may satisfy these requirements one for one. All trees measuring six inches or more in trunk diameter measured at 4½ feet above the ground shall count double toward satisfying these requirements. (Ord. 97040, passed 11-24-97; Am. Ord. 98027, passed 12-28-98; Am. Ord. 2005-13, passed 4-11-05)



**§ 15-8-8 LANDSCAPE IN PARKING LOTS.****(A) Landscape area.**

(1) Four square feet of landscaped area is required for each parking space within a parking lot located in the street yard. Three square feet for each parking space is required for all non-street yard parking lots.

(2) This landscape area should occur entirely within the parking lot boundaries as landscaped medians, landscaped islands or as landscaped peninsulas.

**(B) Islands, medians or peninsulas.**

(1) A landscape island, median or peninsula should be located within 100 feet of each entire parking space on a lot. This distance should be measured from the curb line of the landscape island, median, or peninsula and should extend 1 foot into the entire parking space.

(2) Grasses not listed on the Preferred Plant List (see Exhibit A) cannot be planted on islands, medians, or peninsulas. At least 60% of the required landscape area must be selected from the Preferred Plant List (see Exhibit A) with no more than 50% of the plants from the species.

(3) To provide significant space for the growth of trees planted within these areas, the minimum width for landscaped islands, medians, or peninsulas which contain new trees is eight feet measured from the inside of the curb (see Figure 2-3).

**(C) Trees in parking lots.** One tree must be located within 100 feet of each parking space. This requirement should also be considered when designating parking lot landscape area (see Figure 2-4).

**(D) Special provisions for large parking lots.** The above paragraphs (B)(1) and (C), in Section 15-8-8, do not apply if this division (D) is required. For parking lots with more than three parking modules, a ten feet minimum width median (measured from inside of curb) will be required for every third parking module. Trees within the median must be located so that one tree shall be located within 50 feet of each parking space adjacent to the median. No additional islands shall be required to satisfy Section 15-8-8 except for end islands for each parking module (see Figure 2-4.1). All landscape islands and peninsulas must be an eight feet minimum width measured from inside of curb.

(Ord. 97040, passed 11-24-97; Am. Ord. 98027, passed 12-28-8-98; Am. Ord. 2005-13, passed 4-11-05)

**§ 15-8-9 BUFFERING/SCREENING.**

(A) Buffering is a site specific requirement that should be evaluated based on viewer distance and angle of view from the areas or site features requiring buffering. Buffer design should also consider the amount of view obstruction required and the type and mixture of design elements used in the buffer. Buffering is a site specific requirement that shall be between all multi-family (R-3 and above) and commercial and industrial land uses.



(B) When buffering is required, the installation and maintenance thereafter of a visual screen of one of the following types shall be provided:

(1) A solid material and/or masonry fence or wall at least six feet in height.

(2) A hedge-like screen of evergreen plant material capable of attaining a minimum height of six feet at maturity, planted initially at a minimum of four feet on center. The plants will be a minimum height of two and one-half feet at time of planting. An irrigation system shall also be installed.

(3) Existing vegetation may be used as screening if the following conditions are met:

(a) The vegetation area is at least ten feet wide and a limit of construction line is clearly marked on the plans.

(b) The area must contain, per 20 linear feet of screen, the equivalent of one large tree (minimum two inch caliper), two small trees (minimum one inch caliper) and six evergreen plants at a minimum height of two and one-half feet with the minimum height attainment at maturity of at least six feet. If an irrigation system is not in place, one must be installed.

(Ord. 97040, passed 11-24-97; Am. Ord. 98027, passed 12-28-98; Am. Ord. 2005-13, passed 4-11-05; Am. Ord. 2006-10, passed 4-10-06)

#### **§ 15-8-10 LANDSCAPE OF OTHER AREAS.**

Landscape of other areas shall include all landscaped areas that are not included as part of the Street Yard, Parking Lots or Buffering requirements.

(A) Plant selection. At least 90% of the areas shall be planted with species from the Preferred Plant List (See Exhibit A). Up to 10% of the plants may be of a non-preferred variety as long as they are grouped together in a suitable area and can be irrigated separately.

(B) Turf selection. Areas that receive more than six hours of sunlight per day shall be planted with turf species from the Preferred Plant List (see Exhibit A).

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05)

#### **§ 15-8-11 SOIL CONDITIONING AND MULCHING.**

(A) A minimum of three inches of organic mulch shall be added in non-turf areas to the soil surface after planting.

(B) Non-porous material such as sheet plastic shall not be placed under the mulch.

(C) A minimum of four inch permeable soil, native or imported, shall be required for turf and landscaped areas.

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05)

**§ 15-8-12 IRRIGATION OF LANDSCAPE AREAS.**

(A) The owner shall be responsible for the irrigation of all required landscape areas and plant materials, utilizing one or a combination of the following methods:

(1) An automatic or manual underground irrigation system (conventional spray, bubblers, drip, emitters, drip tubing, porous pipe and the like with tuft zones separated from planting zones unless otherwise approved;

(2) A hose attachment within 100 feet of all required landscape areas and plant materials where there is no road or parking pavement between the hose attachment and landscape area and the site plan area is no larger than 0.5 acre;

(3) Landscape areas planted with native grasses and wild flowers may use a temporary and above ground irrigation system and shall be required to provide irrigation only for the first two growing seasons.

(B) The irrigation methods used shall:

(1) Be in place and operational at the time of the landscape inspection; and

(2) Be maintained and kept operational at all times to provide for efficient water distribution.

(3) Landscape working plans shall indicate, by a detail, a drawing or by specification in a note on the site plan, the nature and location of irrigation which will be used and the location of emergency irrigation system shut-off valve.

(4) No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

(Ord. 97040, passed 11-24-97; Am. Ord. 98027, passed 12-28-98; Am. Ord. 2005-13, passed 4-11-05)

### **§ 15-8-13 PROTECTION OF LANDSCAPE AREA.**

(A) All landscape areas adjacent to vehicular use areas shall be protected with concrete curbs or equivalent barriers.

(B) An equivalent barrier must be at least six inches in height and anchored sufficiently to prevent movement. Examples of alternatives are listed below:

(1) Equivalent barriers:

(a) Asphalt curbs.

(b) Railroad ties (anchored).

(c) Rock or stone curbs (anchored).

(d) Bollards located with a distance between each not to exceed four feet six inches measured from the outside surface of the bollard.

(e) Wheelstops (anchored).

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05)

**§ 15-8-14 ALTERNATIVE COMPLIANCE.**

(A) The Director of Planning may accept alternative designs which prove to be as good or better than strict compliance with the basic landscape requirements.

(B) Alternative proposals should be clearly identified on the landscape plans and the Building Permit application should include a letter outlining the alternative proposal. (See Exhibit C). Review of the alternative proposal will be in conjunction with the Building Permit review.

(C) To establish some guideline equivalents for the major landscape requirements listed in §§ 15-8-6 through 15-8-10, a list of alternative equivalent ratings are found below. These ratings assign relative values to the landscape elements of a design and should be used when formulating alternative proposals. Each basic requirement which cannot be achieved is assigned a negative point value and may be compensated for with positive equivalents shown in the compensation list. An example using this concept is provided in Figure 2-7.

(D) These ratings are intended to provide guidance for proposing alternatives to strict compliance for unusual site specific conditions. However, other proposed equivalents may be accepted based on extremely unusual conditions, if approved by the Director of Planning.

***ALTERNATIVE COMPLIANCE EQUIVALENT RATINGS***

***Deficiencies***

The following information should be used to formulate alternative proposals when a site design cannot conform to the basic landscape requirements as described in § 15-8-6.

***Landscape Area as a Percent  
of Street Yard***

***Negative  
Points***

<5% .....	- 12
5% .....	- 10
6% .....	- 8
7% .....	- 6
8% .....	- 4
9% .....	- 2
10% .....	- 0

## Kingsville - Land Usage

**Landscape Area for  
Each 12 Parking Spaces****Negative  
Points**

<3 square feet .....	- 6
3 square feet.....	- 3
4 square feet.....	- 0

**Landscape Islands, Medians  
Peninsula Placement****Negative  
Points**

within 150 feet of each space .....	- 6
within 125 feet of each space .....	- 3
within 100 feet of each space .....	- 0

**Trees Installed in  
Parking Landscape Areas****Negative  
Points**

within 150 feet of each space .....	- 6
within 125 feet of each space .....	- 3
within 100 feet of each space .....	- 0

<b>Alternative Compliance Equivalent Ratings</b>		
<b>Trees</b>		<b>Positive Points</b>
Percent of Installed Street Yard Trees (all must be from) Preferred Plant List (see Exhibit A)		3" or greater caliper
10%		2 pts.
20%		4 pts.
30%		6 pts.
40%		8 pts.
50% and greater		10 pts.
Buffer		
Buffer Increased Above Minimum		
10%		1 pt.
20%		2 pts.
30%		3 pts.
40%		4 pts.
50%		5 pts.

<b><i>Alternative Compliance Equivalent Ratings</i></b>		
<b><i>Trees</i></b>		<b><i>Positive Points</i></b>
Special Landscape Features		
**Arbors, gazebos or shade seating areas for public benefit		+10
*Approved rain water storage and irrigation distribution systems		+10
Native Plant Credit		
*All native plant materials		+10

(Ord. 97040, passed 11-24-97; Am. Ord. 98027, passed 12-28-98; Am. Ord. 2005-13, passed 4-11-05)

#### **§ 15-8-15 SCREENING STANDARDS.**

A screening device is required between all R-1/R-2 residential land use/zoning and all types of multi-family (R-3 and above), commercial and industrial land use/zoning. Screening is also required between R-1/R-2 residential land use/zoning and all mobile home zoning land use/zoning.

(Ord. 2006-10, passed 4-10-06)

#### **§ 15-8-16 GENERAL.**

When screening is required, the installation and maintenance thereafter of a visual screen shall be provided consisting of a solid material and/or masonry fence or wall at least six feet in height which cannot be seen through.

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05; Am. Ord. 2006-10, passed 4-10-06)

**§ 15-8-17 CERTIFICATE OF OCCUPANCY.**

Landscaping required in this section must be in place prior to obtaining a Certificate of Occupancy.

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05)

**§ 15-8-18 VIOLATIONS; PENALTIES.**

(A) It shall be unlawful to construct, reconstruct, remove or relocate any landscaped area or other appurtenance in violation of the provisions of this article; and proper city officials, or their duly authorized representatives, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful construction, reconstruction, removal or relocation, to restrain, correct or abate such violations, to prevent any illegal act, conduct business or maintenance in and about such premises. Each day such violation continues shall constitute a separate violation.

(B) Any person violating any provision of this article shall be guilty of a misdemeanor, and each shall be deemed guilty of a separate offense for each day or portion thereof during which any violation hereof is committed, continued or permitted, and upon conviction any such violation shall be punishable by a fine not to exceed \$500.

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05)

**EXHIBIT A. PREFERRED PLANT LIST.**

Other plants may be used if approved by the city. This list is a guide and is not meant to be exclusive. Any other native or well adapted plant may be used if drawings are sealed by a registered Texas Landscape Architect.

<b><i>Evergreen Trees</i></b>	<b><i>Height</i></b>	<b><i>Features (N = Native)</i></b>
<b>Arizona Cypress</b> Cupressus arizonica	30' - 75'	good heat and drought tolerance, aromatic foliage
<b>Cherry Laurel</b> Prunus caroliniana	25' - 30'	<b>N</b> , screening plant, wildlife food
<b>Deodar Cedar</b> Cedus deodara	40' - 50'	fine texture, needs drainage
<b>Live Oak</b> Quercus virginiana	50' - 60'	<b>N</b> , oak wilt susceptible
<b>Mountain Laurel</b> Sophora secundiflora	15' - 25'	<b>N</b> , fragrant purple spring blossoms, small tree, large shrub
<b>Texas Madrone</b> Arbutus texana	25' - 30'	<b>N</b> , distinctive, attractive bark, difficult to propagate and transplant
<b>Yaupon Holly</b> Llex vomitoria	15' - 20'	<b>N</b> , red berries in winter, small tree, large shrub

<b><i>Deciduous Trees</i></b>	<b><i>Height</i></b>	<b><i>Features (N = Native)</i></b>
<b>American Elm</b> Ulmus americana	60' - 80'	<b>N</b> , vase-shaped canopy, susceptible to Dutch Elm disease
<b>Bald Cypress</b> Taxodium distichum	60' - 70'	<b>N</b> , fine texture, rust fall color
<b>Bradford Pear</b> Pyrus calleryana 'Bradford'	30' - 40'	showing white spring flowers
<b>Bur Oak</b> Quercus macrocarpa	60' - 100'	<b>N</b> , large fringed acorn, majestic, adaptable tree
<b>Cedar Elm</b> Ulmus crassifolia	50' - 60'	<b>N</b> , fall color, small leaves

<b><i>Deciduous Trees</i></b>	<b><i>Height</i></b>	<b><i>Features (N = Native)</i></b>
<b>Chinese Pistache</b> Pistacia chinensis	30' - 40'	brilliant fall color, very adaptable
<b>Chinquapin Oak</b> Quercus Muhlenbergii	40' - 60'	<b>N</b> , tall, slender form, dark glossy lush foliage
<b>Crape Myrtle*</b> Lagerstroemia indica	25' - 30'	summer flowers, many varieties
<b>Desert Willow</b> Chilopsis linearis	15' - 25'	<b>N</b> , orchid-like blooms, not a true willow
<b>Drake Elm</b> Ulmus parvifolia `Drake'	20' - 30'	nearly evergreen, drought tolerant
<b>Fragrant Ash</b> Fraxinus cuspidata	10'-12'	<b>N</b> , fragrant white flowers in late spring
<b>Golden Rain Tree</b> Koelreuteria bipinnata* and K. paniculata	20'-30'	yellow spring blooms, drought tolerant
<b>Honey Mequite</b> Prosopis glandulosa	25'-30'	<b>N</b> , drought tolerant, wood valued for smoking meat
<b>Mexican Plumb</b> Prunus mexicana	15'-25'-	<b>N</b> , white spring blossoms, wildlife food
<b>Orchid Tree</b> Bauhinia spp.	6'-12'	<b>N</b> , showy white blossoms, small understory or patio tree
<b>Pecan</b> Carya illinoensis	60' - 80'	<b>N</b> , shade tree, nut producing
<b>Shumard Oak</b> Quercus shumardii	50' - 75'	<b>N</b> , fast growing, good fall red foliage coloration, very tolerant of limestone soils
<b>Texas Ash</b> Fraxinus texensis	40' - 50'	<b>N</b> , fast growing, shade tree, exceptional fall foliage coloration
<b>Texas Persimmon</b> Diospyros texana	15' - 20'	<b>N</b> , wildlife food, multi-trunk

<i><b>Deciduous Trees</b></i>	<i><b>Height</b></i>	<i><b>Features (N = Native)</b></i>
<b>Texas Redbud</b> Cercis canadensis var. 'Texensis'	20' - 25'	<b>N</b> , early pink-blossoms, drought tolerant
<b>Texas Red Oak</b> Quercus texana	30' - 40'	<b>N</b> , white patches on bark, fall color
<b>Vitex, Lilac Tree</b> Vitex Agnus-castus	15' - 20'	late spring lavender blossoms, small tree
<b>Western Soapberry</b> Sapindus Drummondii	30' - 40'	<b>N</b> , showy winter fruit, yellow fall color
<b>*susceptible to severe freeze</b>		

<i><b>Evergreen Shrubs</b></i>	<i><b>Sun</b></i>	<i><b>Shade</b></i>	<i><b>Features (N = Native)</b></i>
<b>Agarita</b> Berberis trifoliolata	o		<b>N</b> , prickly leaves, bright red berries
<b>Barbados Cherry*</b> Malpighia glabra	o	o	<b>N</b> , pale pink flowers, berries attract wildlife
<b>Burford Holly</b> Llex cornuta 'Burfordii'	o	o	glossy dark green foliage, red fruit
<b>Dwarf Burford Holly</b> Llex cornuta 'Burfordii nana'	o	o	glossy leaves, berries not prominent
<b>Dwarf Chinese Holly</b> Illex cornuta 'Rotunda nana'	o	o	spiny foliage, no berries
<b>Dwarf Yaupon Holly</b> Llex vomitoria 'Nana'	o	o	low mound-like shrub, no berries
<b>Elaeagnus</b> Elaeagnus pungens	o	o	silver foliage, fragrant white fall flowers
<b>Mountain Laurel</b> Sophora secundiflora	o	o	<b>N</b> , showy fragrant purple flower, large shrub
<b>Nandina</b> Nandina domestica	o	o	red berries, red fall, winter color

<b>Evergreen Shrubs</b>	<b>Sun</b>	<b>Shade</b>	<b>Features (N = Native)</b>
<b>Oleander*</b> Nerium oleander	o		summer flowers, large shrub
<b>Pampas Grass*</b> Cortaderia selloana	o		large, clumping grass
<b>Red Yucca</b> Hesperaloe parviflora	o		<b>N</b> , coral flower spike, not a true yucca
<b>Rosemary*</b> Rosmarinus officinalis	o		aromatic leaves, 'Prostratus' cultivar
<b>Shore Juniper</b> Juniperus conferta	o		spreading, ground cover, blue-green
<b>Texas Sage</b> Leucophyllum frutescens	o		<b>N</b> , lavender flowers, gray or green foliage
<b>Texas Sotol</b> Dasylirion texanum	o		<b>N</b> , long blade-like leaf with spines
<b>Wax Myrtle</b> Myrica cerifera	o	o	<b>N</b> , very adaptable, aromatic leaves, berries used for Bayberry fragrance

<b>Semi-Evergreen Shrubs**</b>	<b>Sun</b>	<b>Shade</b>	<b>Features (N = Native)</b>
<b>Cast Iron Plant**</b> Aspidistra elatior		o	broad strap shaped leaves to 2 inches height
<b>Glossy Abelia</b> Abelia grandiflora	o		small pink flowers, glossy leaves
<b>Muhly Grass</b> Muhlenbergia lindheimeri	o		<b>N</b> , looks like small pampas grass
<b>Pineapple Guava*</b> Feijoa sellowiana	o		exotic fragrant flowers
<b>Pomegranate*</b> Punica granatum	o	o	orange flowers, yellow fall flowers
<b>Primrose Jasmine</b> Jasminum mesnyi	o		yellow flowers, mounding form
* susceptible to severe freeze ** influenced by severity or duration of winter			



<b><i>Semi-Evergreen Shrubs**</i></b>	<b><i>Sun</i></b>	<b><i>Shade</i></b>	<b><i>Features (N = Native)</i></b>
<b>Cast Iron Plant**</b> Aspidistra elatior		o	broad strap shaped leaves to 2 inches height
<b>Glossy Abelia</b> Abelia grandiflora	o		small pink flowers, glossy leaves
<b>Muhly Grass</b> Muhlenbergia lindheimeri	o		<b>N</b> , looks like small pampas grass
<b>Pineapple Guava*</b> Feijoa sellowiana	o		exotic fragrant flowers
<b>Pomegranate*</b> Punica granatum	o	o	orange flowers, yellow fall flowers
<b>Primrose Jasmine</b> Jasminum mesnyi	o		yellow flowers, mounding form
<b>* susceptible to severe freeze</b> <b>** influenced by severity or duration of winter</b>			

<b><i>Deciduous Shrubs</i></b>	<b><i>Sun</i></b>	<b><i>Shade</i></b>	<b><i>Features (N = Native)</i></b>
<b>Althaea</b> Hibiscus syriacus	o		showy summer flowers
<b>Butterfly Bush</b> Buddleia Davidii	o		<b>N</b> , lavender/lilac flowers, small fuzzy leaves
<b>Flame Acanthus</b> Anisacanthus Wrightii	o	o	<b>N</b> , orange flowers attracts hummingbirds
<b>Texas Lantana*</b> Lantana horrida and L. camara	o		<b>N</b> , good summer color, many varieties
<b>Trailing Lantana*</b> Lantana montevidensis	o	o	<b>N</b> , lilac colored flowers, summer through fall
<b>*susceptible to severe freeze</b>			

<b>Evergreen Vines &amp; Groundcovers</b>	<b>Sun</b>	<b>Shade</b>	<b>Features (N = Native)</b>
<b>Asian Jasmine*</b> Trachelospermum asiaticum	o	o	low vigorous ground-cover
<b>Bigleaf Periwinkle</b> Vinca major		o	loose ground-cover, blue flowers
<b>Carolina Jessamine</b> Gelsemium sempervirens	o	o	<b>N</b> , fragrant yellow flowers in spring
<b>Coral Honeysuckle</b> Lonicera sempervirens	o	o	<b>N</b> , coral flowers, red fruit, attract wildlife
<b>Cross Vine</b> Bigonia capreolata	o	o	<b>N</b> , yellow/red flowers, clinging vine
<b>Damianita</b> Chrysactinia mexicana	o		<b>N</b> , yellow flowers, low growing to 12" height
<b>English Ivy</b> Hedera helix		o	clinging, vigorous, self-climbing vine
<b>Fig Vine*</b> Ficus pumila	o	o	clinging vine, fine texture
<b>Lady Banksia Rose</b> Rosa banksiae	o		yellow spring flowers, large cascading form
<b>Liriope</b> Liriope muscari		o	purple spike flowers, clump-like foliage
<b>Littleleaf Periwinkle</b> Vinca minor		o	blue flowers, ground-cover
<b>Monkey Grass</b> Ophiopogon japonicus		o	tufted grass-like ground-cover
<b>Oregano</b> Origanum vulgare	o	o	perennial, spreading herb
<b>Stonecrop</b> Sedum spp.	o	o	low, fast growing ground-cover
<b>*susceptible to severe freeze</b>			

<b><i>Deciduous Vines &amp; Groundcovers</i></b>	<b><i>Sun</i></b>	<b><i>Shade</i></b>	<b><i>Features (N = Native)</i></b>
<b>Bush Morning Glory</b> Ipomoea leptophylla	o	o	<b>N</b> , forms 1-1/2' - 3' mounds of foliage, lavender to purple flowers
<b>Coral Vine</b> Anigonon leptopus	o		pink flowers in summer and fall
<b>Gregg Dalea*</b> Dalea greggii	o	o	<b>N</b> , purple flowers in fall, ground-cover
<b>Passion Vine*</b> Passiflora incarnata	o	o	<b>N</b> , lavender flowers, edible fruit: Maypop
<b>Trumpet Vine</b> Campsis radicans	o	o	<b>N</b> , orange-scarlet flowers, invasive
<b>Virginia Creeper*</b> Parthenocissus quinquefolia	o	o	<b>N</b> , red fall color, clinging vine
<b>*susceptible to severe freeze</b>			

<b><i>Flowering Perennials</i></b>	<b><i>Sun</i></b>	<b><i>Shade</i></b>	<b><i>Features (N = Native)</i></b>
<b>Artemisia</b> Artemisia ludoviciana	o		<b>N</b> , aromatic foliage, white fuzzy leaves
<b>Black-eyed Susan</b> Rudbeckia hirta	o	o	<b>N</b> , yellow dark-centered daisy, flowers May to September
<b>Blackfoot Daisy</b> Melampodium leucanthum	o		<b>N</b> , short white daisy flowers all summer, short lived
<b>Butterfly Weed</b> Asclepias tuberosa	o	o	<b>N</b> , orange/yellow flowers, attracts butterflies
<b>Canna Lily</b> Canna X generalis	o		banana-like foliage, blooms in summer
<b>Cedar Sage</b> Salvia roemeriana		o	<b>N</b> , red flowers, naturalizes
<b>Cherry Sage</b> Salvia greggii	o	o	<b>N</b> , red, pink, or white flowers



<b><i>Flowering Perennials</i></b>	<b><i>Sun</i></b>	<b><i>Shade</i></b>	<b><i>Features (N = Native)</i></b>
<b>Cigar Plant</b> Cuphea micropetala	o		orange-yellow fall flowers
<b>Coreopsis</b> Coreopsis lanceolata	o		<b>N</b> , yellow spring and fall flowers, clumping
<b>Daylily</b> Hemerocallis fulva	o		orange/yellow funnel-shaped flower
<b>Fall Aster</b> Aster spp.	o	o	<b>N</b> , blue/purple autumn flowers
<b>Firebush*</b> Hamelia patens	o		red-orange flowers, red fall color
<b>Gayfeather</b> Liatris spp.	o		<b>N</b> , purple flower spikes in autumn
<b>Heartleaf Hibiscus</b> Hibiscus cardiophyllus	o	o	<b>N</b> , red flowers all summer
<b>Hymenoxys</b> Hymenoxys scaposa	o		<b>N</b> , small yellow daisy, bitter smelling leaves
<b>Maximillian Sunflower</b> Helianthus maximiliana	o		<b>N</b> , yellow flower, late summer to fall
<b>Mealy Blue Sage</b> Salvia farinacea	o		<b>N</b> , blue flower spikes, spring and summer
<b>Mexican Bush Sage</b> Salvia leucantha	o		tall purple flower spikes
<b>Mexican Heather*</b> Cuphea hussopifolia	o		tiny purple, pink or white flowers
<b>Mexican Marigold Mint</b> Tagetes lucida	o	o	yellow fall flowers, anise flavored foliage
<b>Mexican Oregano</b>	o		lavender/pink flowers, aromatic
<b>Oxeye Daisy</b> Chrysanthemum leucanthemum	o		white early summer flowers, yellow center
<b>Peruvian Verbena*</b> Verbena peruviana	o	o	pink flowers in summer, low growing

<b><i>Flowering Perennials</i></b>	<b><i>Sun</i></b>	<b><i>Shade</i></b>	<b><i>Features (N = Native)</i></b>
<b>Pink Skullcap</b> Scutellaria suffrutescens	o	o	pink flowers in summer, low growing
<b>Plumbago*</b> Plumbago auriculata	o	o	low growing, blue flowers
<b>Purple Coneflower</b> Echinacea purpurea	o	o	<b>N</b> , purple daisy-like flowers
<b>Rose Mallow</b> Pavonia lasiopetala	o	o	<b>N</b> , pink hibiscus-like flowers
<b>Scarlet Sage</b> Salvia coccinea	o	o	<b>N</b> , red, pink or white flowers, spring to fall
<b>Spiderwort</b> Tradescantia x Andersoniana		o	<b>N</b> , purple-blue flowers, informal ground cover
<b>Turk's Cap</b> Malvaviscus arboreus 'Drummondii'	o	o	<b>N</b> , red flowers and fruit, colonizing
<b>White Mistflower</b> Eupatorium Wrightii	o	o	<b>N</b> , white autumn flowers, attracts butterflies
<b>Wild Petunia</b> Ruellia nudiflora		o	<b>N</b> , purple flowers from March to December
<b>Zexmenia</b> Wedelia hispida	o	o	<b>N</b> , orange/yellow flowers, May to November
<b>*susceptible to severe freeze</b>			

<b><i>Turf &amp; Low Grasses</i></b>	<b><i>Sun</i></b>	<b><i>Shade</i></b>	<b><i>Features (N = Native)</i></b>
<b>Bermuda</b> Cynodon dactylon	o		seed or hybrid sod
<b>Blue Grama</b> Bouteloua gracilis	o		<b>N</b> , seed, fine-leaf tufted grass, good meadow grass, not for mowed lawns
<b>Buffalograss</b> Buchloe dactyloides	o		<b>N</b> , many seed varieties, sod available in '609' and Prairie hybrids
<b>Little Bluestem</b> Schizachyrium scoparium	o		<b>N</b> , seed, blue-green, fine texture, not for mowed

			lawns
--	--	--	-------

2006 S-8



**EXHIBIT B. LANDSCAPE/IRRIGATION NOTES.****SITE DEVELOPMENT PERMIT - IRRIGATION NOTES.**

Automatic irrigation systems shall comply with the following guidelines. These guidelines (No. 1 - No. 7) shall be noted on the Site Development Permit and shall be implemented as part of the landscape inspection.

1. Adjustable flow controls shall be required on circuit remote control valves and pressure regulation component(s) shall be required where static pressure exceeds manufacturer's recommended operating range.
2. Valve and circuits shall be separated based on water use, so that turf areas can be watered separately from shrub and ground cover areas.
3. Sprinkler heads shall have matched precipitation rates within each control valve circuit.
4. Serviceable check valves shall be required where elevation differential may cause low head drainage, adjacent to paving areas.
5. Sprinkler head spacing shall be designed for head-to-head coverage or heads shall be spaced as per manufacturer's recommendations and adjusted for prevailing winds. The system shall be designed for minimum run-off and minimum over-spray onto non-irrigated areas, (i.e. paving and structures).
6. All automatic irrigation systems shall be equipped with a controller capable of dual or multiple programming. Controllers shall have multiple cycle start capacity and a flexible calendar program, including the capability of being set to water every five days. All automatic irrigation systems shall be equipped with a rain sensor shut-off device.
7. Irrigation construction plans shall include a water budget. A laminated copy of the water budget shall be permanently installed inside the irrigation controller door. Water budget shall include:
  - a. Estimated monthly water use (in gallons per application) and the area (in square feet) irrigated.
  - b. Precipitation rates for each valve circuit.
  - c. Monthly irrigation schedule for the plant establishment period (first three months) and recommended yearly watering schedule, including seasonal adjustments.
  - d. Location of emergency irrigation system shut-off valve.



**EXHIBIT C. SAMPLE ALTERNATIVE COMPLIANCE LETTER.**

PROJECT NAME:

PROJECT ADDRESS:

DATE:

NAME OF OWNER:

ADDRESS OF OWNER:

ADDRESS LETTER TO:

NAME OF DIRECTOR:

Director of Planning  
City of Kingsville  
200 E. Kleberg  
Kingsville, TX 78363

INCLUDE IN THE LETTER:

The body of the letter should state specifically in what way the project will not comply with the Landscaping Regulations and explain in detail how the alternative compliance proposal is “as good or better” than strict compliance as required.

The letter should also include the following:

1. The size, type and spacing of plant materials installed as part of the alternative compliance proposal.
2. The ordinance section numbers that the project is not complying with.
3. The contact person and the phone number where they can be reached during working hours.
4. The signature of the owner and agent.

(Am. Ord. 2005-13, passed 4-11-05)



**EXHIBIT D. FIGURES.**

Figure 2-1

Figure 2-1

Figure 2-2

Figure 2-2

Figure 2-2

Figure 2-3

Figure 2-4

Figure 2-4.1

Figure 2-5

Figure 2-5

Figure 2-6

Figure 2-7

Figure 2-7

(Ord. 97040, passed 11-24-97; Am. Ord. 2005-13, passed 4-11-05)

2006 S-8





<i>Land Use Chart</i>												
<i>Land Use Description</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>MH</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>I1</i>	<i>I2</i>	<i>Ag</i>
to main use												
Private swimming pool	P	P	P	P	P	P	P	P	P	P	P	P
Apartment or secondary residence for servants of family members	S	S	P	P	P	P	P	P				P
Institutional and Special Service												
Airport, heliport		S	S	S	S	S	S	S	S	S	S	S
Cemetery, mausoleum	S	S	S	S			S					S
Church, rectory	P	P	P	P	P	P	P	P				P
Convent, monastery or other dwelling for pursuit of group religious ideals	S	S	S	P	S	S	P	P				P
Private country club	S	S	P	P	P	P	P					P
Day nursery or kinder	S	S	S	P	P	P	P	P	P	P		P
Farm, ranch, or orchard												P
Lodge or club			S		P	P	P					P
Home, halfway house, or other group dwelling for alcoholic, narcotic, psychiatric patients or felons and		S	S	S		P	P					S





<i>Land Use Chart</i>												
<i>Land Use Description</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>MH</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>I1</i>	<i>I2</i>	<i>Ag</i>
Utilities, public or private other than listed	S	S	S	S	S	S	P	P	P	P	P	S
Utility shops, storage yards, and buildings							S	S	P	P	P	
Water treatment plant	S	S	S	S	S	S	S	S	P	P	P	S
Water well, reservoir, or storage tank	P	P	P	P	P	P	P	P	P	P	P	P
Recreational Uses												
Amusement, commercial outdoor							P	P	P			
Amusement, commercial indoor							P	P	P			
Carnival									S	P	P	P
Temporary carnival (14 days - 200 ft. setback from residential property)							P	P	P			
Provisioning and recreational sporting goods sales including boats and vehicles							P	P	P			
Souvenir, curio							P	P				
Automobile Related Uses												
Car wash						P	P	P	P	P		
Auto sales, repairs including							P	P	P	P		



<i>Land Use Chart</i>												
<i>Land Use Description</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>MH</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>I1</i>	<i>I2</i>	<i>Ag</i>
Antique or collectable shop						S	P	P	P			
Art supply store						S	P	P	P			
Animal clinic or pet hospital, no outdoor pens							P	S	P	P		
Animal clinic or pet hospital with outdoor pens							S		S	P	P	P
Bank or savings and loan						S	P	P	P			
Book or stationary store						S	P	P				
Barber or beauty shop						S	P	P	P			
Bakery or confectionery shop, retail sales (less than 2,500 square feet)						P	P	P	P			
Cafeteria or restaurant						S	P	P	P	P	P	
Camera shop						S	P	P	P			
Laundry or self-service laundry shop (limited area)						S	P	P	P			
Clinic, medical, dental, chiropractor, optometrist or other office of licensed health related profession						S	P	P	P	P		
Drug store or pharmacy						P	P	P	P			

<i>Land Use Chart</i>												
<i>Land Use Description</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>MH</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>I1</i>	<i>I2</i>	<i>Ag</i>
Department variety or discount store							P	P	P			
Grocery store						P	P	P	P			
Furniture or appliance store							P	P	P			
Florist shop						P	P	P	P			
Garden shop and plant sales							P	P	P			P
Kennel									S	P	P	P
Handicraft and art object sale						S	P	P	P	S		
Hardware store							P	P	P	S		
Hobby shop						S	P	P	P			
Laboratory medical or dental						S	P	P	P			
Lawnmower, small engine repair/sales							P	P	P			
Locksmith or key shop						P	P	P	P			
Medical appliance fitting or sale						P	P	P	P			
Mortuary						S	P	P	P	S		S
Music store						S	P	P	P			

<i>Land Use Chart</i>												
<i>Land Use Description</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>MH</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>I1</i>	<i>I2</i>	<i>Ag</i>
Office, professional, or general business						S	P	P	P	S		
Optical shop or laboratory						S	P	P	P			
Package liquor store						S	P	P	P			
Pawn shop						S	P	P	P			
Pet shop for small animals birds, fish						P	P	P	P			
Personal custom services such as tailor, milliner, and the like						P	P	P	P			
Repair of appliances, T.V., radio, and similar equipment						P	P	P	P			
Shoe, boot, saddle, or other leather goods sale and repair						S	P	P	P	P	P	
Studio, photographer, artist, music, dance, drama						S	P	P	P			
Studio, health, exercise, reducing or similar service						S	P	P	P			
Studio, decorator and display						S	P	P	P			
Tavern						S	P	P	P			
Bakery, wholesale								S	P	P		

<i>Land Use Chart</i>												
<i>Land Use Description</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>MH</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>I1</i>	<i>I2</i>	<i>Ag</i>
Building materials sales							S	P	P	S		
Cabinet or furniture upholstery shop							P	P	P	P		
Clothing or similar light manufacturing processes							S	P	P	P		
Cleaning, laundry, or dyeing plant							P	P	P	P		
Contractors storage of equipment yard									P	P	P	
Dance hall or night club							P	P	P	P		
Heavy machinery storage, sales or repair									P	P	P	
Open storage and sale of appliance and machinery									S	P	P	
Lithographer or print shop							P	P	P	P	P	
Lumber yard							P	P	P	P	P	
Dairy or ice cream plant									S	P	P	P
Maintenance or repair service for buildings									P	P	P	
Laboratory, scientific or research							S	S	S	P	P	S

<i>Land Use Chart</i>												
<i>Land Use Description</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>MH</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>I1</i>	<i>I2</i>	<i>Ag</i>
Paint shop							P	P	P	P	P	
Plumbing shop							S	S	P	P	P	
Railroad or bus passenger							P	P	P	P		
Railroad team tracks, freight depot or docks									P	P	P	P
Storage warehouse									S	S	S	
Trade, vocational or commercial schools							P	P	P	S	S	
Trailer and mobile home sales							S		P	P	P	
Transfer storage terminal									P	P	P	
Welding or machine shop									P	P	P	
Wholesale office, storage, sales not elsewhere listed									P	P	P	
Milk depot						S	P		P	P	P	
Industrial and Related Uses												
Light manufacturing processes which do not emit detectable dust, odor, fumes, or gas beyond the boundary of the property or noises above the ambient level and are not								S	S	P	P	





<i>Land Use Chart</i>												
<i>Land Use Description</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>MH</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>I1</i>	<i>I2</i>	<i>Ag</i>

(Ord. 84009, passed 6-18-84; Am. Ord. 87009, passed 4-27-87; Am. Ord. 89048, passed 11-27-89; Am. Ord. ORD-2001-15, passed 8-13-01; Am. Ord. 2003-11, passed 5-12-03; Am. Ord. 2006-33, passed 7-10-06)

<i>RESIDENTIAL USE</i>						
<i>Lot Size</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>MH</i>	<i>Ag</i>
Minimum lot area, sq. ft.	5,500	2,500	6,000	6,000	5 acres	10 acres
Minimum lot area per unit, sq. ft.	5,500	2,500	1,000	1,000 <sup>2</sup>	3,000	10 acres
Minimum open space per unit, sq. ft.	0	0	400 <sup>1</sup>	400 <sup>1</sup>	0	0
Minimum lot width, ft. (measured at the setback line)	50	25	50	50	25	300
Setbacks; Lots						
Principal uses:						
Front yard, ft.	20	20	20	20	20	
Side yard (interior) ft.	5	5	5	5	5	
Side yard (on street) ft.	10	10	10	10	10	10
Rear yard ft.	10	10	10	10	10	
Accessory uses:						
Front yard, ft.	20	20	20	20		
Side yard, (interior) ft.	5	5	5	5		

RESIDENTIAL USE						
Lot Size	R1	R2	R3	R4	MH	Ag
Rear yard, ft.	5	5	5	5		
Height						
Principal uses, feet maximums	35	35	35	35		
Accessory uses, feet	15	15	20	20		
Fences and Walls (Maximum Height)						
Front yard <sup>3</sup>	4	4	4	4		
Rear yard	6	6	6	6		
Side yard	6	6	6	6		

<sup>1</sup> The 400 square foot open space requirement may or may not be additional to the required lot size, depending on the size of the lot. Before the building permit can be issued, all space requirements must be met in whole.

<sup>2</sup> See Section 15-6-86(B)(1) for area requirements for additional structures.

<sup>3</sup> Fences within the required front yard are limited. No fence or wall may exist within the area formed by an arc of 20 feet from a street intersection. Fences not within a required yard area shall not exceed 10 feet.

(Ord. 84009, passed 6-18-84; Am. Ord. 90036, passed 9-10-90; Am. Ord. 2005-42, passed 11-28-05)

<i>NON-RESIDENTIAL USE</i>							
<i>Setbacks; Lots</i>	<i>C1</i>	<i>C2</i>	<i>C3</i>	<i>C4</i>	<i>I1</i>	<i>I2</i>	<i>Ag</i>
Principal uses:							
Front yard, ft.	20	20		20	30	30	20
Side yard, (interior) ft.	10	X	X	X	X	X	10
Side yard, (on street) ft.	10	20	X	20	20	20	20
Rear yard, ft.	20	X	X	X	20	20	20
Accessory uses:							
Front yard, ft.	N. P.	N. P.	X	X	N. P.	N. P.	N. P.
Side yard, (interior) ft.	10	0	X	X	0	0	0
Side yard, (street) ft.	10	0	X	X	0	0	0
Rear yard, ft.	0	0	X	X	0	0	0
Distance between structure	10	10	0	10	0	0	15
Height							
Principal uses, ft.	20	35	S	S	0	0	0
Accessory uses, ft.	15	35	35		0		0
Fences and Walls, Height Feet <sup>1</sup>	8	8	8	8	8	8	8

<sup>1</sup> Fences within the required front yard are limited. No fence or wall may exist within the area formed by an arc of 20 feet from a street intersection. Fences not within a required yard area shall not exceed 10 feet.

(Ord. 84009, passed 6-18-84; Am. Ord. 90036, passed 9-10-90)

# CHARTER OF THE CITY OF KINGSVILLE

## Table of Contents

### Article I:

- Section 1 Corporate name
- Section 2 Boundaries
- Section 3 Platting of property
- Section 4 Extension of city limits or boundaries

### Article II:

- Section 1 Corporate power
- Section 2 Powers of ordinance
- Section 3 Style of ordinance
- Section 4 Real estate, etc., owned by the city
- Section 5 Acquisition of property
- Section 6 Public property exempt from executions
- Section 7 City funds not subject to garnishment
- Section 8 Exemption from liability for damages
- Section 9 Right of eminent domain
- Section 10 Ownership of public utilities
- Section 11 Funds for the acquisition of any public utility, security for same, etc.
- Section 12 Manufacture or purchase of public utility products
- Section 13 Right to operate and maintain public utility acquired, exclusive
- Section 14 Right to regulate charges, etc., of holder of franchise or privilege
- Section 15 Street powers
- Section 16 Construction of sidewalks and curbs
- Section 17 Sidewalks, improvements; defective may be declared nuisance
- Section 18 Franchise for use of streets
- Section 19 Public works, improvements
- Section 20 Altering streets, obstructions, encroachments, etc.
- Section 21 Parks, playgrounds, etc.
- Section 22 Peace and good order
- Section 23 Initiative and referendum
- Section 24 Recall

### Article III:

- Section 1 Taxation

## Article IV:

Section 1 Bonds

## Article V:

Section 1 Municipal government  
 Section 2 Terms of office  
 Section 3 Vacancies  
 Section 4 Qualifications  
 Section 5 Elections  
 Section 6 Judge  
 Section 7 Election returns  
 Section 8 Election day  
 Section 9 Election — law controlling  
 Section 10 Legislative and governing body  
 Section 11 Duties of Mayor and Commissioners  
 Section 12 Meeting of the Commission  
 Section 13 Compensation  
 Section 14 Legislative procedure  
 Section 15 Ordinance enactment  
 Section 16 Emergency measure; defined and provided for  
 Section 17 Ordinances; publication of  
 Section 18 Ordinances; recording  
 Section 19 Investigations by Commission  
 Section 20 Boards of city development  
 Section 21 Salaries; general  
 Section 22 Payment of claims  
 Section 23 Accounting procedure  
 Section 24 Audit and examination  
 Section 25 Contracts (deleted August 9, 1986)  
 Section 26 Nepotism (deleted August 9, 1986)  
 Section 27 Hours of labor upon public works (deleted August 9, 1986)  
 Section 28 Official bonds  
 Section 29 Oath of office  
 Section 30 City Manager  
 Section 31 Powers and duties  
 Section 32 Appointment and removal of City Manager  
 Section 33 Establishment of a special fund for capital improvements

## General Provisions:

Section 1 Enumeration of powers  
 Section 2 Ratification of ordinances  
 Section 3 Amendments to Charter  
 Section 4 Vote on proposed Charter, manner, etc.  
 Section 5 Election of Mayor and Commissioners

## ARTICLE I

Section 1 — CORPORATE NAME: All the inhabitants of the City of Kingsville, in Kleberg County, Texas, as the boundaries and limits of said City presently exist, or may hereafter be established, shall be a body politic, incorporated under, and be known by the name and style of the "City of Kingsville" with such powers, rights and duties as are hereinafter provided, and all other powers not herein specifically designated that are granted by the Constitution and laws of the State of Texas to such cities.

Section 2 - BOUNDARIES: The boundary and limits of said corporation shall be as set forth in the Section until changed by annexing adjacent territory as prescribed elsewhere in this Charter.

Beginning at the N.W. corner of Lot "A" in the suburbs of the City of Kingsville, THENCE East to the N.W. corner of Block 12 in the Third Addition to the City of Kingsville, THENCE South of the S.E. corner of the Block 21 in the Third Addition to Kingsville, THENCE east to a point on the W. line of Farm Lot 4 in Block 10; thence South to the N.W. corner of Farm Lot 4 in Block 17; THENCE West to the N.E. corner of Farm Lot 3 in Block 19; THENCE North to a point in the East line of Lot 16 in Block 8 directly West of the place of beginning, THENCE East to the PLACE OF BEGINNING.

Section 3 - PLATTING OF PROPERTY: Should any property lying within the city limits, as established by this Charter, be hereafter platted into blocks and lots, the owners of said property shall plat and lay the same off to conform to the streets and alleys abutting the same, and shall file with the Mayor a correct map thereof provided, that in no case shall the City of Kingsville be required to pay for any of said streets or alleys, at whatever date opened, but when opened by reason of the platting of said property, at whatever date platted, they shall become, by such act, the property of the City of Kingsville, for use as public highways and shall be cared for as such.

Section 4 - EXTENSION OF CITY LIMITS OR BOUNDARIES: The City Commission may by ordinance annex additional territory lying adjacent to the city with or without the consent of the owners and inhabitants of the territory annexed.

## ARTICLE II

Section 1 - CORPORATE POWER: The City of Kingsville made a body politic and corporate by the legal adoption of this Charter, shall have perpetual succession, may use a common seal, may sue and be sued, may

contract and be contracted with, implead and be impleaded in all courts and places and in all matters whatever; may take, hold and purchase land, within or without the city limits, as may be needed for corporate purposes of said City, and may sell any real estate or personal property owned by it, perform and render all public services and, when deemed expedient, may

condemn property for corporate use and may hold, manage and control the same, and shall be subject to all the duties and obligations now pertaining to or incumbent upon said city as a corporation, not in conflict with the provisions of this Charter, and shall enjoy all the rights, immunities, powers, privileges and franchises now possessed by said City, and herein conferred and granted.

Section 2 - POWERS OF ORDINANCE: The City of Kingsville shall have the power to enact and enforce all ordinances necessary to protect health, life and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce the good government, order and security of the City and its inhabitants, and to enact and enforce ordinances on any and all subjects provided that no ordinance shall be enacted inconsistent with the provisions of this Charter or the General Laws or Constitution of the State of Texas.

Section 3 - STYLE OF ORDINANCE: The style of all ordinances of the City of Kingsville, shall be: "BE IT ORDAINED by the City Commission of the City of Kingsville," but the same may be omitted when published in book or pamphlet form by the City of Kingsville.

Section 4 - REAL ESTATE, ETC., OWNED BY THE CITY: All real estate owned in fee simple title or held by lease, sufferance, easement or otherwise, all public buildings, fire stations, parks, public squares, streets, alleys and all property of whatever kind, character or description, whether real or personal, which has been granted, donated, purchased or otherwise acquired by the City of Kingsville through any means of agency, and all causes of action, choses in action, rights and privileges of every kind and character, and all property of whatsoever character and description which may have been held or is now held, controlled or used by the said City of Kingsville, or public ways or in trust for the public, shall vest in and remain in and inure to the said corporation of the City of Kingsville by the legal adoption of this Charter, and all suits and pending action to which the City of Kingsville heretofore was or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the provisions of this Charter or by the legal adoption of the same, but shall continue unabated.

Section 5 - ACQUISITION OF PROPERTY: The City of Kingsville shall have the power and authority to acquire by purchase, gift, devise, condemnation or otherwise any character of property, including any charitable or trust fund.

Section 6 - PUBLIC PROPERTY EXEMPT FROM EXECUTIONS: Said City shall have the power to provide that no public property or any other character of property owned or held by said city shall be subject to any execution of any kind or nature.

Section 7 - CITY FUNDS NOT SUBJECT TO GARNISHMENT: Said City shall

have the power to provide that no funds of the city shall be subject to garnishment and that the city shall never be required to answer in any garnishment proceedings.

Section 8 - EXEMPTION FROM LIABILITY FOR DAMAGES: Said City shall have the power to provide for the exemption of said city from liability on account of any claim for damages to any person or property, and to fix rules and regulations governing the city's liability, as may be deemed advisable.

Section 9 - RIGHT OF EMINENT DOMAIN: Said City shall have the right to eminent domain and the power to appropriate property for public uses whenever the governing authority shall deem it necessary; and to take any private property, within or without the city limits, for any of the following purposes, to wit City Halls, Police Stations, Jails, Calabooses, Fire Stations and fire alarm systems, Libraries, Hospitals, Sanitariums, Auditoriums, Market Houses, Slaughter Houses, Reformatories, Abattoirs, Streets, Alleys, Parks, Highways, Playgrounds, Sewer Systems, Storm Sewers, Sewage Disposal Plants, Filtering Beds and Emptying Grounds for Sewer Systems, Drainage, Water Supply Sources, Wells, Water and Electric Light and Power Systems, Street Car Systems, Telephone and Telegraph Systems, Gas Plants or Gas Systems, Cemeteries, Crematories, Prison Farms, Pest Houses, and to acquire lands, within or without the City, for any other municipal purpose that may be deemed advisable. That the power herein granted for the purpose of acquiring private property shall include the power of improvement and enlargement of waterworks, including water supply, riparian rights, standpipes, watersheds, and the construction of supply reservoirs. That in all cases where the city exercises the power of eminent domain, it shall be controlled as nearly as practicable, by the laws governing the condemnation of property by railroad corporations in this State, the city taking the position of the railroad corporation in any such case.

Section 10 - OWNERSHIP OF PUBLIC UTILITIES: Said city shall have the power to buy, own or construct, and to maintain and operate, within or without the city limits, complete water systems, gas or electric lighting or power plant or plants, telephone systems, street railways, sewer systems, sewage plants, fertilizing plants, abattoirs, municipal railway terminals, or any other public service utility, and to demand and receive compensation for services furnished by the city for private purposes or otherwise, and to have the power to regulate by ordinance, the collection of compensation for such services. That said city shall have the power to acquire by lease, purchase or condemnation, the property of any person, firm or corporation now or hereafter conducting any such business for the purpose of operating such public utility or utilities and for the purpose of distributing such service throughout the city, or any portion thereof.

Section 11 - FUNDS FOR THE ACQUISITION OF ANY PUBLIC UTILITY, SECURITY FOR SAME, ETC.: Should the city determine to acquire any public utility by purchase, condemnation or otherwise, as herein provided, said city shall have the power to obtain funds for the purpose of acquiring said public utility and paying the compensation thereof, by issuing bonds or notes, or other evidence of indebtedness, and shall secure the same by fixing a lien upon the property constituting the public utility so acquired and said security shall apply alone to said property so pledged.

Section 12 - MANUFACTURE OR PURCHASE OF PUBLIC UTILITY PRODUCTS:

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

Section 13 - RIGHT TO OPERATE AND MAINTAIN PUBLIC UTILITY ACQUIRED, EXCLUSIVE: In the event said city shall acquire, by purchase, gift, devise, deed, condemnation or otherwise, any water-works system, electric light or power system, gas system, street railway system, telephone system or any other public service utility to operate and maintain for the purpose of serving the inhabitants of said city, the right to operate and maintain such public service utility, so acquired, shall be exclusive.

Section 14 - RIGHT TO REGULATE CHARGES, ETC., OF HOLDER OF FRANCHISE OR PRIVILEGE: Said City shall have the power to determine, fix and regulate the charges, fares and rates of any person, firm or corporation exercising, or that may hereafter exercise, any right of franchise or public privilege in said City, and to prescribe the kind of service to be furnished, the equipment to be used, the manner in which the service shall be rendered and to change such regulations from time to time; that in order to ascertain all the facts necessary for the proper understanding of what is or should be a reasonable rate of regulation, the governing authority shall have full power to inspect the books and other records of such person, firm or corporation and compel the attendance of witnesses for such purposes. Every franchise holder who shall request an increase in rates, charges or fares, shall have, at the hearing of the Commission called to consider such request, the burden of establishing by competent evidence, the value of its investments properly allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service. If, upon such hearing, the Commission is not satisfied with the sufficiency of the evidence so furnished, it shall be entitled to call upon such public utility for the furnishing of additional evidence at a subsequent date, to which said hearing may be adjourned. If at the conclusion of said adjourned hearing, the Commission is still not satisfied with the sufficiency of the evidence furnished by said utility, the Commission shall have the right to select and employ rate consultants to conduct investigation, present evidence and advise the Commission, at its hearing on such requested increase in rates, charges or fares; and said utility shall reimburse the City for ONE HUNDRED PERCENT (100%) of its reasonable and necessary expense so incurred. Such rate consultants shall be qualified, competent and of good standing in their professions. No Public Utility franchise holder shall institute any legal action to contest any rate, charge or fare fixed by the Commission until such franchise holder has filed a motion for rehearing with the Commission specifically setting out each ground of its complaint against the rate, charge or fare fixed by the Commission, and until the Commission shall have acted upon such motion. Such motion shall be deemed overruled unless acted upon by the Commission within a reasonable time, not to exceed ninety (90) days from the filing of such motion for rehearing; provided, that the Commission may by resolution extend such time limit for acting on said motion for rehearing from ninety (90) days to one hundred eighty (180) days; provided, however, that the City shall not prescribe the

equipment to be used by public utility companies and provided, further, that where a State Law provides different time limits on rate hearings than those herein set out, then and in that event, the City shall observe the hearing times as set forth in such State Law.

Section 15 - STREET POWERS: The City of Kingsville shall have exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, alleys and highways of the city and to provide for the improvement thereof by paving, raising, grading, draining, or otherwise, and to charge the cost of making such improvement against the abutting property, by fixing a lien against the same and a personal charge against the owner thereof, according to an assessment specially levied therefor, in an amount not to exceed the special benefit of any such property received in enhanced

value by reason of such improvements, and to provide for the issuance of assignable certificates covering the payment for said improvement; provided that in no event shall a percentage of the cost of such improvements greater than that authorized by applicable State statute be charged to the owner; it being further provided that all street railway, stream railways and other railways shall pay the entire cost of improving said streets, avenues, alleys and highways between the rails and tracks of any such railway companies, and for a distance of two feet on each side thereof.

Section 16 - CONSTRUCTION OF SIDEWALKS AND CURBS: Said City shall have the power to provide for the construction and building of sidewalks and to charge the entire cost of construction of said sidewalks, including curb, against the owner of the abutting property and to make special charge against the owner for such cost, and to provide by special assessments, a lien against such property for such cost.

Section 17 - SIDEWALKS, IMPROVEMENT; DEFECTIVE MAY BE DECLARED NUISANCE: Said city shall have the power to provide for the construction, improvement or repair of any such sidewalk, or the construction of any such curb, by penal ordinance, and to declare defective sidewalks to be a public nuisance.

Section 18 - FRANCHISE FOR USE OF STREETS: Said city shall have the power and authority to grant franchises for the use and occupancy of streets, avenues, alleys and any and all public grounds belonging to or under the control of the city. No telegraph, telephone, electric light or power, street railway, inter-urban railway, steam railway, gas company, waterworks, water system or any other character of public utility shall be granted any franchise or permitted the use of any street, avenue, alley, highway or grounds of the city without first making application to and obtaining the consent of the governing authorities thereto, expressed by ordinance, and upon paying such compensation as may be prescribed, and upon such conditions as may be provided for by such ordinance, and before such ordinance proposing to make any grant for franchise or privilege to any applicant to use or occupy any street, avenue, alley or any other public ground belonging to or under the control of the city, shall become effective, publication of said ordinance, as finally proposed to be passed, shall be made in some newspaper published in the City of Kingsville, once a week for three consecutive weeks, which publication shall be made at the expense of the applicant desiring said grant and said proposed ordinance shall not be thereafter changed unless again republished as in the first instance, nor shall any such ordinance take effect or become a law or contract or vest any right in the applicants therefor, until after the expiration of thirty days from the last publication of said ordinance, as aforesaid.

Pending the time such ordinance may become effective, it is made the

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

No franchise shall be granted for a term of more than thirty (30) years. All franchises shall specify the term of years for which granted and such franchises may be amended from time to time with the consent of the franchise holder.

Section 19 - PUBLIC WORKS, IMPROVEMENTS: Said city shall have the power to open, extend, straighten and widen any public street, avenue, boulevard or alley and for such purposes to acquire the necessary land, by purchase or condemnation, and to provide that the cost of improving such street, avenue, boulevard or alley by opening, extending, straightening or widening the same shall be paid by the owners of property lying in the territory of such improvement to the extent they are especially benefitted thereby, and to provide that the cost shall be charged, by special assessment against such owners and their property for the amount due by them, and three (3) Special Commissioners shall be appointed by the District Judge or Judge of the Kleberg County Court At Law of Kleberg County, Texas, for the purpose of condemning said land and apportioning said cost, and such apportionment shall be specially assessed by the governing authority of said city against the owners and their property lying in the territory so found by said Special Commissioners to be specially benefitted in enhanced value, and said city may issue assignable certificates for the payment of any such cost against such property owners and their property and may provide for the payment thereof in deferred payments which deferred payments shall bear interest at the rate of not exceeding eight (8) per cent per annum. Said city shall pay such portion of such cost as may be determined by said Special Commissioners, to be due by it provided the cost paid by the city shall never exceed one-third ( $\frac{1}{3}$ ) of the cost of such improvement.

Section 20 - ALTERING STREETS, OBSTRUCTIONS, ENCROACHMENTS, ETC.: Said city shall have the power to control, regulate and remove all obstructions, encroachments and incumbrances on any public street, avenue, boulevard or alley and to narrow, alter, widen, straighten, vacate, abandon and close same; to provide for sprinkling and cleaning same, and to regulate and control the moving of buildings and structures of every kind and character upon and along the same.

Section 21 - PARKS, PLAYGROUNDS, ETC.: Said city shall have the exclusive control over all city parks and playgrounds and to control, regulate and remove all obstructions and prevent encroachment thereupon; and to provide for the raising, grading, filling, terracing, landscape gardening, erecting buildings, providing amusements therein, for establishing walks and paving driveways around, in and through said parks, playgrounds and other public grounds.

Section 22 - PEACE AND GOOD ORDER: Said city shall have the power to define all nuisances, prohibit the same within the city and outside the city limits for a distance of five thousand (5,000) feet; to police all parks, grounds, speedways, streets, avenues and alleys owned by

said city, within or without the city limits; to prohibit the pollution and/or contamination of all sources of water supply of said city, and to provide for the protection of water sheds and the prevention of the depletion of its aquifer.

To provide for the inspection of dairies, cows and dairy herds, slaughter pens and slaughter houses and abattoirs, within or without the city limits from which meat, milk, butter or eggs from same are furnished to the inhabitants of said city, and to provide for the inspection of meat markets, grocery stores, drug stores, confectioneries, fruit stands, ice cream factories, laundries, bottling plants, hotels, restaurants and bakeries; the source, storage and distribution of water, and all other places where food or drink for human consumption are manufactured, handled, sold or exposed for sale, and to regulate and inspect the character and standard of such articles of food and drink so sold or offered for sale.

To provide for the inspection and regulation of the sanitary condition of all premises and vacant lots within the city limits; for the removal of garbage, night soil, refuse and unsanitary vegetation; to provide for establishing a lien against the property for any expense incurred by the city in enforcing this provision, and further to provide for the making and enforcing of all proper and reasonable regulation, for the health and sanitation of said city and its inhabitants.

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

To provide for a sanitary sewer system and for the maintenance thereof; to require property owners to make connections to such sewers with their premises and to provide for fixing a lien against any property owner's premises who fails or refuses to make sanitary sewer connections and to charge the cost against the said owner and make it a personal liability, and to fix penalties for failure to make sanitary sewer connections.

To require property owners, their agents and lessees to remove, within a reasonable time, ice slush, snow and other debris from sidewalks fronting on property owned, occupied or controlled by such owner, agent, or lessee and to require such owner, agent, or lessee to remove all low hanging limbs from trees adjacent to sidewalks in said city.

To prohibit the driving of herds of horses, mules, cattle, hogs, sheep, goats and all herds of domestic animals along or upon the streets, avenues or alleys of said city.

To establish and regulate public pounds and to regulate, restrain and prohibit the running at large of all domesticated and non-domesticated animals and fowls, and to authorize the restraining, impounding and sale of the same for the cost of the proceedings and the

penalty incurred, and to order their destruction when they cannot be sold and to impose penalties upon the owner thereof for the violation of any ordinance regulating or prohibiting the same, and to tax, legislate, restrain and prohibit the running at large of dogs and to authorize their destruction and impose penalties to the owners or keepers thereof.

To prohibit the inhumane treatment of animals and to provide punishment therefor.

To prohibit and restrain the flying of kites, firing firearms, firecrackers, rolling of hoops and the use of velocipedes, bicycles and skates, or the use and practice of any amusement on the streets or sidewalks to the annoyance of pedestrians or persons using such streets or sidewalks, and to restrain, regulate and prohibit the ringing of bells, or blowing of horns, bugles and whistles, crying of goods and all other noises, practices and performances tending to the collection of persons in the streets or tending, unnecessarily, to interfere with the peace and quietude of the inhabitants of said city; and to suppress and regulate all unnecessary noises.

To license any lawful business, occupation or calling that is susceptible to the control of the police power, and to license, regulate, control or prohibit the erection of signs or billboards.

To license, tax and regulate or suppress and prevent hawkers, peddlers and pawn brokers.

To license, tax and regulate all charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle operated for the carriage of passengers or freight for hire on the public streets of the city.

To regulate the operation of railway trains and street cars operated on, along or across the street, avenues or alleys of said city; to license and control the operation of automobiles, motorcycles, taxicabs, busses, cabs and carriages and all character of vehicles using the public streets and to regulate the use and occupancy of the streets by any such vehicles.

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

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

To provide for the issuance of permits for erecting all buildings; for the inspection of the construction of all buildings in respect to proper wiring for electric lights and other electric appliances; piping for gas, flues, chimneys, plumbing and sewer connections and to enforce proper regulations in regard thereto.

To provide for establishing and maintaining a public library.

To provide for the establishment and designation of fire limits; to prescribe the character and kind of structures to be erected therein; to provide for the erection of fireproof buildings within said limits and for the condemnation of dangerous or dilapidated structures that

are calculated to increase the fire hazard.

To enact and enforce all ordinances and resolutions, necessary to regulate the safety of all office buildings, hotels, apartment houses, rooming houses, hospitals, theaters, store buildings and all public buildings.

To require the construction of fire escapes in connection with public buildings, and to determine the sufficiency and regulate the safety of all exits and fire escapes provided on public buildings of every kind and character.

To provide for the establishment of districts and limits, within said city, where saloons for the sale of spirituous, vinous or malt liquors may be located and maintained, and to prohibit the sale of such liquors or the location of such saloons without such defined districts or limits; and to regulate the location, permit, forbid, regulate and control theaters, moving picture shows, vaudeville shows, dance halls, ten pin alleys, pool halls and all other public amusements, whenever the preservation of order, tranquility, public safety or good morals demand it.

To restrain and punish vagrants, mendicants, beggars and prostitutes.

To prohibit and punish keepers and inmates of bawdy, assignation and disorderly houses, and to prevent and suppress such keepers, inmates and owners, or agent of such owners, of such house, knowingly permitting such houses to be occupied as such bawdy, assignation or disorderly houses and to determine such inmates and keepers to be vagrants.

To provide for establishing and maintaining the Fire Department of the City.

To require waterworks corporations, gas companies, street car companies, telephone companies, electric light and power companies or other companies or individuals, exercising franchises, now or hereafter, from the city, to make and furnish extensions of their service to such territory as may be required by ordinance.

To establish and maintain the City Police Department, prescribe the qualifications and duties of policemen and regulate their conduct.

To provide for the enforcement of all ordinances enacted by it, by a fine not to exceed Two Hundred Dollars (\$200.00), or as may be authorized by the General Laws of the State of Texas, provided that no ordinance shall provide a greater or less penalty that is prescribed for a like offense by the laws of the State.

To provide for the commutation of fines imposed, by labor in a workhouse, on the public streets and public ways of the city; and for the collection of any fine imposed, execution may be enforced, as executions issued in civil cases.

To provide for a Court for the trial of misdemeanor offenses, known as the "Municipal Court," with such powers and duties as are defined and

prescribed by applicable state law.

To appoint, as soon as practicable after the adoption of this Charter some suitable person for the position of judge or recorder of the Municipal Court, who shall discharge the duties of said office under the terms and provisions of the State law creating said court, and subject to the provisions of this Charter.

To establish, maintain and regulate the city prison, workhouse and other means of punishment for vagrants, city convicts and disorderly persons, and such hospitals, orphanages and charitable institutions as may be deemed expedient by the governing authority.

To establish, maintain, regulate and operate market places, abattoirs and slaughter pens and to build and maintain buildings therefor, to rent and lease the same, and to regulate and provide for the regulation and inspection of said market places, abattoirs and slaughter pens.

Section 23 - INITIATIVE AND REFERENDUM: Any proposed ordinance may be submitted to the Commission for adoption, and any ordinance or resolution passed by the Commission may be submitted to the people for repeal. In either event, the ordinance or resolution proposed to be adopted or repealed shall be set out in a written or printed instrument which shall be filed with the person exercising the duties of city clerk, and at the time of the filing of such written or printed instrument, there shall be filed a statement signed by not less than five (5) qualified voters of the City of Kingsville, stating that they have proposed such ordinance or resolution for adoption or repeal, and such electors shall be regarded as the initiating or referring committee, as the case may be, for the purpose hereinafter provided. Such ordinance or resolution may be set out in principle or verbatim at the option of the initiating committee and such statement shall signify whether verbatim or in principle only.

Before any such ordinance or resolution may be submitted to the Commission for adoption or repeal, it shall be necessary that a petition be signed by not less than fifteen percent of the total number of qualified voters voting at the last regular city election, referring to such ordinance or resolution and requesting its adoption or repeal as the case may be. All such petitions circulated for signature shall be uniform in character and shall have attached to the same a copy of the proposed ordinance or resolution sought to be adopted or repealed.

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

When signatures have been obtained in the number above provided for, and the petition and statement have been filed with the person exercising the duties of city clerk, such officer shall submit all papers pertaining to such ordinance or resolution, and its proposed initiation or reference to the Commission at its next regular meeting,

and such officers shall cause the same to be published in some newspaper published in the City of Kingsville, together with a notice of the time of the next regular meeting of the Commission, or the date of a special meeting set by such Commission for its consideration when such ordinance or resolution and its adoption or repeal shall be considered, which hearing and consideration shall be open to the public, and the public shall be permitted to present arguments for or against such proposed ordinance or resolution.

After such presentation of the petition and public hearing, the Commission shall within thirty (30) days from the date of the submission of such petition, take final action upon the same, by either adopting or rejecting the ordinance thus initiated by petition, or by either repealing or refusing to repeal the ordinance or resolution thus sought to be referred, and in either event, the action of the Commission shall be noted in its Minutes.

If the Commission refuses to pass or repeal the proposed ordinance or resolution, or passes the same in an amended form from that presented in the petition, or repeals only part of such ordinance or resolution, instead of repealing the same in the manner set out in such petition, then in either event, such initiating committee or such referring committee may require that such ordinance or resolution, either in its original or amended form, be submitted to a vote of the electors for adoption or repeal, as the case may be, but in such event it shall be necessary that a petition, signed by not less than twenty-five per cent of the total number of qualified voters voting in the last regular city election, be presented to the Commission referring to such ordinance or resolution, and requesting its adoption or repeal, as the case may be. All such petitions circulated for signatures shall be uniform in character and shall have attached to the same exact written or printed copy of the proposed ordinance or resolution sought to be repealed.

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

When an ordinance or resolution proposed by petition is to be submitted to a vote of the electors for adoption or repeal, after the Commission has acted upon the same as hereinabove provided for, then such initiating or referring committee, as the case may be, upon a majority of such committee, shall certify their desire to have same published for adoption or repeal, and shall present the petition as hereinabove provided, within twenty (20) days after the Commission shall have taken action on the same, and shall file such certificate, statement and petition with the person exercising the duties of the city clerk.

After the receipt of such certificate and the certified copy of the proposed ordinance or resolution, the person exercising the duties of city clerk shall present such certificate and certified copy of the proposed ordinance or resolution to the Commission at its next regular meeting. If any election is to be held at a date not more than ninety

(90) nor less than ten (10) days after such meeting of the Commission, then such ordinance or resolution, proposed for adoption or repeal shall be submitted by the Commission to a vote of the electors at such election to be held, but if no election is to be held within such time, then the Commission shall provide for submitting such proposed ordinance or resolution, for adoption or rejection, to the electors at a special election to be held not less than twenty (20) nor more than forty (40) days thereafter.

The form of ballot for use in an election held for the adoption of any initiated ordinance shall state the title of the ordinance and contain a succinct statement of its nature and purpose and below such statement, on separate lines, there shall be printed the words: FOR THE ORDINANCE - AGAINST THE ORDINANCE. If a majority of the electors voting in such election shall vote in favor thereof, it shall thereupon become an ordinance of the city.

The form of ballot for use in an election held for the repeal of any referred ordinance or resolution shall state the title of the ordinance or resolution and contain a succinct statement of the nature and purpose of the ordinance or resolution sought to be repealed, and below such statement in separate lines, there shall be printed the words: FOR REPEAL OF THE ORDINANCE (OR RESOLUTION). If a majority of the electors voting in such election shall vote in favor of the repeal of such ordinance or resolution, then the same shall be considered repealed.

That the City Commission shall not have the power of voluntary referral of an ordinance to a popular vote, provided, however, that nothing contained in this Section shall effect the manner of calling elections to determine whether or not a franchise shall be granted.

Section 24 - RECALL: Any elective officer of the city shall be subject to recall and removal from office by the qualified voters of the city, and the procedure to effect such removal shall be as follows:

A petition demanding that the question of removing such officer or officers be submitted to the electors, shall be filed with the person discharging the duties of city clerk. Such petition for the recall of any such elective officer or officers shall be signed by at least twenty-five percent (25%) of the number of qualified voters voting at the last regular city election, and at least one-fifth (1/5) of whom shall certify that at the election at which said officer or officers was or were elected, they voted the election of such officer or officers proposed to be recalled.

Petitions for signatures for such recall shall be procured only from the person exercising the duties of city clerk, who shall keep a sufficient number of such blank petitions on file for distribution, and prior to the issuance of such petitions for signatures there shall be filed with such person an affidavit by one or more qualified electors, stating the name or names of the officer or officers, sought to be removed. Such officer issuing such petitions for removal to an elector shall enter in a record to be kept, the name of the elector to whom issued, the date of such issuance and the number of petitions issued, and shall certify on such petitions for signatures, the name of the elector to whom issued and the date of its issuance. No petition for signatures shall be accepted and taken into consideration in determining the necessary percentage of voters for removal unless it bears such certificate and be filed as herein provided.

Each signer of a recall petition shall sign his name thereto in ink or indelible pencil, and shall write thereon, after his name, his place of residence by street and number. To each of said petitions there shall be attached an affidavit, of the circulator thereof, stating the number of signers to such part of the petition and that each signature to the same is genuine, and was made in his presence and is that of the person whose name it purports to be.

All papers comprising a recall petition, shall be returned and filed with the person exercising the duties of city clerk, within thirty (30) days after the filing of the affidavit hereinbefore provided for. The person exercising the duties of city clerk, upon the return of such petition shall at once submit the same to the governing authority of the city, and shall notify the officer or officers sought to be recalled of such action. If the official whose removal is sought does not resign within five (5) days after such notice is given, the governing authority of the city shall thereupon order and fix a day for holding a recall election, the date of which election shall not be less than fifteen (15) nor more than thirty (30) days from the time such petition was presented to the governing authority of the city.

The ballot at such recall election shall conform to the following requirements, with respect to each person whose removal is sought, the question shall be submitted: "Shall (name of person) be removed from the office of (naming office) by recall?" Immediately following each of such questions there shall be printed on the ballots in separate lines, in the order here set out the words: "For the recall of (naming the person). Against the recall of (naming the person)." Should a majority of the votes cast at such recall election be for the recall of the officer named on the ballot, he shall, regardless of any technical defect in the recall petition, be deemed removed from the office, but should a majority of the votes cast at such recall election be against the recall of the officer named on the ballot, such officer shall continue in for the remainder of his term, subject to recall as before.

No recall petition shall be filed against any officer of the city within six (6) months after his election nor within six (6) months of the expiration of his term.

In case the governing authority of the city shall fail or refuse to receive the recall petition, order such recall election, or discharge any other duties with reference to such recall, then the County Judge of Kleberg County, Texas, shall discharge any of such duties herein provided to be discharged by the governing authority of said city.

If, in such recall election, there shall, as a result of such election, remain one or more such elective officer's who is not recalled, then such officer or officers not recalled shall discharge all the duties incumbent upon the governing authorities of said city until the vacancy or vacancies created at such recall elections are filled by an election for that purpose, as hereinafter provided for, but if in any proposed recall election it is proposed and submitted to recall all elective officers, then there shall be placed on said ballots under the question of recall, the names of candidates proposed to fill the vacancies proposed to be created by such election, but the names of such officers proposed to be recalled shall not appear on the ballot as candidates.

If at any recall election it is not proposed and submitted to recall all of the elective officers, but only one or more, fewer than all, and such election shall result in favor of the recall of one or more of such officers, proposed to be recalled, then it shall be the duty of such officer or officers not recalled and constituting the governing authority of the city, within five (5) days after such election is held, to meet, canvass the returns, declare the result of the election and on the same day order an election to fill such vacancy or vacancies, which election shall be held not less than ten (10) nor more than twenty (20) days after the same shall have been ordered.

## ARTICLE III

Section 1 - TAXATION: The City shall have the power and is hereby authorized, annually, to levy and collect taxes, not exceeding seventy-five (\$0.75), on each one hundred dollars (\$100.00) assessed valuation of all real and personal property within city limits, for general maintenance purposes, and to levy and collect taxes, not exceeding for all purposes Two and 50/100 Dollars (\$2.50) on each One Hundred Dollars (\$100.00) of assessed valuation of all real and personal property within the City limits, not exempt from taxation by the Constitution and laws of the State.

Shall authorize the granting and issuance of licenses and shall direct the manner of issuing and registering the same and fix the fees therefor; but no license shall issue for a longer period than one (1) year and shall not be assignable except by permission of the governing authority of said city.

Shall have the power, annually, to levy and collect a franchise tax against any public corporation using or occupying the public streets or grounds of the city, separately from the tangible property of such corporation, and to levy and collect, annually upon the property and shares of corporations, companies and corporate institutions, as the same are now or may be assessed by the State laws, and shall have full power to enforce the collection of such taxes.

Shall have the power to regulate the manner and mode of making out tax lists, inventories and appraisements of property therein, and to prescribe the oath that shall be administered to each person rendering property for taxation and to prescribe how, when and where property shall be rendered and to prescribe the number and form of assessment rolls and to adopt such measures as may be deemed advisable to secure the assessment of all property within the city limits and to collect taxes thereon and may provide a fine upon all persons failing, neglecting or refusing to render their property for taxation, and to do any and all other things necessary or proper to render effectual the collection of moneys by taxation.

Shall have the power to provide for the rendition of unrendered property for taxation and levy and assess taxes thereon annually, and to provide for the rendition, levy and assessment of taxes for previous years on property omitted from taxation, and to provide interest at the rate not to exceed that interest rate authorized by State Law upon such unrendered or omitted property and to change and provide for correction and re-assessment property erroneously assessed.

All real, personal or mixed property held, owned or situated in the City of Kingsville shall be liable for all municipal taxes, due by the owner thereof, including taxes on real estate, franchises, personal and

mixed property, and all other municipal taxes of whatsoever character.

Such municipal taxes are hereby declared to be a lien, charge and encumbrance upon the property so taxed and shall be a prior lien to all other claims, sales, assignments, transfers, gifts and judicial writs.

Said lien shall exist from the first day of January of each year until all taxes have been paid and against any real estate which, for any cause, has failed to be assessed for one or more years, and such lien shall be good and effective for every year for which assessment has so failed.

Personal property of all persons, firms, or corporations owing any taxes to the City of Kingsville, is hereby made liable for all such taxes, whether the same be upon personal or real property or upon both.

The governing authority of the city shall levy the annual tax for such year, but special taxes or assessments allowed by this Charter may be levied, assessed and collected at such time as the governing authority may provide; provided, that should the governing authority fail or neglect to levy the annual tax herein provided for any one year the annual tax levy for the preceding year last made by said governing authority shall and will be considered in force and effective as the tax levy for the year for which no annual tax levy was made.

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

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

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

All moneys arising from the collection of taxes by the city shall be divided into two funds, and designated as a "General Fund" and an "Interest and Sinking Fund."

No irregularities in the time or manner of making or returning the city assessment rolls or the approval of such rolls shall invalidate any assessment.

The governing authority of the city shall have the authority to create a Board of Adjustment whose duties shall be to equalize the values of all property rendered for taxation in the City of Kingsville; prescribe the qualifications, compensation and number necessary to constitute said board, and enact all ordinances necessary to regulate and control the equalization of values by such board.

## ARTICLE IV

Section 1 - BONDS: The governing authority of the city shall have the power to appropriate so much of the general revenue of the city as

may be necessary for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the streets, purchasing and constructing sewers, erecting and maintaining public buildings of every kind and for the purchasing or constructing of water works plans and systems and for the purpose of erecting, maintaining and operating an electric light and power plant and such other public utilities as the governing authority may from time to time deem expedient, and in furtherance of any and all of these

subjects, the city shall have the right and power to borrow money upon the credit of the city, within the limits provided by law, and to issue coupon bonds of the city therefor, in such sums as may be deemed expedient, to bear interest at a rate as may be authorized by State statute, payable annually or semiannually, at such places as may be designated by the city ordinance.

All bonds shall specify for what purpose they are issued, and shall be invalid if sold for less than their par value, and when any bonds are issued by the city, a fund shall be provided to pay the interest and create a sinking fund to redeem said bonds, which fund shall not be diverted or drawn upon for any other purposes and the person acting as city treasurer shall honor no drafts upon said fund except to pay interest upon or redeem the bonds for which it was provided.

Said bonds shall be issued for a period of time not to exceed forty (40) years; shall be signed by the Mayor, countersigned by the person acting in the capacity of city clerk or secretary, and shall be payable at such places and times as may be fixed by the ordinance of the governing authority. All such bonds shall be submitted to the Attorney General of the State of Texas for his approval and the Comptroller for registration, as provided by State law; provided, that any such bonds, after approval, may be issued by the city either optional or serial, or otherwise, as may be deemed advisable by the governing authority.

Before the issuance of any bonds the same shall be submitted to a vote of the qualified voters of the city and should a majority of the votes cast at such election be in favor of issuing the bonds, the same shall be issued as provided herein; but should said election fail to carry, bonds shall not be issued. The election provided for above shall be conducted as other elections under the State law, after due notice by publication, once each week for three (3) consecutive weeks prior thereto, in one or more newspapers published in Kingsville, which said notice shall state the nature and purpose of said election.

## ARTICLE V

Section 1 - MUNICIPAL GOVERNMENT: From and after the regular City election to be held in April, 1952, the municipal government of the City of Kingsville, shall consist of the City Commission, which shall be composed of five (5) commissioners, one of whom shall be Mayor of the City.

Section 2 - TERMS OF OFFICE: The Mayor and each Commissioner shall serve, after the first election for Commissioners as hereinafter provided, for a term of two (2) years and until his successor is elected and qualified, unless sooner removed from office as herein

provi ded.

Section 3 - VACANCIES: Vacancies in the City Commission, except for those created by recall election, shall be filled for the remainder of the unexpired term by appointment of the remaining Commissioners. (Am. Ord. 94003, passed 5-9-94)

Section 4 - QUALIFICATIONS: The Mayor and each Commissioner shall be citizens of the United States, and have resided in the City of Kingsville for a continuous period of 12 months, and have attained the age of 21 years at the time of filing as a candidate for such position; and have the other qualifications of an Elector in the City and as provided for candidates in the State Election Code. The Mayor, Commissioners, and other officers and employees shall not hold any other public office of emolument, except the Office of Notary Public, and shall not be interested in the profits or emoluments or any contract, job, work or service for the municipality, or interested in the sale to or by the City of any property, real or personal. All such qualifications and requirements shall be fully complied with by any prospective candidate for the position of Mayor or Commissioner at the time of filing for election. Any Mayor or Commissioner of the City who shall cease to possess any of the qualifications herein required shall forthwith forfeit his office and any such contracts in which any officer or employee is or may become interested may be declared void by the Commission. No elected official shall otherwise accept any service, or anything of value, directly or indirectly, from any entity, upon terms more favorable than are granted to the public. All members present at Commission meetings shall vote "Yes" or "No" on all matters requiring a vote before such Commission; provided, however, any Commissioner having a conflict of interest regarding the matter or matters upon which a vote is to be taken shall abstain from voting.

Section 5 - ELECTIONS: The elective officers of the City shall consist of five (5) commissioners, one of whom shall be designated as Mayor, and the names of the candidates for Mayor and Commissioners shall be printed on one ballot and submitted to the qualified voter for election, and the candidate for Mayor receiving the highest number of votes at the election shall be declared elected; and the four candidates for Commissioners receiving the highest number of votes at the election shall be declared duly elected.

Section 6 - JUDGE: The Commission shall be the judge of the election and qualification of its members.

Section 7 - ELECTION RETURNS: The Commission shall, at the next regular meeting of said Commission, after each regular and special election, canvass the returns and declare the result of such election.

Section 8 - ELECTION DAY: The regular municipal election of the City of Kingsville shall be held on the first Saturday in April.

Section 9 - ELECTION — LAW CONTROLLING: All elections provided in this Charter shall be conducted, and the results canvassed and announced by the election authorities prescribed by the General Election Laws of the State of Texas, and said General Election Laws shall control in all municipal elections, except as otherwise herein provided.

All elections other than the regular municipal elections as set forth in Section 8, Article V of this Charter, shall be called Special Elections.

Section 10 - LEGISLATIVE AND GOVERNING BODY: The Commission shall enact all ordinances and resolutions, and adopt all regulations; and constitute the legislative and governing body of the City. The City Commission shall have the power to appoint the City Judge, the City Manager and the City Attorney. They shall not have the power of appointment or dismissal of the other employees of the City.

Section 11 - DUTIES OF MAYOR AND COMMISSIONERS: The Mayor and Commissioners shall exercise equal power and authority in the transaction of business for the City, except that the Mayor shall act as presiding officer of the Commission, and in his absence a Mayor pro tempore may be chosen. The Mayor, or his representative as may be annually designated by the Mayor in writing, shall sign all official documents for the City upon the consent and proper instruction from the Commission, and shall perform all duties imposed upon him by this Charter, and by the ordinances of the City, or upon the order of said Commission.

Section 12 - MEETING OF THE COMMISSION: On the first Thursday at 7:30 o'clock P.M., after the election of the Commission has been declared, the Commission shall meet in the City Hall, at which time the Commissioners shall qualify and assume the duties of their offices. Thereafter, the Commissioners shall meet at such times as may be prescribed by ordinance, resolution or motion, but they shall meet at least once every month. Any two of the five members of the Commission may call special meetings of the Commission at any time deemed advisable. All meetings of the Commission shall be public, except such executive sessions as may be provided for by ordinance or resolution, and any citizen shall have access to the minutes of and records thereof, at all reasonable times. The Commission shall determine its own rules of order of business, and shall keep journal of its proceedings.

Section 13 - COMPENSATION: The Mayor shall be paid Fifty Dollars (\$50.00) for each regular or special meeting of the Commission attended. The Commissioners shall be paid Twenty-Five Dollars (\$25.00) for each Commissioners Meeting attended; provided, however, that the Mayor and Commissioners shall never be paid for more than four meetings in any one month.

Section 14 - LEGISLATIVE PROCEDURE: A majority of all members elected on the Commission shall constitute a quorum to do business, and the affirmative vote of a majority of all five Commissioners be necessary to adopt any ordinance or resolution. The vote upon the passage of all ordinances or resolutions shall be taken by "Yes" or "No" and entered upon the Journal. Every ordinance or resolution passed by the Commission shall be signed by the Mayor and the persons acting as City Clerk or Secretary, and by him recorded.

Section 15 - ORDINANCE ENACTMENT: Each proposed ordinance or

resolution shall be introduced in written or printed form, shall not contain more than one subject, which shall be clearly stated in the title, but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. No ordinance, unless it is declared an emergency measure, and passed by at least a four-fifths ( $4/5$ ) vote of all five Commissioners, shall be passed on the date on which it shall be introduced.

Section 16 - EMERGENCY MEASURE; DEFINED AND PROVIDED FOR: An emergency measure in an ordinance or resolution for the immediate preservation of the public peace, property, health or safety, or providing for the usual daily operation of a municipal department in which the emergency is set forth and defined as a preamble thereto. Ordinance for the payment of salaries and wages may be passed as emergency measures, but no measure making a grant, renewal or extension of a franchise, or other special privilege or regulating the rate to be charged for its service by any public utility, shall ever be passed as an emergency measure.

Section 17 - ORDINANCES; PUBLICATION OF: All ordinances, other than emergency measures, shall be published once a week for two (2) consecutive weeks, in some newspaper published in Kingsville, and no ordinances shall become effective, until ten (10) days after the date of its last publication. Such ordinances may be published by descriptive caption, with such adoption briefly describing the purpose and penalties of said ordinance.

Section 18 - ORDINANCES; RECORDING: Every ordinance, or resolution, upon its becoming effective, shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the Mayor and the party exercising the duties of city clerk or city secretary.

Section 19 - INVESTIGATIONS BY COMMISSION: The Commission may investigate the financial transaction of any office or department of the City government and any acts and conduct of any official or employee. In conducting such investigation, the Commission may compel the attendance of witnesses, the production of books and papers, and other evidence, and for that purpose may issue subpoenas or attachments which shall be signed by the Mayor; which may be served and executed by any officer authorized by law to serve subpoenas or other process, or any peace officer of the city. If any witness shall refuse to appear or to testify to any of the facts within his knowledge, or to produce any papers or books in his possession or under his control relating to the matter under investigation before the Commission, the Commission shall have the power to cause the witness to be punished as for contempt, not exceeding a fine of One Hundred Dollars (\$100.00) and three (3) days in the city prison. No witness shall be excused from testifying, touching his knowledge of the matter under investigation in any such injury, but such testimony shall not be used against him in any criminal prosecution except for perjury committed upon such inquiry.

Section 20 - BOARD OF CITY DEVELOPMENT: The Commission shall have the authority to appoint what shall be known and designated as a "Board of City Development," which shall be composed of members who shall serve without compensation, and may prescribe the qualifications and duties of such board and their term of office, and may appropriate not exceeding Two cents (\$.02) per One Hundred Dollars (\$100.00) valuation

of the taxable property in the City of Kingsville, from the General Fund of said city to support the work of the board.

Section 21 - SALARIES; GENERAL: The Commission shall fix and determine the wages and salaries of all appointive officers and employees of the City, and provide for the payment thereof.

Section 22 - PAYMENT OF CLAIMS: No warrant for the payment of any claim shall be issued by the city unless such claim shall be evidenced by an itemized account sworn to by claimant, audited and allowed by the Commission at a regular meeting, and all warrants shall be signed by the Mayor and countersigned by the party acting as city clerk or secretary.

Section 23 - ACCOUNTING PROCEDURE: An accounting procedure shall be devised and maintained for the city adequate in detail. All transactions effecting the acquisition, custodianship and disposition of values, including cash receipts, credit transactions and disbursements and the recorded facts, shall be presented periodically to officials and to the public in such summaries and analytical schedules in detailed support thereof as shall be necessary to show the full effect of such transactions for each fiscal year upon the finances of the city and in relation to each department of the city government, including distinct summaries and schedules for each public utility owned and operated.

Section 24 - AUDIT AND EXAMINATION: The Commission shall cause a complete audit of the books and accounts and of all records and transactions of the administration of the city to be made at least once every year and as often as the Commission may deem it necessary, and shall be made by a public accountant. The duty of the public accountant shall include the preparation of a general balance sheet showing summaries of income and expenditures and also comparisons, in proper classifications with the last previous audit; such summaries shall be published in some newspaper published in Kingsville, on time, within ten (10) days after the completion of such audit.

Section 25 - CONTRACTS: Deleted, August 9, 1986.

Section 26 - NEPOTISM: Deleted, August 9, 1986.

Section 27 - HOURS OF LABOR UPON PUBLIC WORKS: Deleted, August 9, 1986.

Section 28 - OFFICIAL BONDS: The members of the City Commission shall give an official bond in the sum of Two Thousand Dollars (\$2,000.00), and person exercising the duties of City Clerk, City Treasurer and City Tax Assessor and Collector, and such other officials as may be designated by the Commission, shall give official bonds in such sums as may be prescribed by the Commission from time to time. Such bonds shall be payable to the City of Kingsville and shall, in each instance, be conditioned for the faithful discharge of the duties of such respective offices, and for the faithful accounting for all moneys, credits and things of value coming into the hands of such respective officers. Such bonds shall be procured from some regularly accredited surety company, authorized to do business under the laws of the State of Texas, and the premiums to such surety companies shall be paid by the City of Kingsville. All official bonds shall be approved by the Commission and filed and recorded with the person exercising the duties of city clerk.

Section 29 - OATH OF OFFICE: Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the oath prescribed by the Constitution of the State of Texas for

## County Officials.

Section 30 - CITY MANAGER: A city manager shall be chosen by the Commission on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of accepted practice in respect to the duties of his office. At the time of his appointment, he need not be a resident of the City or State, but during his tenure in office, he shall reside within the City. No Commissioner shall be appointed City Manager during the term for which he shall have been elected nor within one year after the expiration of his term.

Section 31 - POWERS AND DUTIES: The City Manager shall be the Chief executive officer and the head of the administrative branch of the City government. He shall be responsible to the Commission for the proper administration of all affairs of the City, and to that end, he shall have such power and shall be required to do any and all acts and perform all duties as authorized or directed by motion, resolution or ordinance of the City Commission; provided, however, that the Commission may not authorize or direct the City Manager to do anything which is in conflict with any provisions of this Charter.

Section 32 - APPOINTMENT AND REMOVAL OF CITY MANAGER: The Commission shall appoint a City Manager for an indefinite term, and may remove him by majority vote of its members. At least thirty days before such removal shall become effective, the Commission shall by a majority of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Commission by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the Commission may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary for the next three calendar months following adoption of the preliminary resolution.

Section 33 - ESTABLISHMENT OF A SPECIAL FUND FOR CAPITAL IMPROVEMENTS: The Commission shall be authorized to order by ordinance, the establishment of a special fund to set aside a percentage of tax revenue for capital improvements.

## GENERAL PROVISIONS

Section 1 - ENUMERATION OF POWERS: The enumeration of powers made in this Charter shall never be construed to preclude, by implication or otherwise, the city from exercising the powers incident to the enjoyment of local self-government, nor to do any and all things not inhibited by the Constitution and Laws of the State of Texas.

Section 2 - RATIFICATION OF ORDINANCES: All ordinances and resolutions in force at the time of the taking effect of this Charter, not inconsistent with its provisions, shall continue in force until amended or repealed.

Section 3 - AMENDMENTS TO CHARTER: This Charter, after its adoption, may be amended in accordance with the provisions of an Act of the Thirty-Third Legislature of the State of Texas, entitled, "An Act

Authorizing Cities Having More Than 5,000 Inhabitants, by a Majority Vote of the Qualified Voters of Said City, at an Election Held for That Purpose, to Adopt and Amend Their Charter, Etc." approved April 7th, 1913, and any Acts amendatory thereof.

Section 4 - VOTE ON PROPOSED CHARTER, MANNER, ETC.: This Charter shall be submitted to the qualified voters of the City of Kingsville for adoption or rejection, on the Third Tuesday in April, A.D. 1916, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, then it shall become the Charter of the City of Kingsville, until amended or repealed.

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

Section 5 - ELECTION OF MAYOR AND COMMISSIONERS: The present Town Commission of Kingsville shall call an election to be held on the Third Tuesday in April, A.D. 1916; said date being the same date upon which this Charter is to be presented to the voters of the Town of Kingsville for adoption, for the election of Three (3) Commissioners, one of whom shall be designated Mayor, and, if a majority of the voters at such election vote for the adoption of this Charter, the Commissioners and Mayor elected on said day shall be declared elected officers under the new Charter, and, should the Charter fail of adoption, they shall be declared elected offices of the Town of Kingsville, under old Charter.

Respectfully submitted,

/S/ B. O. Sims, Jr.  
 /S/ C. H. Flato, Jr.  
 /S/ W. F. Kahl den  
 /S/ M. E. Miles  
 /S/ Max Dover  
 /S/ John Cypher  
 /S/ W. A. Clampitt  
 /S/ Sam Sellers

/S/ F. D. Yearly  
 /S/ L. C. McRoberts  
 /S/ H. C. Dennett  
 /S/ C. A. McCracken  
 /S/ W. A. Walker  
 /S/ T. F. Johnson  
 /S/ R. C. Mecklin  
 COMMITTEE

Kingsville, Texas, March 7th, 1916.

## **PARALLEL REFERENCES**

References to Texas Revised Statutes and Texas Codes  
References to 1962 Code  
References to Ordinances



## REFERENCES TO TEXAS REVISED STATUTES AND TEXAS CODES

### *ALCOHOLIC BEVERAGE CODE*

<i>State Cite</i>	<i>Code Section</i>
1.01 et seq.	Ch. 11, Art. 3
11.38	11-3-2
105.05	11-3-3

**Kingsville - Parallel References*****CIVIL PRACTICE AND REMEDIES CODE******State Cite******Code Section***

Ch. 101

3-12-1

***CRIMINAL PROCEDURE CODE******State Cite******Code Section***

Art. 2.01

3-6-4

Art. 2.12

3-4-27 - 3-4-29

Art. 102.0172

3-6-11

Art. 103.0031

3-6-9

***EDUCATION CODE***

***State Cite***

***Code Section***

25.085

13-2-20

***FAMILY CODE***

***State Cite***

***Code Section***

Ch. 31  
51.08

13-2-12, 13-2-22  
13-2-99

**Kingsville - Parallel References****GOVERNMENT CODE**

<b><i>State Cite</i></b>	<b><i>Code Section</i></b>
551.001 et seq.	3-3-16
552.001 et seq.	3-3-16, 3-8-5
552.110	15-6-46
552.301	15-6-46
552.305	15-6-46
573.022	3-13-2
573.023	3-13-2
573.024	3-13-2
573.025	3-13-2
851.001 et seq.	3-7-2

***HEALTH & SAFETY CODE******State Cite******Code Section***

Title 10	Ch. IX, Art. 3
342.001 et seq.	Ch. IX, Art. 7
342.006 et seq.	9-7-3
365.012	Ch. V, Art. 1
431.001 et seq.	Ch. XI, Art. 7
Ch. 481	15-7-31
Ch. 483	15-7-31
Ch. 773	11-2-3
773.001 et seq.	11-2-1 - 11-2-28

**LOCAL GOVERNMENT CODE****State Cite****Code Section**

Art. V, § 4	3-13-36
Art. V, § 171	3-13-36, 3-13-43, 3-13-56
51.001 <i>et seq.</i>	15-6-35
51.001	Ch. XV, Art. 6, App. 1
54.001	1-1-99, 15-2-42, Ch. 15, Art. 6, App. 1
54.004	13-1-2, 15-7-1
Ch. 105	3-10-7
Ch. 143	3-4-29
201.001 <i>et seq.</i>	3-2-1
203.021	3-8-1
203.022	3-8-2
203.023	3-8-3
203.041	3-8-3
203.044	3-8-3
203.045	3-8-3
204.008	3-8-3
205.007	3-8-3
211.001 <i>et seq.</i>	3-3-17 and Ch. XV, Art. 6
211.007	3-3-15
211.008 <i>et seq.</i>	15-6-157
212.001 <i>et seq.</i>	15-3-1, Ch. XV, Art. 4, 15-6-58
214.001 <i>et seq.</i>	Ch. XV, Art. 1
215.001	13-2-30
215.0735	Ch. XI, Art. 10
215.075	15-7-1
217.042	9-6-4, 9-7-1, 13-1-2
241.001 <i>et seq.</i>	15-6-35
241.003	15-6-41
Ch. 243	15-7-1
243.001 <i>et seq.</i>	Ch. XV, Art. 7
243.003	15-7-5
315.005	3-3-82
341.012	3-4-20
342.001 <i>et seq.</i>	Ch. IX, Art. 5
342.003	9-5-1
362.001 <i>et seq.</i>	3-4-1
362.003	3-4-1
391.001 <i>et seq.</i>	3-3-25
402.0025	5-2-4, 5-3-53, 5-1-58
402.017	5-3-1

***OCCUPATIONS CODE******State Cite******Code Section***

1201.001 et seq.

5-2-33

1702.001 et seq.

3-4-28

Ch. 2303

9-1-1

2303.002

9-1-1



***PARKS AND WILDLIFE CODE***

***State Cite***

***Code Section***

Ch. 31

9-1-1



***PENAL CODE***

<b><i>State Cite</i></b>	<b><i>Code Section</i></b>
Ch. 20	15-7-31
Ch. 21	15-7-31
21.01	15-7-36
Ch. 22	15-7-31
Ch. 25	15-7-31
Art. 28.02	13-1-1
Ch. 29	15-7-31
Ch. 36	15-7-31
42.09	Ch. IX, Art. 3
42.10	Ch. IX, Art. 3
Ch. 43	15-7-31
46.01 et seq.	13-2-30
Ch. 47	11-4-10
48.01	9-9-2, 9-9-6
Ch. 71	15-7-31

## ***REVISED CIVIL STATUTES***

### ***State Cite***

### ***Code Section***

Art. 581-1 et seq.

3-10-7

Art. 4413 (29ee)

13-2-31

Art. 8801

11-4-1

Art. 8814

Ch. XI, Art. 4

***TAX CODE***

<b><i>State Cite</i></b>	<b><i>Code Section</i></b>
11.24	3-11-41
Ch. 33, Subch.	9-7-3
321.210	3-11-2
351.001 et seq.	3-11-21

**TRANSPORTATION CODE**

<b><i>State Cite</i></b>	<b><i>Code Section</i></b>
311.001	9-10-6
311.001 et seq.	Ch. IX, Art. 10
313.001 et seq.	3-10-20
391.121 et seq.	Ch. XI, Art. 9
471.006	7-3-2, 7-3-3
Ch. 501	9-1-1
502.253	Ch. VII, Art. 2
541.302	9-1-2
542.202	7-1-15, Ch. 7, Art. 4
542.203	7-1-15, Ch. 7, Art. 4
545.055	7-1-16
545.065	7-1-35
545.356	Ch. VII, Art. 5, Sched. I
545.357	7-1-15
551.101 et seq.	Ch. VII, Art. 4
621.002	7-1-25
621.303	7-1-26
623.072	7-1-26
644.153(r)	9-1-2
681.001	Ch. VII, Art. 2, 7-2-15
Ch. 683, Subch. C	9-1-8
683.001 et seq.	Ch. IX, Art. 1
683.012	9-1-4, 9-1-6, 9-1-7
683.014	9-1-6, 9-1-7
683.073	9-1-11
683.074	9-1-12
683.078	9-1-16

***WATER CODE***

***State Cite***

***Code Section***

26.001 et seq.

5-2-20

***ADMINISTRATIVE CODE******State Cite******Code Section***

Ch. 25

11-7-15, 11-7-16

## REFERENCES TO 1962 CODE

<i>1962 Code Section</i>	<i>1996 Code Section</i>
1-1-8	1-1-16
1-5-5	3-1-1
1-7-1	3-2-1
1-7-3	3-2-1
1-8-1	3-10-1
1-8-2	3-10-2
1-8-3	3-10-4
1-8-4	3-10-5
1-8-5	3-10-6
1-8-6	3-10-7
1-8-7	3-10-6
1-8-8	3-10-3
1-10-1	3-6-1
1-10-3	3-6-2
1-10-4	3-6-3
1-12-2	3-2-2
1-12-2A	3-2-2
1-12-3	3-2-2
1-12-4	3-2-2
1-12-6	3-2-2
1-14-1	3-12-1
1-16-1	3-7-2 1-18-23-5-2
1-19-1	3-11-1
1-19-3	3-11-1
1-19-4	3-11-1
1-19-5	3-11-1
1-19-6	3-11-1
1-20-1	3-11-40
1-20-2	3-11-41
1-20-3	3-11-42
1-20-4	3-11-43
1-20-5	3-11-44
1-21-1	3-7-3

**Kingsville - Parallel References*****1962 Code Section******1996 Code Section***

1-22-1	3-8-1
1-22-2	3-8-2
1-22-3	3-8-3
1-22-4	3-8-4
1-22-5	3-8-5
2-1-1	3-3-15
2-1-2	3-3-16
2-1-3	3-3-17
2-2-1	3-9-1
2-2-2	3-9-2
2-2-3	3-9-3
2-2-4	3-9-4
2-2-5	3-9-5
2-2-6	3-9-11
2-2-7	3-9-7
2-2-9	3-9-8
2-2-10	3-9-9
2-2-11	3-9-10, 3-9-99
2-2-12	3-9-6
2-3-1	3-3-82
2-3-2	3-3-82
2-3-3	3-3-82
2-5-1	3-3-35
2-5-2	3-3-36
2-5-3	3-3-37
2-5-4	3-3-38
2-6-1	3-3-25
2-7-1	3-3-50
2-7-2	3-3-51
2-7-3	3-3-52
2-7-4	3-3-53
2-7-5	3-3-54
2-7-6	3-3-55
2-8-1	3-3-1
2-8-2	3-3-2
2-10-1	15-5-1, 15-5-15
2-10-2	15-5-2
2-10-3	15-5-3
2-10-4	15-5-4
2-10-5	15-5-5
2-10-6	15-5-16
2-10-7	15-5-17

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
2-10-8	15-5-18
2-10-9	15-5-19
2-10-10	15-5-30
2-10-11	15-5-20
2-10-12	15-5-31
2-10-13	15-5-32
2-10-14	15-5-33
2-10-15	15-5-34
2-10-16	15-5-15
2-10-17(A)	15-5-98
2-10-17(B)	15-5-99
3-1-1	5-3-1
3-1-2	5-3-30 - 5-3-33
3-1-3	5-3-15
3-1-4	5-3-34
3-1-5	5-3-2
3-1-6	5-3-16
3-1-7	5-3-17
3-1-8	5-3-18
3-1-9	5-3-18
3-1-10	5-3-19
3-1-11	5-3-50
3-1-12	5-3-51
3-1-13	5-3-53 - 5-3-55
3-1-14	5-3-52
3-1-15	5-3-3
3-1-16	5-3-4
3-1-17	5-3-35
3-2-1	3-4-21
3-2-2	3-4-22
3-3-8	3-4-1
3-4-4	3-5-1
3-5-1	3-3-80
3-5-2	3-3-81
4-1-1	15-1-1
4-1-2	15-1-2
4-1-3	15-1-3
4-1-4	15-1-4
4-1-5	15-1-5
4-1-6	15-1-12, 15-1-999
4-1-7	15-1-6

**Kingsville - Parallel References**

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
4-1-10	15-1-9
4-2-1	15-1-20
4-2-2	15-1-21
4-2-3	15-1-22
4-2-5	15-1-24
4-2-6	15-1-25
4-2-7	15-1-26, 15-1-999
4-3-1	15-1-35
4-3-2	15-1-36
4-3-4	15-1-39
4-3-5	15-1-40
4-3-6	15-1-37
4-3-7	15-1-41
4-3-8	15-1-42
4-3-9	15-1-43, 15-1-999
4-4-1	15-1-55
4-4-2	15-1-56
4-4-3	15-1-57
4-4-4	15-1-58
4-4-5	15-1-59
4-4-6	15-1-60
4-4-7	15-1-61
4-4-8	15-1-62
4-4-9	15-1-63
4-4-10	15-1-64
4-4-11	15-1-65
4-4-12	15-1-66, 15-1-999
4-5-2	9-10-11
4-6-1	15-1-165
4-6-2	15-1-166
4-6-3	15-1-167
4-6-4	15-1-168
4-6-5	15-1-169
4-6-6	15-1-170
4-6-7	15-1-170
4-6-8	15-1-171
4-6-9	15-1-172
4-6-10	15-1-173

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
4-6-11	15-1-174
4-6-12	15-1-175
4-6-13	15-1-999
4-6-14	15-1-176
4-7-8(B)	15-1-999
4-8-1	11-11-1
4-8-2	11-11-15
4-8-3	11-11-2
4-8-4	11-11-3
4-8-5	11-11-16
4-8-6	11-11-17
4-8-7	11-11-18
4-8-8	11-11-19
4-8-9	11-11-4
4-8-10	11-11-20
4-8-11	11-11-21
4-8-12	11-11-22
4-8-13	11-11-35
4-8-13(A)	11-11-36
4-8-13(D)	11-11-37
4-8-13(E)	11-11-38
4-8-13(F)	11-11-39
4-8-13(G)	11-11-40
4-8-13(I)	11-11-41
4-8-13(J)	11-11-42
4-8-13(K)	11-11-43
4-8-13(M)	11-11-44
4-8-13(N)	11-11-45
4-8-13(O)	11-11-46
4-8-13(P)	11-11-47
4-8-13(Q)	11-11-48
4-8-13(R)	11-11-49
4-8-13(S)	11-11-50
4-8-13(T)	11-11-51
4-9-1	15-1-75
4-9-3	15-1-999
4-10-1	15-1-85
4-10-2	15-1-86
4-10-3	15-1-87
4-10-4	15-1-88
4-10-5	15-1-89
4-10-6	15-1-90

**Kingsville - Parallel References*****1962 Code Section******1996 Code Section***

4-10-7	15-1-91
4-10-8	15-1-92
4-10-9	15-1-93
4-10-10	15-1-94
4-10-11	15-1-95
4-10-12	15-1-96
4-10-13	15-1-96
4-10-14	15-1-97
4-10-15	15-1-98
4-10-16	15-1-99
4-10-17	15-1-100
4-10-18	15-1-101
4-10-19	15-1-102
4-10-20	15-1-102
4-10-21	15-1-103
4-10-22	15-1-103
4-10-23	15-1-104
4-10-24	15-1-105
4-10-25	15-1-105
4-10-26	15-1-105
4-10-27	15-1-106
4-10-28	15-1-107
4-10-29	15-1-108
4-10-30	15-1-108
4-10-31	15-1-109
4-10-32	15-1-110
4-10-33	15-1-110
4-10-34	15-1-111
4-10-35	15-1-112
4-10-36	15-1-999
4-10-37	15-1-113
4-10-38	15-1-114
4-10-39	15-1-114
4-10-40	15-1-114
4-10-41	15-1-115
4-10-42	15-1-116
4-10-43	15-1-117
4-10-44	15-1-117
4-10-45	15-1-117
4-10-46	15-1-118
4-10-47	15-1-119
4-10-48	15-1-120

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
4-10-50	15-1-121
4-11-1	15-1-135
4-11-2	15-1-136
4-11-3	15-1-137, 15-1-999
4-12-1	15-1-150
4-12-2	15-1-151
4-12-3	15-1-152
4-12-4	15-1-153, 15-1-999
5-2-1	11-8-1
5-2-2	11-8-2
5-2-3	11-8-3
5-6-1	11-3-1
5-6-3	11-3-2
5-6-4	11-3-3
5-7-1	15-1-210
5-7-2	15-1-211
5-7-3	15-1-212
5-7-4	15-1-212, 15-1-999
5-7-5	15-1-213
5-7-6	15-1-214, 15-1-999
5-7-7	15-1-215
5-7-8	15-1-216
5-7-9	15-1-216
5-7-10	15-1-217
5-7-11	15-1-217
5-7-12	15-1-217
5-7-13	15-1-218
5-7-14	15-1-219
5-7-15	15-1-220
5-7-16	15-1-220
5-7-17	15-1-220
5-7-18	15-1-221
5-7-19	15-1-222
5-8-2	11-5-1
5-9-1	15-2-1
5-9-2	15-2-2
5-9-3	15-2-15
5-9-5	15-2-16

**Kingsville - Parallel References****1962 Code Section****1996 Code Section**

5-9-7	15-2-37	
5-9-8	15-2-38	
5-9-9	15-2-32	
5-9-10	15-2-33	
5-9-11	15-2-34	
5-9-12	15-2-39	
5-9-13	15-2-40	
5-9-14	15-2-41	
5-9-15	15-2-35	5-9-16 15-2-36
5-9-17	15-2-17	
5-9-18	15-2-18	
5-9-19	15-2-19	
5-9-20	15-2-31	
5-9-22	15-2-42	
5-9-23	15-2-3	
5-10-1	11-10-1	
5-10-2	11-10-20	
5-10-3	11-10-21	
5-10-4	11-10-22	
5-10-5	11-10-23	
5-10-6	11-10-25	
5-10-7	11-10-2, 11-10-3	
5-10-8	11-10-7	
5-10-9	11-10-7	
5-10-10	11-10-9	
5-10-11	11-10-35	
5-10-12	11-10-35	
5-10-13	11-10-36	
5-10-14	11-10-5	
5-10-15	11-10-37	
5-10-16	11-10-38	
5-10-17	11-10-6	
5-10-18	11-10-10	
5-10-19	11-10-10	
5-10-20	11-10-39	
5-10-21	11-10-8	
5-10-22	11-10-4	
5-10-23	11-10-24	
5-10-24	11-10-27	
5-10-25	11-10-11	

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
5-12-1	11-9-1
5-12-2	11-9-2
5-12-3	11-9-3
5-12-4	11-9-4
5-14-1	3-11-20
5-14-2	3-11-21
5-14-3	3-11-22
5-14-4	3-11-23
5-14-5	3-11-24
5-14-6	3-11-25
5-14-7	3-11-26
5-14-8	3-11-99
5-16-1	3-11-2
5-17-1	11-6-1
5-17-2	11-6-2
5-17-3	11-6-3
5-17-4	11-6-4
5-17-5	11-6-5
5-17-6	11-6-6
5-17-8	11-6-7
5-17-9	11-6-99
6-1-3	13-1-1
6-1-7	13-1-2
6-1-29	9-6-4
6-1-31	9-7-1
6-1-50	9-10-9
6-1-52	9-10-10
6-1-53	9-8-1
6-2-1	9-3-25
6-2-2	9-3-26
6-2-3	9-3-27
6-2-4	9-3-28
6-2-5	9-3-29
6-2-6	9-3-30
6-2-7	9-3-30
6-2-8	9-3-31
6-2-9	9-3-32
6-2-10	9-3-33
6-2-11	9-3-34

**Kingsville - Parallel References**

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
6-2-12	9-3-35
6-2-13	9-3-37
6-2-14	9-3-36
6-2-15	9-3-36
6-2-16	9-3-38
6-2-17	9-3-39
6-2-18	9-3-40
6-2-19	9-3-41
6-2-20	9-3-42
6-2-21	9-3-43
6-2-22	9-3-44
6-2-23	9-3-99
6-2-24	9-3-45
6-3-1	9-3-1
6-3-2	9-3-2
6-3-3	9-3-3
6-3-4	9-3-4
6-3-5	9-3-5
6-3-6	9-3-6
6-3-7	9-3-7
6-3-8	9-3-7
6-3-9	9-3-7
6-3-10	9-3-8
6-3-11	9-3-9
6-3-12	9-3-10
6-4-1	13-2-30
6-4-2	13-2-30
6-4-3	13-2-30
6-8-1	13-1-10
6-8-2	13-1-11
6-9-1	9-6-1
6-9-2	9-6-2
6-9-3	9-6-3
6-10-6	3-9-99
6-12-1	9-1-10
6-12-3	9-1-11
6-12-4	9-1-12
6-12-5	9-1-13
6-12-6	9-1-14
6-12-7	9-1-14
6-12-8	9-1-15
6-12-9	9-1-16

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
6-12-10	9-1-17
6-12-11	9-1-18
6-13-1	7-1-35
6-13-2	7-1-36
6-13-3	7-1-37
6-13-4	7-1-38
6-13-5	7-1-39
6-13-6	7-1-40
6-13-7	7-1-41
6-13-8	7-1-42
6-13-9	7-1-43
6-13-10	7-1-44
6-13-11	7-1-45
6-14-1	3-4-40
6-14-7	3-4-41
6-15-2	9-1-1
6-15-3	9-1-2
6-15-4	9-1-3
6-16-1	9-4-1
6-16-2	9-4-2
6-16-3	9-4-3
6-16-4	9-4-4
6-16-5	9-4-5
6-16-6	9-4-6
6-16-7	9-4-7
6-16-8	9-4-8
6-16-9	9-4-9
6-16-10	9-4-10
6-16-11	9-4-11
6-16-12	9-4-99
6-16-13	9-4-12
6-17-1	3-4-2
6-17-2	3-4-2
6-18-1	9-2-1
6-18-2	9-2-2
6-18-3	9-2-1
6-18-4	9-2-3
6-18-5	9-2-4
6-18-6	9-2-99
6-19-1	9-9-1
6-19-2	9-9-2
6-19-3	9-9-3

**Kingsville - Parallel References*****1962 Code Section******1996 Code Section***

6-19-4	9-9-4
6-19-5	9-9-5
6-19-6	9-9-6
6-19-7	9-9-7
6-19-8	9-9-8
6-19-9	9-9-99
7-1-1	9-5-10
7-1-2	9-5-11
7-1-3	9-5-99
7-2-1	9-5-20
7-2-2	9-5-21
7-2-3	9-5-22
7-2-4	9-5-23
7-3-1	9-5-1
7-3-2	9-5-1
7-4-1	9-5-2
7-4-2	9-5-2
7-5-1	9-5-99
7-6-1	3-5-3
8-2-1	11-7-75
8-2-2	11-7-76
8-2-3	11-7-77
8-3-1	11-7-85
8-3-2	11-7-86
8-3-3	11-7-87
8-4-1	11-7-30
8-4-2	11-7-31
8-4-3	11-7-32
8-4-4	11-7-33
8-4-5	11-7-34
8-4-6	11-7-35
8-4-7	11-7-36
8-4-8	11-7-37
8-4-9	11-7-38
8-4-10(A)	11-7-50
8-4-10(B)	11-7-51
8-4-10(C)	11-7-52
8-4-10(D)	11-7-53
8-4-10(E)	11-7-54
8-4-10(F)	11-7-55
8-4-10(G)	11-7-56
8-4-10(I)	11-7-57

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
8-4-10(K)	11-7-58
8-4-10(M)	11-7-59
8-4-10(N)	11-7-60
8-4-10(O)	11-7-61
8-4-10(P)	11-7-62
8-4-10(Q)	11-7-63
8-4-10(R)	11-7-64
8-4-10(S)	11-7-65
8-4-10(T)	11-7-66
8-4-10(U)	11-7-67
8-4-10	11-7-99
8-5-1	5-1-1
8-5-2	5-1-15
8-5-3	5-1-41
8-5-4	5-1-42
8-5-5	5-1-41
8-5-6	5-1-43
8-5-7	5-1-44
8-5-8	5-1-22
8-5-9	5-1-40
8-5-10	5-1-16
8-5-11	5-1-17
8-5-12	5-1-45
8-5-13	5-1-35
8-5-14	5-1-45
8-5-15	5-1-38
8-5-16	5-1-39
8-5-17	5-1-2
8-5-18	5-1-55 - 5-1-57
8-5-19	5-1-58
8-6-1	5-2-1, 5-2-2
8-6-2	5-2-4
8-6-3	5-2-5
8-6-4	5-2-3
8-7-1	9-7-2
8-7-2	9-7-3
8-7-3	9-7-4
8-7-4	9-7-5
8-7-5	9-7-6
8-8-1	5-4-3
8-8-2	5-4-4
8-8-3	5-4-5

**Kingsville - Parallel References*****1962 Code Section******1996 Code Section***

8-8-4	5-4-6
8-8-5	5-4-7
8-8-6	5-4-8
8-8-7	5-4-8
8-8-8	5-4-12
8-8-9	5-4-13
8-8-10	5-4-12
8-8-11	5-4-9
8-8-12	5-4-10
8-8-13	5-4-2
8-8-14	5-4-1
8-8-15	5-4-11
8-9-1	5-2-15
8-9-2	5-2-16
8-9-3	5-2-17
8-9-4	5-2-18
8-9-5	5-2-19
8-9-6	5-2-20
8-9-7	5-2-21
8-9-8	5-2-22
8-9-9	5-2-23
8-9-10	5-2-24
8-9-11	5-2-25
8-9-12	5-2-25
8-9-13	5-2-26
8-9-14	5-2-27
8-9-15	5-2-28
8-9-16	5-2-29
8-9-17	5-2-30
8-9-18	5-2-31
8-9-19	5-2-32
8-9-20	5-2-33
8-9-21	5-2-34
8-9-22	5-2-34
8-9-23	5-2-36
8-9-24	5-2-35
8-9-25	5-2-36
8-10-1	11-7-1
8-10-2	11-7-2
8-10-3	11-7-3
8-10-4	11-7-4
8-11-1	5-2-50

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
8-11-2	5-2-51
8-11-3	5-2-52
8-11-4	5-2-53
8-11-5	5-2-54
8-11-6	5-2-55
8-11-7	5-2-56
8-11-8	5-2-58, 5-2-99
8-11-9	5-2-57
8-12-1	9-9-20
8-12-2	9-9-21
8-12-3	9-9-21
8-12-4	9-9-22
8-12-5	9-9-23
8-13-1	5-2-70
8-13-2	5-2-70
8-13-3	5-2-71
8-13-4	5-2-72
8-13-5	5-2-73
9-1-1	9-10-1
9-1-2	9-10-2
9-1-3	9-10-3
9-1-4	9-10-4
9-2-1	9-10-20
9-2-2	9-10-21
9-2-3	9-10-22
9-2-4	9-10-23
9-2-5	9-10-24
9-2A-1	9-10-35
9-2A-2	9-10-36
9-2A-3	9-10-37
9-2A-4	9-10-38
9-2A-5	9-10-39
9-2A-6	9-10-40
9-3-1	9-10-5
9-4-1	9-10-6
9-4-2	9-10-6
9-4-3	9-10-6
9-4-4	9-10-6
9-4-5	9-10-6

**Kingsville - Parallel References**

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
9-5-1	9-10-7
9-5-2	9-10-7
9-5-3	9-10-7
9-5-4	9-10-8
9-6-1	7-3-1
9-6-3	7-3-2
9-6-4	7-3-3
9-6-5	7-3-4
9-6-6	7-3-5
9-7-1	3-10-20
9-7-2	3-10-22
9-7-3	3-10-23
9-7-4	3-10-24
9-7-5	3-10-25
9-7-6	3-10-25
9-7-7	3-10-26
9-7-8	3-10-27
9-7-9	3-10-28
9-7-10	3-10-29
9-7-11	3-10-30
9-7-12	3-10-31
9-7-13	3-10-31
9-7-14	3-10-32
9-7-15	3-10-33
9-7-16	3-10-34
9-7-17	3-10-35
9-7-18	3-10-36
9-7-19	3-10-37
9-7-20	3-10-38
9-7-21	3-10-39
9-7-22	3-10-40
9-7-23	3-10-21
9-8-1	9-8-10
9-8-2	9-8-11

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
10-4-1	7-1-1
10-4-4	Ch. VII, Art. 5, Sched. I
10-4-5	Ch. VII, Art. 5, Sched. I
10-4-6	Ch. VII, Art. 5, Sched. I
10-4-7	Ch. VII, Art. 5, Sched. I
10-4-8	Ch. VII, Art. 5, Sched. I
10-7-22	Ch. VII, Art. 6, Sched. II
10-7-24	Ch. VII, Art. 6, Sched. I
10-14-1	7-4-1
10-14-2	7-4-15
10-14-3	7-4-16
10-14-4	7-4-17
10-14-5	7-4-18
10-14-6	7-4-19
10-14-7	7-4-20
10-14-8	7-4-21
10-14-9	7-4-22
10-14-10	7-4-2
10-14-11	7-4-3
10-16-1	7-1-15
10-16-2	7-1-16
10-16-3	Ch. VII, Art. 5, Sched. II
10-17-1	7-1-25
10-17-2	7-1-26
10-17-3	Ch. VII, Art. 5, Sched. III
10-17-4	Ch. VII, Art. 5, Sched. III
10-17-5	7-1-27
10-17-6	7-1-28
10-18-1	Ch. VII, Art. 6, Sched. I
10-18-2	7-2-1
10-18-3	Ch. VII, Art. 6, Sched. I
10-19-1	7-2-15
10-19-2	7-2-16
10-19-3	7-2-17 - 7-2-20

**Kingsville - Parallel References*****1962 Code Section******1996 Code Section***

11-1-1	15-6-1
11-1-2	15-6-2
11-1-3	15-6-3
11-1-4	15-6-4
11-2-1	15-6-15
11-2-2	15-6-16
11-2-3	15-6-17
11-2-4	15-6-18
11-2-5	15-6-19
11-2-6	15-6-20
11-2-7	15-6-21
11-2-8	15-6-22
11-2A-1	15-4-1
11-2A-2	15-4-2
11-2A-3	15-4-3
11-2A-4	15-4-4
11-2A-5	15-4-5
11-2D-1	15-6-55
11-2D-2	15-6-56
11-2D-3	15-6-56
11-2D-4	15-6-57
11-2D-5	15-6-58
11-2D-6	15-6-59
11-2D-7	15-6-60
11-2D-8	15-6-61
11-2E-1	15-6-70
11-2E-2	15-6-71
11-2E-3	15-6-72
11-2E-4	15-6-73
11-3-1	15-6-85
11-3-2	15-6-86
11-3-3	15-6-87
11-3-4	15-6-88
11-3-5	15-6-89
11-3-6	15-6-90
11-3-7	15-6-91
11-3-8	15-6-92
11-3-9	15-6-93
11-3-10	15-6-94
11-3-11	15-6-94
11-4-1	15-6-105
11-4-2	15-6-106

<b><i>1962 Code Section</i></b>	<b><i>1996 Code Section</i></b>
11-4-3	15-6-107
11-4-4	15-6-108
11-4-5	15-6-23
11-6-1	15-6-155
11-6-2	15-6-140
11-6-3	15-6-141
11-6-4	15-6-24
11-6-5	15-6-156
11-6-6	15-6-142
11-6-7	15-6-157
11-6-8	15-6-158
11-6-9	15-6-143
11-6-10	15-6-999
12-1-1	15-3-1
12-1-2	15-3-2
12-1-3	15-3-91
12-1-5	15-3-85 - 15-3-89
12-2-1	15-3-15
12-2-2	15-3-16
12-2-3	15-3-17
12-2-4	15-3-18
12-3-1	15-3-30
12-3-2	15-3-31
12-3-3	15-3-32
12-3-4	15-3-33
12-3-5	15-3-34
12-4-1	15-3-45, 15-3-46
12-4-2	15-3-47 - 15-3-54
12-5-1	15-3-65
12-5-2	15-3-65
12-5-3	15-3-66
12-5-4	15-3-67
12-5-5	15-3-68
12-5-6	15-3-69
12-5-7	15-3-70
12-5-8	15-3-71
12-5-9	15-3-72
12-5-10	15-3-72
12-5-11	15-3-73
12-6-1	15-3-55
12-6-2	15-3-3
12-6-3	15-3-19
12-7-1	15-3-90
12-7-2	15-3-90



## REFERENCES TO ORDINANCES

<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>	<i><b>Code Section</b></i>
—	- -14	3-10-21
—	9-22-48	5-3-2, 5-3-19
—	12-12-49	3-3-17
—	8-16-51	15-1-55, 15-1-57 - 15-1-60
—	1-28-54	9-3-1, 9-3-2
—	9-3-58	3-3-82
—	9-22-58	5-3-1, 5-3-33
—	6-22-59	13-2-30
—	7-25-60	15-1-56
—	5-8-61	Ch. VII, Art. 6, Sched. II
—	10-23-61	7-3-3, 7-3-5
—	9-17-62	13-1-1
—	5-24-65	5-4-1
—	2-27-67	3-3-25
—	4-15-68	3-3-38
—	9-30-68	Ch. VII, Art. 6, Sched. II
—	10-7-68	7-2-1, Ch. VII, Art. 6, Sched. I
—	10-21-68	3-9-99
—	12-23-68	15-2-1
—	1-3-69	Ch. VII, Art. 6, Sched. II
—	3-19-69	15-2-2
—	- -70	3-3-81
—	9-14-70	3-4-1
—	11-2-70	7-1-45
—	7-26-71	7-4-17, 7-4-22
—	11-8-71	9-1-3, 9-1-18
—	11-27-72	Ch. VII, Art. 6, Sched. I
—	2-12-73	3-11-1
—	4-9-73	7-3-4
—	7-9-73	Ch. VII, Art. 6, Sched. II
—	1-28-74	Ch. VII, Art. 6, Sched. II

**Kingsville - Parallel References**

<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Code Section</i></b>
—	3-11-74	15-1-999
—	4-1-74	Ch. VII, Art. 6, Sched. II
—	9-9-74	Ch. VII, Art. 6, Sched. II
—	3-10-75	3-11-20 - 3-11-22, 3-11-24
—	3-24-75	Ch. VII, Art. 6, Sched. II
77-3	1-24-77	Ch. VII, Art. 6, Sched. II
77-5	2-7-77	9-10-4
77-16	7-11-77	Ch. VII, Art. 6, Sched. I
77-23	9-12-77	9-3-25, 9-3-30, 9-3-33, 9-3-35, 9-3-37, 9-3-40, 9-3-99
77-29	8-22-77	Ch. VII, Art. 6, Sched. II, 9-10-7
78-12	10-2-78	Ch. VII, Art. 6, Sched. II
78-15	12-18-78	3-3-55
79-18	1-28-80	15-1-57, 15-1-63, 15-1-64
79-23	9-12-77	9-3-34
79-33	12-10-79	9-3-25, 9-3-30, 9-3-34, 9-3-35, 9-3-37, 9-3-41, 9-3-45
84-14	7-16-84	15-1-999
07934	12-17-79	5-2-36
07935	1-7-80	3-5-1
80016	6-23-80	Ch. VII, Art. 6, Sched. II
80018	7-7-80	Ch. VII, Art. 6, Sched. II
80033	12-13-80	Ch. VII, Art. 6, Sched. II
81001	3-23-81	Ch. VII, Art. 6, Sched. II
81002	1-19-81	5-2-5
81003	1-26-81	5-3-4, 5-3-17, 5-3-33
81005	2-9-81	5-1-2, 5-1-16, 5-1-40, 5-1-41, 5-1-45, 5-1-58
81007	3-9-81	5-2-1 - 5-2-3, 5-2-5
81010	3-23-81	3-3-1
81016	8-6-84	Ch. VII, Art. 5, Sched. I
81045	11-16-81	Ch. VII, Art. 5, Sched. I
81048	11-23-81	9-3-34, 9-3-36, 9-3-37
81049	11-23-81	9-3-3, 9-3-5
81058	12-1-81	15-3-54
81058	12-14-81	15-3-16 - 15-3-19, 15-3-34, 15-3-73, 15-3-89, 15-3-90
82019	4-12-82	7-1-28
82020	4-12-82	3-3-2
82026	6-14-82	Ch. VII, Art. 6, Sched. II
82044	10-18-82	Ch. VII, Art. 5, Sched. II

<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Code Section</i></b>
82047	11-8-82	9-10-40
82052	11-22-82	11-3-2
83015	4-18-83	Ch. VII, Art. 5, Sched. I
83016	5-2-83	Ch. VII, Art. 5, Sched. I
83021	5-23-83	Ch. VII, Art. 5, Sched. I
83027	7-18-83	5-2-3
83028	7-18-83	5-3-35
83029	7-18-83	5-4-11
83043	10-17-83	11-3-3
83047	10-17-83	13-1-2
83048	10-17-83	11-7-2, 11-7-4
83057	11-14-83	5-1-17
83058	11-21-83	11-10-7, 11-10-8
84009	6-18-84	15-4-2, 15-4-5, 15-6-4, 15-6-18, 15-6-19, 15-6-22, 15-6-23, 15-6-61, 15-6-73, 15-6-90, 15-6-91, 15-6-93, 15-6-157, 15-6-999, Ch. 15, Art. 6, App. A, § 1, Ch. 15, Art. 6, App. B, §§ 1 and 2
84011	7-9-84	3-9-6
84014	7-16-84	15-1-66
84019	9-10-84	9-3-25, 9-3-34
84029	10-29-84	5-2-2
84030	10-29-84	5-3-50, 5-3-53
85003	1-28-85	3-7-3
85021	9-16-85	3-10-33
85027	9-23-85	9-10-35
85031	9-23-85	11-9-2
85033	9-23-85	11-10-24
85035	9-23-85	11-11-16
85046	10-21-85	15-3-16
85062	12-16-85	5-3-52
85063	12-16-85	7-2-17 - 7-2-20
86001	1-6-86	3-12-1
86013	8-4-86	15-3-17
86018	9-2-86	3-10-3
86022	9-22-86	3-11-1
86024	9-29-86	Ch. VII, Art. 5, Sched. I
86025	9-29-86	3-3-2
87002	1-26-87	3-2-2
87005	3-23-87	15-4-2, 15-4-5
87007	3-23-87	15-6-90, 15-6-91

**Kingsville - Parallel References**

<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Code Section</i></b>
87009	4-27-87	Ch. 15, Art. 6, App. A, § 1
87010	5-18-87	3-11-2
87011	6-22-87	9-3-1, 9-3-10
87012	7-13-87	3-11-2
87025	9-28-87	5-1-55
88007	3-28-88	Ch. VII, Art. 6, Sched. II
88013	6-27-88	3-11-21
88014	7-11-88	15-3-17
88016	8-22-88	3-4-2
88017	8-22-88	3-5-3
88022	9-12-88	9-2-99
88023	9-12-88	7-1-15, Ch. VII, Art. 5, Sched. II
88028	10-24-88	5-1-42
89006	1-23-89	3-3-82
89010	2-27-89	9-9-99
89016	5-19-89	Ch. VII, Art. 5, Sched. I
89021	5-22-89	3-6-3
89022	6-12-89	3-11-21, 3-11-23, 3-11-99
89028	7-24-89	Ch. VII, Art. 6, Sched. II
89033	9-11-89	3-4-2
89035	9-11-89	11-7-77
89036	9-11-89	11-7-3
89041	9-11-89	5-3-51
89042	9-11-89	5-2-2
89043	9-11-89	5-3-54
89048	11-27-89	15-6-94, Ch. 15, Art. 6, App. A, § 1
89049	11-27-89	15-2-2, 15-2-16, 15-2-38 , 15-2-40
89052	12-11-89	15-1-65
90002	2-5-90	Ch. VII, Art. 6, Sched. II
90003	2-5-90	5-2-3
90014	3-12-90	15-1-58
90017	3-30-90	5-1-38, 5-1-55
90018	4-23-90	3-8-5
90024	5-14-90	3-1-1
90026	6-25-90	5-3-55
90027	6-25-90	15-6-4, 15-6-157
90036	8-27-90	15-6-19
90036	9-10-90	Ch. 15, Art. 6, App. B, §§ 1 and 2

<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Code Section</i></b>
90039	10-22-90	15-6-90
91002	1-28-91	3-1-1
91007	4-8-91	11-6-1 - 11-6-7, 11-6-99
91010	4-8-91	15-1-210
91012	5-13-91	15-2-2
91027	9-23-91	15-1-64
91034	10-28-91	15-5-1 - 15-5-5, 15-5-15 - 15-5-20, 15-5-30 - 15-5-34, 15-5-98, 15-5-99
91035	10-28-91	3-11-40 - 3-11-44
91039	11-25-91	15-1-64
91040	12-9-91	15-1-59
91044	12-16-91	5-2-70 - 5-2-73
92015	8-24-92	15-1-60
92018	9-28-92	5-1-55, 5-1-57
92026	10-12-92	15-1-75, 15-1-76, 15-1-999
92028	10-12-92	9-5-10, 9-5-11, 9-5-99
92030	10-12-92	15-1-211
93002	2-8-93	9-9-20 - 9-9-23
93005	4-12-93	5-1-1, 5-1-15, 5-1-17 - 5-1-22, 5-1-35 - 5-1-37, 5-1-42, 5-1-43, 5-1-59
93006	4-12-93	9-3-1, 9-3-9
93007	4-12-93	11-4-1, 11-4-2
93008	4-12-93	15-1-59, 15-1-60, 15-1-65
93015	6-28-93	15-1-58
93023	10-25-93	5-1-57
94001	1-10-94	11-7-15 - 11-7-19, 11-7-99
94003	5-9-94	Charter, Art. V, § 3
94005	2-14-94	5-2-3
94008	5-23-94	Ch. VII, Art. 6, Sched. II
94012	7-11-94	13-2-10 - 13-2-13, 13-2-99
94013	8-8-94	13-2-20 - 13-2-23, 13-2-99
94020	9-12-94	5-3-36, 5-3-99
94025	9-26-94	5-1-3

**Kingsville - Parallel References**

<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Code Section</i></b>
94027	9-28-94	5-3-51
95012	6-12-95	15-1-55 - 15-1-65
95013	6-12-95	3-6-4 - 3-6-6, 3-6-99
95018	8-28-95	15-3-1 - 15-3-3, 15-3-16 - 15-3-19, 15-3-30 - 15-3-34, 15-3-45 - 15-3-55, 15-3-65 - 15-3-73, 15-3-85 - 15-3-91
95020	9-11-95	5-1-57
95029	11-13-95	5-3-35, 5-3-99
95031	11-27-95	5-1-57
96001	1-8-96	7-4-16
96002	1-22-96	3-1-10 - 3-1-14, 3-1-99
96008	2-26-96	13-2-1
96009	2-26-96	13-2-31, 13-2-99
96023	8-26-96	3-12-3
96025	- -	9-9-30
96037	10-28-96	Ch. VII, Art. 5, Sched. I
97004	2-24-97	9-3-11
97005	2-24-97	5-1-3
97012	5-28-97	13-2-40
97013	5-28-97	15-5-30
97019	6-23-97	9-7-1 - 9-7-4
97020	6-23-97	15-1-65
97022	7-28-97	Ch. VII, Art. 6, Sched. II
97026	9-22-97	5-2-26
97030	9-29-97	5-3-51
97031	9-29-97	5-1-55, 5-1-56
97040	11-24-97	15-8-1 - 15-8-18, Exhibits A - D
97041	12-8-97	15-6-115, 15-6-116, 15-6-117, 15-6- 118, 15-6-119, 15-6-120, 15-6-121, 15- 6-122, 15-6-123, 15-6-124, 15-6-125, 15-6-126, 15-6-127, 15-6-128
97042	12-8-97	11-13-1 - 11-13-4
97044	12-8-97	15-5-2, 15-5-5, 15-5-15, 15-5-19, 15-5-30, 15-5-31, 15-5-32
97047	12-22-97	3-3-35 - 3-3-38 (repealed)
98002	2-9-98	3-8-6
98003	2-23-98	15-6-117, 15-6-125, 15-6-126
98004	3-9-98	Article VII, Sch. II
98007	4-13-98	11-3-4

<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Code Section</i></b>
98013	7-13-98	15-6-117, 15-6-120, 15-6-125, 15-6-126, 15-6-129
98016	9-10-98	5-1-4
98017	9-10-98	11-13-3
98025	11-9-98	15-3-16, 15-3-45, 15-3-51
98026	11-23-98	9-7-4
98027	12-28-98	15-8-1, 15-8-7 - 15-8-9, 15-8-12, 15-8-14
99004	1-25-99	3-11-41
99006	2-8-99	15-1-75, 15-1-76
99007	2-8-99	9-5-10, 9-5-99
99013	3-15-99	15-1-35 - 15-1-37, 15-1-39 - 15-1-43
99014	3-15-99	15-1-135 - 15-1-137
99015	3-15-99	15-1-150 - 15-1-153
99016	3-15-99	15-1-20 - 15-1-22, 15-1-24 - 15-1-26
99018	3-22-99	15-1-1 - 15-1-6, 15-1-9 - 15-1-12
99019	5-10-99	5-1-57
99023	9-13-99	9-10-5
99031	10-25-99	9-10-5
99032	10-25-99	3-6-10, 3-6-11
99033	10-25-99	5-3-16
99034	10-25-99	Ch. VII, Art. 6, Sch. II
99035	10-25-99	15-7-1 - 15-7-6, 15-7-20, 15-7-21, 15-7-30 - 15-7-38, 15-7-50 - 15-7-60
99036	10-25-99	15-6-21
99039	11-15-99	5-2-74
99040	11-15-99	5-1-55
200016	9-25-00	11-14-1 - 11-14-14, 11-14-99
200018	10-9-00	5-1-55
200019	10-9-00	5-1-57
200020	10-9-00	9-3-2, 9-3-3
200021	10-23-00	3-10-1, 3-10-2, 3-10-4
200022	11-20-00	9-10-35, 11-7-3, 11-7-17, 11-8-3, 11-9-2, 11-10-24, 11-13-2, 15-1-3, 15-1-6, 15-1-11, 15-1-22, 15-1-23, 15-1-59, 15-1-60, 15-1-136, 15-1-152, 15-1-210, 15-1-211, 15-3-16, 15-3-17, 15-6-126, 15-6-157
ORD-2001-02	1-22-01	9-10-5
ORD-2001-03	2-26-01	9-1-1 - 9-1-3, 9-1-10 - 9-1-18
ORD-2001-04	2-26-01	11-13-1 - 11-13-4

**Kingsville - Parallel References**

<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Code Section</i></b>
ORD-2001-05	2-26-01	13-1-10, 13-1-11
ORD-2001-06	2-26-01	5-1-1 - 5-1-3, 5-1-15 - 5-1-22, 5-1-35 - 5-1-45, 5-1-56, 5-1-58, 5-1-59
ORD-2001-07	2-26-01	9-7-1 - 9-7-3, 9-7-99
ORD-2001-08	2-26-01	13-2-10 - 13-2-13, 13-2-20 - 13-2-23
ORD-2001-09	2-26-01	9-6-2
ORD-2001-10	2-26-01	15-1-6, 15-1-22, 15-1-23, 15-1-60, 15-1-136
ORD-2001-12	6-25-01	3-4-21 - 3-4-29
ORD-2001-13	6-25-01	7-2-2
ORD-2001-15	8-13-01	15-6-21, 15-6-45 - 15-6-51; Ch. XV, Art. 6, App. A, § 1, and App. C, § 1
ORD-2001-17	9-10-01	7-2-3
ORD-2001-18	9-10-01	Ch. VII, Art. 5, Sch. I
ORD-2001-19	9-10-01	5-1-55
ORD-2001-20	9-10-01	5-1-3, 5-1-57
ORD-2001-24	10-22-01	3-7-3
ORD-2001-25	10-22-01	3-7-1
ORD-2001-26	11-13-01	7-1-25 - 7-1-28, Ch. VII, Art. 5, Sch. III
ORD-2001-29	12-10-01	3-6-9
ORD-2001-30	12-17-01	15-1-21 - 15-1-23
ORD-2001-31	12-17-01	15-1-135 - 15-1-137
ORD-2001-32	12-17-01	15-1-2 - 15-1-12
ORD-2001-33	12-17-01	15-1-35 - 15-1-43
ORD-2001-34	12-17-01	9-5-10, 9-5-11
ORD-2002-01	1-14-02	15-5-16, 15-5-18, 15-5-19
ORD-2002-05	1-28-02	9-10-5
ORD-2002-06	1-28-02	7-1-25, 7-1-26
ORD-2002-08	3-25-02	5-1-3
ORD-2002-10	4-8-02	15-1-302, 15-1-303
ORD-2002-13	5-7-02	5-1-57
ORD-2002-14	5-7-02	5-3-70 - 5-3-81
ORD-2002-15	6-10-02	5-1-3
ORD-2002-18	7-22-02	11-7-15, 11-7-16
ORD-2002-19	8-26-02	7-1-50 - 7-1-55
ORD-2002-20	9-9-02	5-3-32 - 5-3-34, 5-3-37 - 5-3-39, 5-3-52 - 5-3-54, 5-3-99
ORD-2002-21	9-9-02	5-4-4 - 5-4-6
ORD-2002-22	9-9-02	5-2-74
ORD-2002-23	9-18-02	5-2-2 - 5-2-4
ORD-2002-26	10-14-02	11-4-10, 11-4-11
ORD-2002-27	10-14-02	9-5-12 - 9-5-14
ORD-2002-28	10-28-02	3-7-1

<b>Ord. No.</b>	<b>Date Passed</b>	<b>Code Section</b>
ORD-2002-30	11-13-02	11-11-60 - 11-11-68
ORD-2002-33	12-9-02	3-7-1
ORD-2002-34	12-16-02	9-3-2, 9-3-3
ORD-2003-01	2-10-03	11-4-10, 11-4-11
ORD-2003-03	3-10-03	15-1-64
ORD-2003-04	2-24-03	15-3-53
ORD-2003-06	3-10-03	Ch. XV, Art. 6, App. A
ORD-2003-07	4-28-03	11-3-4, 11-3-5
ORD-2003-08	5-12-03	Ch. VII, Art. 5, Sch. I
2003-09, § 15-2-1	4-28-03	15-2-1
2003-09, § 15-2-2	4-28-03	15-2-2
2003-09, § 15-2-3	4-28-03	15-2-3
2003-09, § 15-2-15	4-28-03	15-2-15
2003-09, § 15-2-16	4-28-03	15-2-16
2003-09, § 15-2-17	4-28-03	15-2-17
2003-09, § 15-2-18	4-28-03	15-2-18
2003-09, § 15-2-19	4-28-03	15-2-19
2003-09, § 15-2-20	4-28-03	15-2-20
2003-09, § 15-2-21	4-28-03	15-2-21
2003-09, § 15-2-27	4-28-03	15-2-27
2003-09, § 15-2-28	4-28-03	15-2-28
2003-09, § 15-2-29	4-28-03	15-2-29
2003-09, § 15-2-30	4-28-03	15-2-30
2003-09, § 15-2-31	4-28-03	15-2-31
2003-09, § 15-2-32	4-28-03	15-2-32
2003-09, § 15-2-33	4-28-03	15-2-33
2003-09, § 15-2-34	4-28-03	15-2-34
2003-09, § 15-2-35	4-28-03	15-2-35
2003-09, § 15-2-36	4-28-03	15-2-36
2003-09, § 15-2-37	4-28-03	15-2-37
2003-09, § 15-2-38	4-28-03	15-2-38
2003-09, § 15-2-39	4-28-03	15-2-39
2003-09, § 15-2-40	4-28-03	15-2-40
2003-09, § 15-2-41	4-28-03	15-2-41
2003-09, § 15-2-42	4-28-03	15-2-42
2003-09, § 15-2-43	4-28-03	15-2-43
2003-10	4-28-03	15-4-2
2003-11	5-12-03	15-6-21, 15-6-.23, 15-6-94, Ch. XV, Art. 6, Appendix A
ORD-2003-13	7-18-03	11-3-5
ORD-2003-17	8-25-03	Ch. VII, Art. 5, Sch. III
ORD-2003-19	9-18-03	11-4-10, 11-4-11

**Kingsville - Parallel References**

<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Code Section</i></b>
ORD-2003-20	9-18-03	5-2-2
ORD-2003-21	9-18-03	5-1-55
ORD-2003-22	9-22-03	5-3-20
ORD-2003-23	9-22-03	5-3-56
ORD-2003-24	9-22-03	9-2-2 - 9-2-4
2003-27	10-6-03	Ch. VII, Art. 5, Sch. I
ORD-2003-29	10-13-03	3-7-1
ORD-2003-31	12-17-01	15-1-135, 15-1-136
2003-34	10-21-03	7-7-1 - 7-7-8
ORD-2003-38	12-17-03	5-1-56
2003-39	12-17-03	5-1-59
ORD-2004-10	5-10-04	3-13-1 - 3-13-57
ORD-2004-11	6-14-04	15-1-56 - 15-1-65
ORD-2004-14	6-14-04	5-1-55
ORD-2004-16	6-28-04	15-1-13 - 15-1-16
ORD-2004-17	7-12-04	13-2-2
ORD-2004-18	8-9-04	13-2-24
ORD-2004-19	8-9-04	15-6-45 - 15-6-51
ORD-2004-20	8-9-04	11-3-5
ORD-2004-21	8-9-04	11-14-1 - 11-14-16, 11-14-99
ORD-2004-24	8-23-04	9-5-12 - 9-15-14
ORD-2004-26	9-13-04	9-10-5, 9-10-7
ORD-2004-27	9-13-04	13-1-10, 13-1-11
ORD-2004-32	10-11-04	5-2-15, 5-2-37 - 5-2-44
ORD-2004-33	10-11-04	3-7-1
ORD-2004-34	10-11-04	7-2-4 - 7-2-6
ORD-2004-37	12-13-04	15-1-88
ORD-2005-03	1-24-05	11-5-15
ORD-2005-04	1-24-05	11-6-1 - 11-6-7, 11-6-99
ORD-2005-05	1-24-05	11-8-1 - 11-8-3
ORD-2005-06	1-24-05	11-9-1 - 11-9-4
ORD-2005-07	1-24-05	11-13-1 - 11-13-4
ORD-2005-09	3-14-05	11-10-1 - 11-10-39
ORD-2005-10	3-14-05	7-8-1, 7-8-2, 7-8-3
ORD-2005-11	3-14-05	9-7-1 - 9-7-3, 9-7-99
2005-13	4-11-05	15-8-1 - 15-8-18, Exhibits A - D
2005-14	4-11-05	15-3-17
2005-16	4-25-05	9-3-25, 9-3-35
2005-24	7-11-05	9-5-14
2005-25	7-11-05	15-6-35 - 15-6-41, Appendix D
2005-29	8-10-05	5-3-51
2005-30	8-10-05	5-2-2

<b><i>Ord. No.</i></b>	<b><i>Date Passed</i></b>	<b><i>Code Section</i></b>
2005-31	8-10-05	9-4-1 - 9-4-12, 9-4-99
2005-33	9-12-05	5-1-59
2005-34	9-12-05	11-2-1 - 11-2-28
2005-36	9-26-05	Ch. VII, Art. 5, Sch. I
2005-41	10-24-05	3-7-1
2005-42	11-28-05	Ch. XV, Art. 6, App. B
2005-44	11-28-05	Ch. VII, Art. 5, Sch. I
ORD-2006-01	1-9-06	7-8-3
2006-02	1-23-06	7-7-2, 7-7-3
2006-03	1-30-06	3-3-50 - 3-3-55
2006-07	3-6-06	9-5-30 - 9-5-33
2006-09	4-10-06	15-3-31
2006-10	4-10-06	15-8-9, 15-8-15, 15-8-16
2006-11	4-10-06	15-1-166, 15-1-167, 15-1-168, 15-1-170, 15-1-171
2006-12	4-10-06	9-1-1 - 9-1-8, 9-1-10 - 9-1-18
2006-16	4-17-06	15-1-55 - 15-1-66
2006-18	4-17-06	5-1-35
ORD-2006-23	5-10-06	7-8-3
ORD-2006-24	5-10-06	11-10-23
2006-32	7-10-06	15-2-3
2006-33	7-10-06	Ch. XV, Art. 6, App. A
2006-36	9-25-06	5-2-6
2006-37	9-25-06	7-1-26
2006-40	9-25-06	5-3-51
2006-41	9-25-06	5-2-2
ORD-2006-43	10-16-06	3-7-1
2006-56	10-23-06	9-10-11
2006-57	10-23-06	15-6-117
2006-61	11-27-06	13-2-20



## INDEX



## **INDEX**

### **ABANDONED AND JUNKED MOTOR VEHICLES**

#### **Abandoned Motor Vehicles**

- Abandoned motor vehicle, 9-1-2
- Auction of abandoned motor vehicles, 9-1-6
- Definitions, 9-1-1
- Law enforcement agency use of certain abandoned motor vehicles, 9-1-7
- Notification of owner and lien holders, 9-1-4
- Police Department to take possession of abandoned motor vehicles, 9-1-3
- Storage fees, 9-1-5
- Vehicle abandoned in storage facility, 9-1-8

#### **Junked Motor Vehicles**

- Authority to abate; notice to state, 9-1-12
- Authority to enforce; right-of-entry, 9-1-17
- Declaring a public nuisance, 9-1-11
- Definitions, 9-1-10
- Disposal of junked vehicles, 9-1-16
- Exceptions, 9-1-15
- Hearing, 9-1-14
- Notice to owner to abate, 9-1-13
- Short title, 9-1-10
- Vehicles blocking traffic, 9-1-18

### **ALARM SYSTEMS**

- Definitions, 9-2-1
- Exemption for new alarms, 9-2-4
- False alarm fee, 9-2-3
- Maintenance of alarm systems required, 9-2-2
- Penalty, 9-2-99

### **ALCOHOLIC BEVERAGES**

- Hours consumption permitted, 11-3-3
- Local permit fee, 11-3-2
- Revocation of license, 11-3-1
- Sales near school, church or hospital, 11-3-4
- Variances, 11-3-5

### **AMBULANCE SERVICE**

- Ambulance driver/attendant permit - required, 11-2-9
- Ambulance driver/attendant permit application; fee; issuance; term, 11-2-10

## AMBULANCE SERVICE (Cont'd)

- Appeals to Commission, 11-2-16
- Application; fee, 11-2-3
- Arriving at emergency scene without clearance, 11-2-19
- Availability of 911 ambulance, 11-2-17
- Changes in permit application information, 11-2-13
- Clearance in case of direct request, 11-2-18
- Definitions, 11-2-1
- Determination of suitability of vehicle and required equipment, 11-2-5
- Emergency run report, 11-2-22
- Exemptions, 11-2-26
- Further investigation; inspection of equipment, 11-2-11
- Insurance, 11-2-8
- Issuance; denial; reinspection, 11-2-6
- Management of emergency scene, 11-2-23
- Operator permit - required, 11-2-2
- Penalty, 11-2-28
- Permit renewal requirements, 11-2-12
- Permits personal to applicant, 11-2-14
- Refusal to render aid or transport patient, 11-2-21
- Regulations promulgated by permit officer, 11-2-27
- Street use fee, 11-2-4
- Suspension or revocation of permit; administrative hearings, 11-2-15
- Term, 11-2-7
- Unnecessary requests for service, 11-2-24
- Use of emergency lights or sirens without clearance, 11-2-20
- Utilizing service without paying therefor, 11-2-25

## AMUSEMENT REDEMPTION MACHINES

- Amusement redemption machine defined, 11-4-10
- Local permit fee for amusement redemption machine premises permit, 11-4-11

## ANIMAL-DRAWN VEHICLES

- Designated streets; animal-drawn vehicles prohibited on restricted streets, 11-5-15

## ANIMALS

- Definitions, 9-3-1
- Dogs and Cats
  - Abandoning or dumping animals in city, 9-3-43
  - Animal license required; fees; vaccination certificate prerequisite to issuance; tags, 9-3-30
  - Animals which have died of rabies, 9-3-39
  - Creation, supervision and duties of Animal Control Section, 9-3-26
  - Definitions, 9-3-25
  - Disposition of monies collected by the Animal Control and Animal Shelter, 9-3-42

## ANIMALS, (Cont'd)

### Dogs and Cats, (Cont'd)

- Duty of owner of animal bitten by rabid animal, 9-3-41
- Duty of person knowing of animals exhibiting symptoms of rabies, 9-3-40
- Duty of veterinarians attending animals infected with communicable diseases, 9-3-38
- Erection and maintenance of a City-County Animal Shelter, 9-3-27
- Exceptions to licensing requirement, 9-3-31
- Exhibiting symptoms of rabies, 9-3-36
- Impounding animals; authority of Animal Control Section, 9-3-35
- Interference with Animal Control, 9-3-45
- Procedure when an animal bites a person, 9-3-34
- Rabies immunization required, 9-3-28
- Redemption of animal; destroying animals not redeemed, 9-3-37
- Reporting stray animals to Supervisor of Animal Control, 9-3-44
- Running at large prohibited, 9-3-32
- Use of license tags issued for other animals, 9-3-33
- Vaccination certificate required; display upon request, 9-3-29
- Exceptions to limitations, 9-3-6
- Impoundment; sale of unclaimed animals; disposition of funds, 9-3-7
- Keeping of certain animals prohibited; permit requirements, 9-3-9
- Keeping of certain animals restricted; permit requirement, 9-3-2
- Messenger pigeons; permit requirements, 9-3-4
- Penalty, 9-3-99
- Permit application and validity; sanitary requirements, 9-3-3
- Practices to be observed by keeper; inspection, 9-3-5
- Prohibited animal permit revocation, 9-3-10
- Swine, 9-3-8

## ARSON, 13-1-1

## BARBED WIRE AND ELECTRIC FENCES, 13-1-2

## BARRICADES

- Obedience to, 13-2-2

## BICYCLES

- Compliance required, 7-4-1
- Licensing
  - Application for license; fee, 7-4-16
  - Inspection of bicycles prior to licensing, 7-4-20
  - Issuance and attachment of license plate, 7-4-19
  - Issuance of license; duration, 7-4-17
  - License required, 7-4-15
  - Records to be kept by Chief of Police, 7-4-18

**BICYCLES (Cont'd)**

## Licensing (Cont'd)

Renewal of license, 7-4-21

Transfer of ownership, 7-4-22

Rental agencies, 7-4-2

Report of bicycle dealers, 7-4-3

**BOARD OF HEALTH, (See also DEPARTMENTS, BOARDS AND COMMISSIONS)**

Board created, 3-3-50

Director of Health, 3-3-53

Duties of the Board, 3-3-54

Election of officers; meetings, 3-3-55

Members; terms, 3-3-51

Salaries; compensation, 3-3-52

**BUILDING CODE, (See also BUILDING REGULATIONS)**

Additions and amendments to International Building Code, 15-1-3

Adoption by reference, 15-1-2

Building permit valuations, 15-1-7

Certificate of occupancy required, 15-1-11

Excavation and trench safety requirements, 15-1-9

Failure to comply, 15-1-12

Modification of existing buildings, 15-1-4

Nonliability of city, 15-1-5

Party wall agreements, 15-1-10

Schedule of permit fees, 15-1-6

Swimming pools; enclosure required, 15-1-8

Title, 15-1-1

Third party plan review services, 15-1-13

Appeal procedures, 15-1-15

Pre-qualification of companies, 15-1-14

Procedures, 15-1-15

**BUILDING REGULATIONS**

Building Code, (See BUILDING CODE)

Condemning Property, (See CONDEMNING PROPERTY)

Electrical Code, (See ELECTRICAL CODE)

Energy Conservation Code, (See ENERGY CONSERVATION CODE)

Fuel Gas Code, (See FUEL GAS CODE)

House Moving, (See HOUSE MOVING)

Housing Code, (See HOUSING CODE)

Mechanical Code, (See MECHANICAL CODE)

**MOBILE HOMES AND MOBILE HOME PARKS)**

Non-Residential Structures Code, (See NON-RESIDENTIAL STRUCTURES CODE)

## CHARTER

- Accounting procedure, Charter, Art. V, § 23
- Acquisition of property, Charter, Art. II, § 5
- Altering streets, obstructions, encroachments, etc., Charter, Art. II, § 20
- Amendments to Charter, Charter, Gen. Prov., § 3
- Appointment and removal of City Manager, Charter, Art. V, § 32
- Audit and examination, Charter, Art. V, § 24
- Boards of city development, Charter, Art. V, § 20
- Bonds, Charter, Art. IV, § 1
- Boundaries, Charter, Art. I, § 2
- City funds not subject to garnishment, Charter, Art. II, § 7
- City Manager, Charter, Art. V, § 30
- Compensation, Charter, Art. V, § 13
- Construction of sidewalks and curbs, Charter, Art. II, § 16
- Corporate name, Charter, Art. I, § 1
- Corporate power, Charter, Art. II, § 1
- Duties of Mayor and Commissioners, Charter, Art. V, § 11
- Election day, Charter, Art. V, § 8
- Election of Mayor and Commissioners, Charter, Gen. Prov., § 5
- Election returns, Charter, Art. V, § 7
- Election — law controlling, Charter, Art. V, § 9
- Elections, Charter, Art. V, § 5
- Emergency measure; defined and provided for, Charter, Art. V, § 16
- Enumeration of powers, Charter, Gen. Prov., § 1
- Establishment of a special fund for capital improvements, Charter, Art. V, § 33
- Exemption from liability for damages, Charter, Art. II, § 8
- Extension of city limits or boundaries, Charter, Art. I, § 4
- Franchise for use of streets, Charter, Art. II, § 18
- Funds for the acquisition of any public utility, security for same, etc., Charter, Art. II, § 11
- Hours of labor upon public works (deleted August 9, 1986), Charter, Art. V, § 27
- Initiative and referendum, Charter, Art. II, § 23
- Investigations by Commission, Charter, Art. V, § 19
- Judge, Charter, Art. V, § 6
- Legislative and governing body, Charter, Art. V, § 10
- Legislative procedure, Charter, Art. V, § 14
- Manufacture or purchase of public utility products, Charter, Art. II, § 12
- Meeting of the Commission, Charter, Art. V, § 12
- Municipal government, Charter, Art. V, § 1
- Oath of office, Charter, Art. V, § 29
- Official bonds, Charter, Art. V, § 28
- Ordinance enactment, Charter, Art. V, § 15
- Ordinances; publication of, Charter, Art. V, § 17
- Ordinances; recording, Charter, Art. V, § 18
- Ownership of public utilities, Charter, Art. II, § 10

**CHARTER (Cont'd)**

- Parks, playgrounds, etc., Charter, Art. II, § 21
- Payment of claims, Charter, Art. V, § 22
- Peace and good order, Charter, Art. II, § 22
- Platting of property, Charter, Art. I, § 3
- Powers and duties, Charter, Art. V, § 31
- Powers of ordinance, Charter, Art. II, § 2
- Public property exempt from executions, Charter, Art. II, § 6
- Public works, improvements, Charter, Art. II, § 19
- Qualifications, Charter, Art. V, § 4

## CHARTER (Cont'd)

- Ratification of ordinances, Charter, Gen. Prov., § 2
- Real estate, etc., owned by the city, Charter, Art. II, § 4
- Recall, Charter, Art. II, § 24
- Right of eminent domain, Charter, Art. II, § 9
- Right to operate and maintain public utility acquired, exclusive, Charter, Art. II, § 13
- Right to regulate charges, etc., of holder of franchise or privilege, Charter, Art. II, § 14
- Salaries; general, Charter, Art. V, § 21
- Sidewalks, improvements; defective may be declared nuisance, Charter, Art. II, § 17
- Street powers, Charter, Art. II, § 15
- Style of ordinance, Charter, Art. II, § 3
- Taxation, Charter, Art. III, § 1
- Terms of office, Charter, Art. V, § 2
- Vacancies, Charter, Art. V, § 3
- Vote on proposed Charter, manner, etc., Charter, Gen. Prov., § 4

## CITY ATTORNEY, 3-2-2

## CITY COMMISSION

- Meetings, 3-1-1
- Penalty, 3-1-99
- Rules Before the City Commission
  - Agenda, 3-1-10
  - Removal from office, 3-1-12
  - Rules for public hearing, 3-1-14
  - Rules of decorum, 3-1-13
  - Rules of procedure, 3-1-11

## CITY SECRETARY, 3-2-1

## COASTAL BEND REGIONAL PLANNING COMMISSION, (See also DEPARTMENTS, BOARDS AND COMMISSIONS)

- Commission established, 3-3-25

## CODE OF ETHICS

- Administrative Provisions
  - Distribution and training, 3-13-55
  - Other obligations, 3-13-56
  - Severability, 3-13-57
- Declaration of Policy
  - Definitions, 3-13-2
  - Statement of purpose, 3-13-1

## CODE OF ETHICS (Cont'd)

## Enforcement Mechanisms

- Civil fine, 3-13-50
- Damages and injunctive relief, 3-13-49
- Disciplinary action, 3-13-48
- Disqualification from contracting, 3-13-53
- Failure to report, 3-13-54
- Perjury, prosecution for, 3-13-51
- Voiding or ratification of contract, 3-13-52

## Ethics Review Board (See ETHICS REVIEW BOARD)

## Financial Disclosure

- Items received on behalf of city, 3-13-34
- Travel reporting requirements, 3-13-33
- Violation of reporting requirements, 3-13-35

## Former City Officials and Employees

- Continuing confidentiality, 3-13-15
- Discretionary contracts, 3-13-18
- Prior participation in negotiating or awarding of contracts, 3-13-17
- Subsequent representation, 3-13-16\

## Lobbyists

- Activity reports, 3-13-26
- Administration, 3-13-30
- Constitutional rights, 3-13-21
- Definitions, 3-13-22
- Exceptions, 3-13-34
- Identification of clients, 3-13-28
- Persons required to register as, 3-13-23
- Registration, 3-13-25
- Restricted activities, 3-13-27
- Timeliness of filing registrations and reports, 3-13-29

## Members of Public and Others

- Forms of responsibility, 3-13-32

## Persons Doing Business with the City

- Disclosure of association with city official or employee, 3-13-20
- Disclosure of benefit to city official or employee, 3-13-21
- Discretionary contracts, 3-13-19

## Present City Officials and Employees

- Actions of others, 3-13-11
- City Commission contact personnel, 3-13-13
- Confidential information, 3-13-6
- Contracts, prohibited interest in, 3-13-12

**CODE OF ETHICS (Cont'd)****Present City Officials and Employees (Cont'd)**

- Gifts, 3-13-5
- Improper economic benefit, 3-13-3
- Outside employment, conflicting, 3-13-8\
- Persons required to report, 3-13-14
- Political activity, 3-13-10
- Private interests
  - Representation of, 3-13-7
  - Unfair advancement of, 3-13-4
- Public property and resources, 3-13-9

**CODE OF ORDINANCES; GENERAL PROVISIONS**

- Application to future ordinances, 1-1-3
- Captions, 1-1-4
- Definitions, 1-1-5
- Errors and omissions, 1-1-10
- Interpretation, 1-1-2
- Liability of officers, 1-1-16
- Official time, 1-1-11
- Ordinances repealed, 1-1-13
- Ordinances unaffected, 1-1-14
- Ordinances which amend or supplement code, 1-1-15
- Penalty, 1-1-99
- Reasonable time, 1-1-12
- Reference to offices, 1-1-9
- Reference to other sections, 1-1-8
- Rules of interpretation, 1-1-6
- Severability, 1-1-7
- Title of code, 1-1-1

**COIN-OPERATED MACHINES**

- Occupation tax, 11-4-1
- Sealing of machines, 11-4-2

**CONDEMNING PROPERTY, (See also BUILDING REGULATIONS)**

- Collection of cost to abate nuisance; lien, 15-1-172
- Condemnation Officer designated, 15-1-166
- Condemned building or structure; specifications, 15-1-165
- Condemning buildings; procedure for determination, 15-1-167

**CONDEMNING PROPERTY (Cont'd)**

- Liabilities of enforcement agents, 15-1-174
- Notice of violation, 15-1-168
- Order to vacate; posting vacant buildings, 15-1-170
- Public hearing; orders of Commission; abatement by city, 15-1-171
- Remedies not exclusive, 15-1-176
- Responsibilities of owner and occupant, 15-1-169
- Transfer of ownership, 15-1-173
- Utilities, 15-1-175

**COURT ORDER**

- Intentional or willful disobedience of a court order, 13-2-40

**CURFEW**

- Curfew Regulations for Minors
  - Defenses to prosecution, 13-2-12
  - Definitions, 13-2-10
  - Enforcement, 13-2-13
  - Offenses, 13-2-11
- Daytime Curfew Regulations For Minors
  - Defenses to prosecution, 13-2-22
  - Definitions, 13-2-20
  - Enforcement, 13-2-23
  - Inducement of violation, 13-2-24
  - Offenses, 13-2-21

**DEPARTMENTS, BOARDS AND COMMISSIONS**

- Attendance at meetings, 3-3-1
- Board of Health, (See BOARD OF HEALTH)
- Coastal Bend Regional Planning Commission
  - Commission established, 3-3-25
- Library Department, (See LIBRARY DEPARTMENT)
- Planning and Zoning Commission, (See PLANNING AND ZONING COMMISSION)
- Quarterly meetings with City Commission, 3-3-2

**ELECTRICAL CODE, (See also BUILDING REGULATIONS)**

- Administration and enforcement, 15-1-57
- Definitions, 15-1-56
- Electric rules exceptions, 15-1-64
- Electric signs, 15-1-63
- Electrical standards, 15-1-62
- Examining Board of Electricians, 15-1-58
- Inspections, 15-1-61

**ELECTRICAL CODE (Cont'd)**

- National Electric Code adopted, 15-1-65
- Permits and fees; electrical inspection, 15-1-60
- Qualification and registration of electricians, 15-1-59
- Revocation of registration, 15-1-66
- Title and scope, 15-1-55

**EMERGENCY MANAGEMENT; PUBLIC DISTURBANCES**

- Additional duties and responsibilities, 3-9-4
- Emergency Management Council, 3-9-3
- Emergency Management Director; Coordinator, 3-9-1
- Funds expended; approval, 3-9-9
- Liability of city, 3-9-8
- Oath, 3-9-6
- Obstruction and unauthorized representation, 3-9-10
- Operational organization of emergency management, 3-9-5
- Penalty, 3-9-99
- Powers and duties of Director, 3-9-2
- Precedence of article; conflict with other laws, 3-9-7
- Sirens, signals; unauthorized operation, 3-9-11

**ENERGY CONSERVATION CODE**

- Additions and amendments to *International Energy Conservation Code*, 15-1-402
- Adoption by reference, 15-1-403

**ETHICS (See CODE OF ETHICS)****ETHICS REVIEW BOARD**

- Advisory opinions, 3-13-45
- Annual report, 3-13-46
- Complaints, 3-13-39
- Definitions, 3-13-56
- Disposition, 3-13-43
- Ethics Compliance Officer, 3-13-40
- Ethics Panels, 3-13-41
- Hearings, 3-13-42
- Jurisdiction and powers, 3-13-38
- Open meetings, 3-13-47
- Petition for declaratory ruling, 3-13-44
- Public records, 3-13-47
- Structure, 3-13-37

**FAIR HOUSING**

- Committee created, 9-4-12
- Complaints, 9-4-7
- Cooperation with Secretary of Housing and Urban Development, 9-4-10
- Declaration of policy, 9-4-1
- Definitions, 9-4-2
- Discrimination in the financing of housing, 9-4-4
- Discrimination in the provision of brokerage services, 9-4-5
- Discrimination in the sale or rental of housing, 9-4-3
- Exemptions and exclusions, 9-4-6
- Investigation and conciliation, 9-4-8
- Legal proceedings, 9-4-9
- Penalty, 9-4-99
- Unlawful intimidation, 9-4-11

**FIRE DEPARTMENT, (See also FIRE PREVENTION AND PROTECTION)**

- Fire and ambulance reports, 3-5-3
- Social Security coverage for firefighters, 3-5-2
- Volunteer members, 3-5-1

**FIRE PREVENTION AND PROTECTION, (See also FIRE DEPARTMENT)**

- Fire Billing Services
  - Definition of buildings, 9-5-31
  - Explanation of charges, 9-5-32
  - Fees, 9-5-33
  - Services, 9-5-30
- Fire Prevention Code
  - Adoption, 9-5-10
  - Conflicting ordinances; more restrictive to prevail, 9-5-11
  - Fire prevention permit schedule and fees, 9-5-12
  - Kingsville Fire Department, 9-5-14
  - Permits and certificates, 9-5-13
- Fire Zones
  - Fire zones, 9-5-20
  - First Fire Zone, 9-5-21
  - Second Fire Zone, 9-5-22
- Fireworks unlawful; definition, 9-5-1
- Penalty, 9-5-99
- Storage of gasoline in glass containers, 9-5-2

**FIREWORKS, 9-5-1****FLEA MARKETS**

- Definitions, 11-6-1
- Food sales regulated, 11-6-3

FLEA MARKETS (Cont'd)

- License required, 11-6-2
- More than one market, 11-6-6
- Penalty, 11-6-99
- Purchases from children, 11-6-7
- Records to be kept by licensee, 11-6-4
- Secondhand stores excepted, 11-6-5

FLOOD DAMAGE PREVENTION

- Administration, 15-4-4
- Applicability, compliance, interpretation, and the like, 15-4-3
- Definitions, 15-4-2
- Findings of fact; purpose; methods of reducing flood losses, 15-4-1
- Provisions for flood hazard reduction, 15-4-5

FOOD SALES AND FOOD ESTABLISHMENTS

- Compliance with standards; sanitary conditions required, 11-7-4
- Duplicate licensing, 11-7-2
- Fruit and Vegetable Stands; Peddlers
  - Fruit and vegetable peddlers, 11-7-76
  - Fruit and vegetable stands, 11-7-75
  - Permit required; issuance; suspension, 11-7-77
- Handling of Meats
  - Adoption of meat inspection regulations, 11-7-31
  - Appeals, 11-7-38
  - Compliance with rules and regulations required, 11-7-36



**FOOD SALES AND FOOD ESTABLISHMENTS, (Cont'd)****Handling of Meats (Cont'd)**

Connection to sewer system, 11-7-37

Inspection marks required, 11-7-30

Inspection; fees, 11-7-34

Inspections by other than city, 11-7-35

Permit required, 11-7-33

Unlawful destruction of identification devices or carcasses, 11-7-32

Inspection required; fee, 11-7-3

License required, 11-7-1

**Meat Inspection Regulations**

Ante and post mortem inspections, 11-7-57

Assignment of inspectors; interference with inspectors prohibited, 11-7-54

Bribes, 11-7-66

Definitions, 11-7-50

Disposal of diseased carcasses and parts, 11-7-58

Facility requirements; compliance required, 11-7-55

Inspection legend, 11-7-62

Labeling, 11-7-63

Local transportation of meat and meat products, 11-7-67

Official numbers and inauguration and withdrawal of inspection, 11-7-53

Organization of inspectors, 11-7-52

Reinspection of meat and meat products, 11-7-64

Rendering of carcasses and parts passed for cooking, 11-7-61

Sanitation; minimum standards, 11-7-56

Scope of inspection, 11-7-51

Shipping inspections, 11-7-65

Tank rooms and tanks, 11-7-59

Tanking and denaturing of condemned parts, 11-7-60

**Milk**

Adoption of milk code, 11-7-85

Permit required; suspension or revocation; fee, 11-7-87

Sale of milk regulated, 11-7-86

**Penalty, 11-7-99****Rules on Food Service and Retail Food Store Sanitation**

Adoption by reference, 11-7-15

Conflicting provisions; more stringent to prevail, 11-7-16

Food handling certification required; revocation; display, 11-7-18

Permit provisions, 11-7-17

Seafood peddlers, 11-7-19

**FORTUNE TELLERS**

Application, 11-8-2

Cost of permit, 11-8-3

Permit required, 11-8-1

**FUEL GAS CODE, (See also BUILDING REGULATIONS)**

- Additions and amendments to International Fuel Gas Code, 15-1-37
- Adoption, 15-1-36
- Existing piping and appliances, 15-1-38
- License required; compliance with provisions, 15-1-39
- Liquefied petroleum gas, 15-1-41
- Natural gas rates, 15-1-42
- Schedule of permit fees, 15-1-40
- Title, 15-1-35
- Violation; revocation or suspension of license, 15-1-43

**GARBAGE****Collection; Disposal Procedures**

- Burning prohibited, 5-1-44
- Construction of vehicles; loads, 5-1-37
- Dead animals; manure; waste oils, 5-1-41
- Disposal at landfill only, 5-1-39
- Heavy accumulations, 5-1-42
- Placement for collection, 5-1-36
- Placement in street prohibited, 5-1-43
- Private haulers, 5-1-38
- Refuse becomes city property, 5-1-40
- Sanitary requirements; exposing garbage prohibited, 5-1-45
- When collections made, 5-1-35

**Container Requirements**

- Capacity and design; furnished by city, 5-1-15
- Certain matter not to be placed in receptacles, 5-1-18
- City containers, 5-1-17
- Condition of containers, 5-1-16
- Damaging containers or pilfering prohibited, 5-1-22
- Parking interfering with containers, 5-1-21
- Supervision of receptacles; notice required, 5-1-20
- Unauthorized use of receptacles; duty of owners to remove, 5-1-19

**Definitions, 5-1-1****Rates and Charges; Billing**

- Delinquent accounts, 5-1-58
- Monthly charge, 5-1-55
- Special rates for nontypical service; limitation of amounts, 5-1-59
- Truck rental program, 5-1-56
- Use of city landfill; fees, 5-1-57

**Solid Waste Management Superintendent, 5-1-2****Use of city landfill without charge, 5-1-3**

**GAMES AND AMUSEMENT DEVICES****Amusement Redemption Machines**

Amusement redemption machine defined, 11-4-10

Local permit fee for amusement redemption machine premises permit, 11-4-11

**Coin-Operated Machines**

Occupation tax, 11-4-1

Sealing of machines, 11-4-2

**HISTORIC DISTRICTS AND LANDMARKS****Board of Review for Historic Districts and Landmarks**

Appointment of Historic Preservation Officer, 15-5-20

Composition; membership; functions, 15-5-16

Creation; duties, 15-5-15

Meetings, 15-5-19

Secretary of Board, 15-5-17

Terms of members, 15-5-18

Creating historic districts, 15-5-3

Definitions, 15-5-2

Designating historic landmarks, 15-5-4

Findings, 15-5-1

Penalty, 15-5-99

**Permit Procedures**

Action by City Commission, 15-5-33

Criteria to be used by Board in determining its recommendation on permits, 15-5-31

Duties of Board and staff of Planning and Urban Development Department, 15-5-30

Findings of the Board concerning permit applications, 15-5-32

Permit applications, 15-5-30

Reapplication for permit, 15-5-34

Uses, 15-5-5

Violations, 15-5-98

**HOTEL OCCUPANCY TAX, (See TAXATION)****HOUSE MOVING, (See also BUILDING REGULATIONS)**

Appeal to the City Commission, 15-1-221

Appeals, 15-1-217

Duty to cut and repair wires; failure to furnish employee, 15-1-212

Failure of employee to repair wires, 15-1-214

Hearings, 15-1-219

House movers not to cut wires, 15-1-213

Inspection reports furnished, 15-1-218

Inspection; fee, 15-1-216

License and bond required, 15-1-210

Night moving, 15-1-215

Penalty, 15-1-999

## HOUSE MOVING (Cont'd)

- Permit required; notification of route and time of movement, 15-1-211
- Powers of the Planning and Zoning Commission; action, 15-1-220
- Temporary location, 15-1-222

## HOUSING CODE, (See also BUILDING REGULATIONS)

- Adoption by reference, 15-1-75
- Amendments, 15-1-76

## JUNK YARDS

- Application; license fee, 11-9-2
- License required; declaration of nuisance, 11-9-1
- Premises to be neat and orderly; fence required, 11-9-3
- Revocation of license, 11-9-4

## LANDSCAPING POLICY

- Alternative compliance, 15-8-14
- Basic requirements, 15-8-6
- Buffering/screening, 15-8-9
- Certificate of occupancy, 15-8-17
- General provisions, 15-8-1
- General, 15-8-16
- Irrigation of landscape areas, 15-8-12
- Landscape in parking lots, 15-8-8
- Landscape/irrigation notes, Exhibit B
- Landscape of other areas, 15-8-10
- Not clarified by City Code, 15-8-5
- Penalties, 15-8-18
- Preferred plant list, Exhibit A
- Protection of landscape area, 15-8-13
- Sample alternative compliance letter, Exhibit C
- Screening standards, 15-8-15
- Soil conditioning and mulching, 15-8-11
- Specified by the City Code, 15-8-4
- Street yard, 15-8-7
- Violations, 15-8-18

## LIABILITY OF CITY, 3-12-1

## LIBRARY DEPARTMENT, (See also DEPARTMENTS, BOARDS AND COMMISSIONS)

- Department created, 3-3-80
- Gifts; donations, 3-3-81
- Library Board, 3-3-82

**LITTER**

Fliers, 13-1-10

Posting on fences; poles, 13-1-11

**MECHANICAL CODE, (See also BUILDING REGULATIONS)**

Adoption, 15-1-135

Licenses and permits required, 15-1-136

Revocation or suspension of license, 15-1-137

**MOBILE HOMES AND MOBILE HOME PARKS**

Definitions, 15-2-1

**Operation Requirements**

Access for manufactured home parks, 15-2-31

Area for travel trailers, 15-2-42

Fire protection, 15-2-40

Fuel, 15-2-41

Garbage receptacles, 15-2-39

Location, 15-2-27

Management of park, 15-2-34

Office building, 15-2-32

Parking for manufactured home parks, 15-2-31

Recreational vehicle spaces, 15-2-28

Register of occupants, 15-2-35

Rules and regulations for park, 15-2-33

Sanitary sewer, 15-2-38

Site design standards for manufactured home parks, 15-2-30

Site plan requirements for manufactured home parks, 15-2-29

Special use recreational vehicle park, 15-2-28

Supervision, 15-2-36

Traffic circulation for manufactured home parks, 15-2-31

Water supply, 15-2-37

Parking restrictions; exemptions, 15-2-2

Penalty, 15-2-43

**Permit and License Provisions**

Application for license, 15-2-16

License required, 15-2-15

Notices, hearings, orders, 15-2-20

Posting of license, 15-2-19

Pre-move inspection fee, 15-2-21

Suspension or revocation of license, 15-2-17

Transfer and duration, 15-2-18

Special use permit, 15-2-3

Temporary permit, 15-2-3

**MUNICIPAL COURT**

- Clerk of Municipal Court, 3-6-3
- Creation of Municipal Court, 3-6-1
- Dismissal fees; pretrial intervention programs, 3-6-4
- Filing motion without consent; administrative fee, 3-6-5
- Municipal Court Collection Fee, 3-6-9
- Municipal Court Technology Fee, 3-6-10
- Municipal Court Technology Fund, 3-6-11
- Municipal Court Judge, 3-6-2
- Penalty, 3-6-99
- Perversion of prosecutorial process, 3-6-6

**NOISE CONTROL**

- Acts creating unlawful noises, 9-6-2
- Loud speakers and sound trucks; permit required, 9-6-4
- Unnecessary noises prohibited, 9-6-1
- Use of siren or whistle, 9-6-3

**NON-RESIDENTIAL STRUCTURES CODE (See also BUILDING REGULATIONS)**

- Appeals, 15-1-114
- Board of Adjustment; establishment; composition, 15-1-121
- Building official to supervise, 15-1-107
- Condemnation for human use, 15-1-109
- Conflicting provisions, 15-1-87
- Conformity to minimum standards required, 15-1-89
- Definitions, 15-1-88
- Demolition as compliance, 15-1-120
- Drainage, 15-1-92
- Electrical standards, 15-1-105
- Hearings, 15-1-116
- Inspection reports furnished, 15-1-115
- Natural growth, 15-1-91
- Notice to owner; service of notice, 15-1-110
- Off-street parking, drives and loading areas, 15-1-94
- Placarding, 15-1-111
- Powers of Adjustments Board; action, 15-1-117
- Premises to be kept clean and sanitary; eliminating infestation; malicious damage, 15-1-106
- Purpose, 15-1-85
- Refuse and garbage, 15-1-90
- Remedy at owner's expense, 15-1-118
- Right of appeal, 15-1-112
- Right of entry; interference with inspection a violation, 15-1-108
- Roofs and chimneys, 15-1-96

NON-RESIDENTIAL STRUCTURES CODE (Cont'd)

- Signs, marquees, and awnings, 15-1-100
- Stairways and entrances, 15-1-104
- Storage areas to be surrounded by solid screen, 15-1-93
- Store fronts, 15-1-99
- Structure kept in good repair, 15-1-97
- Summary abatement in emergency, 15-1-113
- Supporting members, 15-1-101
- Time limit for compliance, 15-1-119
- Toilets and lavatories; lighting of washrooms, 15-1-103
- Uses prohibited, 15-1-86
- Walls and foundations, 15-1-95
- Walls, ceilings and floors, 15-1-102
- Windows, doors and entrances, 15-1-98

NUISANCES

- Acts prohibited, 9-7-1
- Correction by city, 9-7-3
- Definitions, 9-7-2
- Lien, 9-7-3
- Penalty, 9-7-99

OIL AND GAS WELLS

- Agreement with operator, 11-11-4
- Definition, 11-11-1
- Drilling in streets; pipeline easements, 11-11-3
- Limiting wells, 11-11-2
- Permit Provisions
  - Application fee; plats; surety bonds, 11-11-16
  - More than one applicant for same unit, 11-11-19
  - Notice of application posted; form of notice; hearing, 11-11-17



## OIL AND GAS WELLS (Cont'd)

## Permit Provisions (Cont'd)

- Outline of settlement, 11-11-18
- Permit limitations, 11-11-22
- Permit required, 11-11-15
- Permit termination, 11-11-21
- Rejection of permit application, 11-11-20

## Storage and Operating Rules

- Burial of pipelines, 11-11-41
- Commission may waive provisions, 11-11-51
- Compliance required, 11-11-35
- Construction and location of tanks, 11-11-36
- Disposal of salt water or other impurities, 11-11-49
- Fencing required, 11-11-46
- Fire hazard control, 11-11-45
- Motive power for operations, 11-11-48
- No smoking signs required, 11-11-37
- Open earthen storage prohibited, 11-11-39
- Placement of boiler; electric generator restricted, 11-11-44
- Portable slush tanks for mud or water, 11-11-47
- Protection of fresh water sands; casing and cementing method, 11-11-50
- Standard practice and procedures; blowout preventers; other control equipment,

11-11-42

- Venting when gas hazard exists, 11-11-40
- Weeds and trash prohibited, 11-11-38
- Wellhead assemblies and Christmas trees required, 11-11-43

## Testing Permits, Fees, Hours of Operation

- Bonds, insurance and indemnity, 11-11-68
- Conditions for permit, 11-11-62
- Hours of operation, 11-11-64
- Inspection, 11-11-67
- Lands, streets, right-of-way and easements, 11-11-65
- Notification, 11-11-66
- Permit application, fee procedure, 11-11-61
- Permit required, 11-11-60
- Term of the permit, 11-11-63

## PARADES, (See also TRAFFIC REGULATIONS)

- Alternative permit, 7-1-41
- Application requirements, 7-1-38
- Contents of permit, 7-1-42
- Definitions, 7-1-36

**PARADES (Cont'd)**

- Duties of permittee, 7-1-43
- Notice of rejection, 7-1-40
- Permit required; exceptions, 7-1-37
- Public conduct during parades, 7-1-44
- Revocation of permit, 7-1-45
- Short title, 7-1-35
- Standards for issuance, 7-1-39

**PARKING**

- Congested place, stopping, standing or parking near, 7-2-6
- Handicapped Parking
  - Absence of tag or card on vehicle presumption of illegality, 7-2-20
  - Blocking access for disabled prohibited, 7-2-18
  - Definitions, 7-2-15
  - Improper use of identification card, 7-2-19
  - Sign requirements, 7-2-16
  - Unauthorized parking, 7-2-17
- Hazardous places, stopping, standing or parking near, 7-2-6
- Limited parking zones, Ch. VII, Art. 6, Sched. I
- Narrow streets, 7-2-5
- Obstruction of traffic prohibited, 7-2-4
- Parking in alleys, 7-2-2
- Parking restricted on certain streets, Ch. VII, Art. 5, Sched. II
- Parking spaces marked, 7-2-1
- Stopping, standing or parking, 7-2-3

**PARKS AND RECREATION**

- Dick Kleberg Park and Lake
  - Injuring property; littering prohibited, 9-8-11
  - Rules and regulations, 9-8-10
- Liquor in public parks prohibited; exception, 9-8-1

**PERSONNEL POLICIES**

- Adoption of the job classification and compensation plan, 3-7-1
- Employee Benefit Plan Trust, 3-7-3
- Substance Abuse Policy
  - Adverse personnel action, 3-7-31
  - Conflicting provisions; agreements in conflict, 3-7-35
  - Copies furnished, 3-7-36
  - Definitions, 3-7-24

**PERSONNEL POLICIES (Cont'd)****Substance Abuse Policy (Cont'd)**

Establishment; controlling authority, 3-7-20

Mandatory termination, 3-7-30

Prescribed or over-the-counter medication, 3-7-32

Prima facie proof, 3-7-33

Probation, 3-7-29

Purpose; scope, 3-7-22

Purview, 3-7-23

Random testing, 3-7-26

Random testing procedure, 3-7-27

Responsible authority, 3-7-25

Test to be validated; not exclusive, 3-7-34

Testing for cause, 3-7-28

Title, 3-7-21

Texas Municipal Retirement System (TMRS)—election to participate; adoption by reference, 3-7-2

**PHRENOLOGISTS**

Application, 11-8-2

Cost of permit, 11-8-3

Permit required, 11-8-1

**PLANNING AND ZONING COMMISSION, (See also DEPARTMENTS, BOARDS AND COMMISSIONS)**

Commission created, 3-3-15

Organization, 3-3-16

Powers and duties, 3-3-17

**PLUMBING CODE, (See also BUILDING REGULATIONS)**

Additions and amendments to International Plumbing Code, 15-1-22

Adoption by reference, 15-1-21

Nonliability of city, 15-1-25

Schedule of permit fees, 15-1-23

Suspension of license; review by Board, 15-1-26

Title, 15-1-20

Use of existing piping and fixtures, 15-1-24

**POLICE DEPARTMENT**

Accident and offense report fees, 3-4-2

Disposal of Unclaimed Property

Report of destroyed property, 3-4-41

Unclaimed property; disposal, 3-4-40

Interlocal assistance; powers, 3-4-1

## POLICE DEPARTMENT (Cont'd)

## Police Reserve Force

- Application, 3-4-24
- Chief of Police to control, 3-4-22
- Duties, 3-4-26
- Eligibility requirements, 3-4-23
- Established, 3-4-21
- Limitations, 3-4-28
- Oath, 3-4-25
- Power and authority, 3-4-27
- Qualifications, 3-4-23
- Status, 3-4-29

## RAILROADS

- Blowing whistles, 7-3-3
- Crossings to be opened in case of fire, 7-3-5
- Definitions, 7-3-1
- Length of time at crossing, 7-3-4
- Locomotive bells, 7-3-2

## RECORDS MANAGEMENT

- Designation of Records Management Officer and custodian, 3-8-4
- Duties and responsibilities of custodian, 3-8-2
- Duties and responsibilities of governing body, 3-8-1
- Duties of Records Management Officer, 3-8-3
- Establishment of fees for the furnishing of records, 3-8-6
- Records Management Program, 3-8-5

## RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS

- Additions and amendments to *International Residential Code for One and Two-Family Dwellings*,
  - 15-1-303
- Adoption by reference, 15-1-302

## REVENUE AND FINANCE

- Financing paving and street improvements
  - Adjournment of hearing, 3-10-28
  - Construction of improvements to conform, 3-10-22
  - Costs paid by city; costs to property owners, 3-10-31
  - Definitions, 3-10-21
  - Determination of amount of assessment, 3-10-30
  - Equality of assessment as to benefits, 3-10-32

## REVENUE AND FINANCE (Cont'd)

## Financing paving and street improvements (Cont'd)

- Hearing, 3-10-24
- Improvements effected by contract, 3-10-35
- Invalidity; reassessment, 3-10-38
- Issuance of assessment certificates, 3-10-34
- Nonliability of city for payment, 3-10-39
- Notice of hearing; personal notice, 3-10-25
- Payments to Secretary; receipt; collection of lien, 3-10-37
- Public service corporation; duties, 3-10-40
- Record of hearings to be kept, 3-10-29
- Right to contest; testify, 3-10-26
- State law adopted, 3-10-20
- Statement of objection, 3-10-27
- Submission of map or plat; estimate of cost, 3-10-23
- Terms of payment to be provided, 3-10-33
- Voluntary lien contracts, 3-10-36

## Investment Policy

- Dealings with institutions, 3-10-7
- Definitions, 3-10-3
- Public trust, 3-10-4
- Reports, 3-10-5
- Scope, 3-10-2
- Statement of purpose, 3-10-1
- Type of investments; liquidity, 3-10-6

## SEWERS, (See also WATER AND SEWER MAIN EXTENSIONS)

## Delinquent bills; discontinuing service, 5-2-4

## Ground Water Discharge Into Sanitary Sewer System

- Authorization to discharge; contaminated soil or water, 5-2-70
- Permit fees, 5-2-72
- Permit to discharge; requirements, 5-2-71
- Removal of system; city notified, 5-2-73
- Septic tank or liquid waste disposal rates, 5-2-74

## Industrial Wastes

- Additional criminal and civil remedies, 5-2-36
- Allowable discharge, 5-2-30
- Approving authority requirements; review and approval, 5-2-25
- Authority to disconnect service, 5-2-33
- Chemical discharges, 5-2-17
- Compliance with existing authority, 5-2-24

**SEWERS (Cont'd)****Industrial Wastes (Cont'd)**

Conditions of permits, 5-2-31

Definitions, 5-2-15

Failure to pay, 5-2-35

Garbage, 5-2-19

Grease and grit traps required, 5-2-37

Chemical discharges, 5-2-41

Construction of, 5-2-38

Maintenance of, 5-2-39

Prohibited discharges, 5-2-40

Right of entry to property, 5-2-44

Sampling and testing, 5-2-42

User charge system, 5-2-43

Hazardous metals and toxic materials, 5-2-18

**SEWERS (Cont'd)****Industrial Wastes (Cont'd)**

- Impairment of facilities, 5-2-23
- Notice of violation; continuing prohibited discharges, 5-2-34
- Power to enter property, 5-2-32
- Prohibited discharges, 5-2-16
- Radioactive wastes, 5-2-22
- Requirements for building sewers, 5-2-27
- Requirements for traps, 5-2-26
- Sampling and testing, 5-2-28
- Storm water and other unpolluted drainage, 5-2-20
- Temperature, 5-2-21
- User charge system, 5-2-29
- Monthly charge established, 5-2-1
- Operation and maintenance revenue; adjustment to user charge, 5-2-5
- Penalty, 5-2-99
- Requested service call, 5-2-6
- Required taps; connections, 5-2-3
- User classifications; schedule of charges, 5-2-2
- Waste Disposal Procedures
  - Accidental discharge procedures, 5-2-56
  - Definitions, 5-2-50
  - General requirements, 5-2-53
  - Generators, 5-2-51
  - Incompatible wastes, 5-2-54
  - Liability for violations; revocation of permit, 5-2-58
  - Permit required, 5-2-52
  - State and federal requirements, 5-2-57
  - Waste control records, 5-2-55

**SEXUAL HARASSMENT POLICY, 3-7-5****SEXUALLY ORIENTED BUSINESSES****Generally**

- Amendments to article, 15-7-4
- Classification of sexually oriented businesses, 15-7-3
- Definitions, 15-7-2
- Exempt businesses, 15-7-6
- Purpose and scope, 15-7-1
- Territory affected, 15-7-5

**Enforcement**

- Injunction, 15-7-21
- Violations, 15-7-20

**SEXUALLY ORIENTED BUSINESSES (Cont'd)****License**

- Appeals; notice, 15-7-37
- Expiration, 15-7-34
- Fees, 15-7-32
- Inspections, 15-7-33
- License required; application, 15-7-30
- Procedures for issuance, 15-7-31
- Revocation, 15-7-36
- Suspension, 15-7-35
- Transfer prohibited, 15-7-38

**Location and Operation**

- Adult motels, 15-7-56
- Adult theaters and adult motion picture theaters, 15-7-55
- Certificate of occupancy, 15-7-60
- Display of sexually explicit material to minors, 15-7-58
- Escort agencies, 15-7-53
- Exemption from location restrictions, 15-7-51
- Exhibition of sexually explicit films, 15-7-57
- Exterior portions and signage of sexually oriented businesses, 15-7-52
- Location restrictions, 15-7-50
- Miscellaneous prohibitions, 15-7-59
- Nude model studios, 15-7-54

**SMOKING REGULATIONS**

- Definitions, 9-9-1
- Designated smoking areas, 9-9-6
- Enforcement, 9-9-3
- Exceptions, 9-9-5
- Penalty, 9-9-99
- Posting signs, 9-9-7
- Responsibility of owners, operators and others, 9-9-8
- Scope, 9-9-2
- Smoking In City Buildings and Vehicles
  - Designation of smoking areas; criteria, 9-9-21
  - Failure to comply; violation, 9-9-23
  - Posting of signs, 9-9-22
  - Smoking prohibited in city buildings and vehicles, 9-9-20
- Smoking prohibited in county buildings, 9-9-30
- Smoking prohibited in certain public places, 9-9-4

**STREETS AND SIDEWALKS**

- Alleys, Streets and Pavement Cuts
  - Application; issuance of permit, 9-10-36
  - Barricades; flagpersons, 9-10-39

**STREETS AND SIDEWALKS (Cont'd)****Alleys, Streets and Pavement Cuts (Cont'd)**

Initiation of work, 9-10-37

Permit required; fee, 9-10-35

Repair required, 9-10-40

Street closings, 9-10-38

Awnings and signs, 9-10-11

Barricades, 9-10-6

Construction of sidewalks, 9-10-1

**Curb Cuts and Driveways**

Application; issuance of permit, 9-10-21

Driveway construction requirements, 9-10-22

Permit required, 9-10-20

Restricted construction; alteration, 9-10-24

Variations; Building Board, 9-10-23

Erection of poles, 9-10-2

Inanimate or animate objects on parkways and alleys, 9-10-8

Naming, 3-12-2

Obstructions to streets and sidewalks, 9-10-5

**Regulations for Access Driveways to State Highways**

Commercial and public access driveways, Ch. IX, Art. 10, App., § 3

General, Ch. IX, Art. 10, App., § 1

Permit to construct driveway facilities on highway right-of-way, Ch. IX, Art. 10, App., § 4

Private driveways, Ch. IX, Art. 10, App., § 2

Renaming, 3-12-2

Repair of sidewalks required, 9-10-3

Restricted construction; alteration; sidewalks and driveways required, 9-10-4

Trees and shrubbery, 9-10-7

Water flowing upon streets, 9-10-9

Window sills, porches or other projections above sidewalks to be kept clear, 9-10-10

**SUBDIVISIONS****Administration and Enforcement**

Appeals, 15-3-91

Approval and compliance required prior to issuance of permits; provision of services,  
15-3-86

Enforcement by court action, 15-3-87

Exemption for subdivisions already in existence, 15-3-89

Penal conviction not to bar other legal action and penalties, 15-3-85

Resolution reciting noncompliance or failure to secure final plat approval, 15-3-88

Variances, 15-3-90

**Definitions, 15-3-2****Design Standards**

Alleys, 15-3-31

Blocks, 15-3-33

Easements, 15-3-32

## SUBDIVISIONS (Cont'd)

## Design standards (Cont'd)

Lots, 15-3-34

Streets, 15-3-30

## Flood Hazard Areas

Application; jurisdiction, 15-3-66

Building site improvements, 15-3-69

Drainage facilities, 15-3-70

Erosion and sediment control measures, 15-3-73

## Flood Hazard Areas (Cont'd)

Intent and purpose, 15-3-65

Land suitability, 15-3-68

Roads, 15-3-71

Sanitary sewer and water facilities, 15-3-72

Warning and disclaimer of liability, 15-3-67

## Gas utilities, 15-3-3

## Platting Procedures

Disapproval restricted, 15-3-18

Final plat; decision of commission; fees, 15-3-17

Platted lots, 15-3-19

Preliminary conference, 15-3-15

Preliminary plat and accompanying data; fees; processing procedures, 15-3-16

## Required Improvements

Curb and gutter, 15-3-50

Improvements required to conform, 15-3-46

Lot grading, 15-3-49

Minimum standards; generally, 15-3-47

Off-site improvements, 15-3-55

Roadway pavement, 15-3-48

Sidewalks, 15-3-51

Street lights, 15-3-54

Street signs, 15-3-52

Submission of plans and specifications; approval or disapproval procedure, 15-3-45

Water and sewer utilities, 15-3-53

Subdivision of land in city's jurisdiction; approval and plat requirements, 15-3-1

## SUBSTANCE ABUSE POLICY, (See also PERSONNEL POLICIES)

Adverse personnel action, 3-7-31

Conflicting provisions; agreements in conflict, 3-7-35

Copies furnished, 3-7-36

Definitions, 3-7-24

Establishment; controlling authority, 3-7-20

Mandatory termination, 3-7-30

Prescribed or over-the-counter medication, 3-7-32

**SUBSTANCE ABUSE POLICY (Cont'd)**

- Prima facie proof, 3-7-33
- Probation, 3-7-29
- Purpose; scope, 3-7-22
- Purview, 3-7-23
- Random testing, 3-7-26
- Random testing procedure, 3-7-27
- Responsible authority, 3-7-25
- Test to be validated; not exclusive, 3-7-34
- Testing for cause, 3-7-28
- Title, 3-7-21

**SWIMMING POOL CODE, (See also BUILDING REGULATIONS)**

- Adoption, 15-1-151
- Licenses and permits required; fees, 15-1-152
- Revocation or suspension of license, 15-1-153
- Title, 15-1-150

**TAXATION**

- Historic Sites Property Tax Relief
  - Application, 3-11-42
  - Certification, 3-11-43
  - Definitions, 3-11-40
  - Historic sites; tax relief, 3-11-41
  - Verification, 3-11-44
- Hotel Occupancy Tax
  - Collection, 3-11-22
  - Definitions, 3-11-20
  - Delinquency; failure to file, 3-11-25
  - Interest, 3-11-26
  - Levy of tax; rate; exception, 3-11-21
  - Reports, 3-11-23
  - Rules and regulations, 3-11-24
- Penalty, 3-11-99
- Residence homestead exemption for the elderly, 3-11-1
- Telecommunication services tax, 3-11-2

**TAXICABS**

- Appearance of driver, 11-10-5
- Decision of Commission final, 11-10-11
- Definition, 11-10-1

## TAXICABS (Cont'd)

## Driver's License Requirements

- Drivers must be licensed, 11-10-39

- Investigations, 11-10-36

- License nontransferable; termination, 11-10-37

- Revocation or suspension, 11-10-38

- Taxicab driver's license required; application, 11-10-35

- Engaging transportation by unlicensed taxicab unlawful, 11-10-3

## Licensing Provisions

- Affidavit of ownership, 11-10-25

- Application for license, 11-10-21

- Certificate of public convenience and necessity, 11-10-22

- Fee, 11-10-24

- Insurance policy required, 11-10-23

- License required, 11-10-20

- Renewal of business license, 11-10-26

- Revocation of business license, 11-10-27

- Name to be painted on cab, 11-10-4

- Rates of fares, 11-10-8

- Rates to be posted; receipt for fare, 11-10-7

- Refusal to pay fare, 11-10-9

- Taxicabs taxable; delinquent taxes, 11-10-10

- Use for immoral purposes prohibited, 11-10-6

- Who may operate vehicle, 11-10-2

## TIRE AND APPLIANCE STORAGE

- Application, 11-13-2

- Declaration of nuisance, 11-13-1

- License fee, 11-13-2

- License required, 11-13-1

- Premises to be neat and orderly, 11-13-3

- Revocation of license, 11-13-4

## TOBACCO PRODUCTS; POSSESSION BY A MINOR, 13-2-1

## TRAFFIC REGULATIONS

- Commercial Vehicles; Truck Routes

- Definitions, 7-1-25

- Maintain maps and signs, 7-1-28

- Truck traffic in the city, 7-1-27

- Trucks restricted; exceptions, 7-1-26

- Parades, (See PARADES)

## TRAFFIC REGULATIONS (Cont'd)

## School Zones

No passing zones, 7-1-16

Speed limits in school zones; special hours, 7-1-15

Speed limits, 7-1-1

Speed limits (schedule), Ch. VII, Art. 5, Sched. I

Speed limits in school zones, Ch. VII, Art. 5, Sched. II

Truck routes, Ch. VII, Art. 5, Sched. III

## TRAILERS AND TRAILER PARKS, (See MOBILE HOMES AND MOBILE HOME PARK)

## VENDOR SOLICITATIONS

Affirmative defenses, 11-14-3

Applicability, 11-14-3

Certificate of registration in lieu of permit, 11-14-9

Charitable solicitation, 11-14-16

Definitions, 11-14-2

Duty of police to enforce, 11-14-15

Emergencies

Bond required, 11-14-7

General regulations

Commercial solicitors, 11-14-13

Itinerant merchants, 11-14-13

Peddlers, 11-14-13

Vendors, 11-14-10

Health permit required for food and beverage business, 11-14-6

Interstate commerce

Certificate of registration in lieu of permit, 11-14-9

Commercial solicitors engaged in, 11-14-9

Penalty, 11-14-99

Permit

Appeal, 11-14-8

Application

Contents, 11-14-5

Filing, 11-14-5

Denial, 11-14-8

Duration, 11-14-8

Fees, 11-14-8

Health permit, 11-14-6

Renewal, 11-14-8

Required, 11-14-4

Revocation, 11-14-8

Purpose and findings, 11-14-1

## VENDOR SOLICITATIONS (Cont'd)

## Special regulations

Sidewalk vendors, 11-14-11

Street vendors, 11-14-12

Streets or right-of-ways, solicitation in, 11-14-16

## WATER, (See also WATER AND SEWER MAIN EXTENSIONS)

## Connections and Installations

Application for connection, 5-3-15

Duty of owners to maintain lines, 5-3-19

Meters, 5-3-16

Private lines, 5-3-18

Separate meters required; exception for shared users, 5-3-17

Duty to report leaks and violations, 5-3-2

Limitation of liability, 5-3-3

Modifying agreements prohibited, 5-3-4

Penalty, 5-3-99

## Rates and Charges; Billings

Failure to pay; discontinue service, 5-3-53

Interest charge on late payments, 5-3-54

Meter deposit, 5-3-50

Minimum monthly charge; rate schedule, 5-3-51

Tapping charges, 5-3-52

Waiver of late charges; exemption, 5-3-55

## Regulations; Prohibitions

Interfering with or injuring waterworks property, 5-3-30

Storage tanks; fire hydrants, 5-3-31

Tampering or interfering with meters and the like, 5-3-33

Unauthorized connections or use of water, 5-3-32

User must give notice to disconnect service, 5-3-34

Water conservation program adopted, 5-3-36

Water wells, 5-3-35

Superintendent of Waterworks, 5-3-1

## WATER AND SEWER MAIN EXTENSIONS, (See also WATER and SEWER)

Alternative method, 5-4-6

Availability of funds; credits to Water and Sewer System Fund, 5-4-12

Compliance with platting requirements; exception, 5-4-2

Connections to water and sewer mains; pro rata charges, 5-4-4

Cost of on-site mains; temporary lines, 5-4-8

Definitions, 5-4-3

Enforcing payment, 5-4-13

**WATER AND SEWER MAIN EXTENSIONS**

Extension of water and sewer lines; application, 5-4-5

Inspection fee for privately installed mains, 5-4-11

Lift stations and special installations, 5-4-10

Owner installation of water and sewer extensions; conditions, 5-4-9

Purpose, 5-4-1

Refund of cost of extension, 5-4-7



**WEAPONS CONTROL**

- Concealed handguns on city property, 13-2-31
- Penalty, 13-5-99
- Unlawful discharge of firearms; enforcement, 13-2-30

**ZONING****Administration and Procedures**

- Board of adjustment, 15-6-157
- Certificate of compliance and occupancy, 15-6-156
- Completion of buildings already under construction, 15-6-158
- Enforcement by Building Official, 15-6-155

**Air Installation Zoning Regulations**

- Administration and Restrictions, 15-6-39
- Definitions, 15-6-36
- General Provisions, 15-6-38
- Nonconforming Uses, 15-6-40
- Responsibility of developers; subdivisions, 15-6-41
- Statutory Authorization; Findings of Fact; Purpose; Methods, 15-6-35
- Use restrictions, 15-6-37

**Area Regulations**

- Conformance standards, 15-6-85
- Front yard, 15-6-90
- Height regulations, 15-6-93
- Lot areas, 15-6-86
- Lot depth, 15-6-88
- Lot width, 15-6-87
- Open space, 15-6-89
- Rear yards, 15-6-92
- Side yard, 15-6-91
- Special use recreational vehicle park; recreational vehicle spaces, 15-6-94

**Changes and amendments; application fee, 15-6-4****Landscaping (See LANDSCAPING POLICY)****OPUD Planned Unit Development**

- Adjacent open space bonus for Planned Unit Development, 15-6-60
- Floor area ratio, open space, recreation space, 15-6-59
- General requirements in all districts, 15-6-58
- Permitted uses and buildings; when OPUD status encouraged, 15-6-55
- Requests not scheduled for hearing, 15-6-61
- Site plan required; necessary information, 15-6-56
- Submission, hearing and approval, 15-6-57

**Parking**

- Driveways, street and roadway standards; access to businesses, 15-6-108
- General requirements, 15-6-105
- Special off-street parking regulations, 15-6-107
- Specific requirements, 15-6-106

## ZONING (Cont'd)

- Penalty, 15-6-999

- Permits

  - Creation of building site prerequisite to issuance of permit, 15-6-141

  - Permit requirements, 15-6-140

  - Special use permits, 15-6-142

  - Time limits on building permits, 15-6-143

- Purpose, 15-6-2

- Sign Regulations

  - Advertising signs, 15-6-118

  - Banners, 15-6-125

  - Grandfather clause, 15-6-129

  - Historical district, 15-6-127

  - Irregular shaped signs, 15-6-123

  - Maximum size; U.S. Highway 77 bypass, 15-6-124

  - Obstructing signs, 15-6-120

  - Owner identification signs permitted, 15-6-117

  - Penalty, 15-6-128

  - Permits, 15-6-126

  - Projecting signs, 15-6-119

  - Residential signs permitted, 15-6-116

  - Signs restricted, 15-6-115

  - Strobe, revolving and rapidly flashing light displays prohibited, 15-6-121

  - Traffic flow signs, 15-6-122

- Scope, 15-6-3

- Short title, 15-6-1

- U.S. 77 By-Pass Regulations

  - Application; jurisdiction, 15-6-70

  - Design standards, 15-6-72

  - Driveway and access permits required; submission of site plan, 15-6-71

  - Uses restricted, 15-6-73

- Use Regulations and Districts

  - Classification of new and unlisted uses, 15-6-20

  - Definitions and explanations of use regulations, 15-6-21

  - Mobile Home District (MH) and mobile home on individual lots, 15-6-23

  - Nonconforming uses and structures, 15-6-24

  - Overlay zones, 15-6-22

  - Temporary zoning for annexed territory, 15-6-18

  - Use regulations; use of land and buildings, 15-6-19

  - Zoning districts boundaries, 15-6-17

  - Zoning districts established, 15-6-15

  - Zoning map, 15-6-16

ZONING (Cont'd)

Wireless telecommunications facilities

Antenna mounting standards, 15-6-49

Appeal, 15-6-50

General provisions, 15-6-46

Purpose, 15-6-45

Standards

Antenna mounting, 15-6-49

Telecommunications tower, 15-6-47

Tower location, 15-6-48

Violation deemed nuisance, 15-6-51

Zoning districts where authorized, Ch. 15, Art. 6, App. C, § 1

2004 S-6