ORDINANCE NO. 1577

AN ORDINANCE OF THE CITY OF SUGAR LAND, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF SUGAR LAND, TEXAS BY REORGANIZING, REARRANGING AND RENUMBERING CHAPTERS, DIVISIONS AND SECTIONS, RESTATING LANGUAGE IN MODERN AMERICAN ENGLISH, UPDATING STATE LAW REFERENCES, UPDATING PROVISIONS TO COMPLY WITH STATE LAW; AND REPEALING OBSOLETE, DUPLICATIVE, INEFFECTIVE AND UNNECESSARY PROVISIONS.

WHEREAS, certain chapters of the Code of Ordinances, City of Sugar Land, Texas (the Code) have been deleted or incorporated into the Development Code, leaving "reserved" chapters; and

WHEREAS, changes in the Code and state and federal laws have resulted in incorrect Code references to those laws; and

WHEREAS, the Code is currently arranged alphabetically by subject matter; and

WHEREAS, to make the Code more accessible and understandable, the City Attorney recommends that the Code be revised to:

1. Renumber the chapters to eliminate unused or reserved chapters;

2. Update or eliminate incorrect references;

3. Reorganize the Code into several broad, more logical subject matter areas;

4. Remove obsolete, duplicative, ineffective or unnecessary provisions;

5. Restate language in modern American English; and

6. Update certain provisions to comply with state law.

WHEREAS, the City Council desires to reorganize, update, and amend the Code;
NOW, THEREFORE;

BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF SUGAR LAND, TEXAS:

Section 1. That Section 1-10 of the Code of Ordinances, City of Sugar Land, Texas is repealed.

~~**Sec. 1-10. Imprisonment for failure to pay fine.**~~

~~Any person who the court determines is able to do so and who, on conviction, fails or neglects to pay and fine or costs imposed for the violation of any provision of this Code or any other ordinance shall be imprisoned or worked upon the streets, alleys or public grounds of the city, until such fine and costs have been fully paid or satisfied, at the rate of five dollars ($5.00) per day, and the decree of the court or the verdict of the jury shall in all cases be presumed to include such provision on the failure, refusal or neglect to pay the same.~~

Section 2. That Section 2-1 of the Code of Ordinances, City of Sugar Land, Texas is repealed.

~~**Sec. 2-1. Compensation of officers and employees**. The salaries and other compensation of officers and employees of the city are as fixed by the city council, from time to time, and nothing in this Code or the ordinance adopting this Code will be deemed to affect the validity of any ordinance prescribing such salaries or compensation, and all such ordinances are hereby recognized as continuing in effect to the same extent as if set out at length herein.~~

Section 3. That the definition of "conflict of interest" in Section 2-32 of the Code of Ordinances, City of Sugar Land, Texas is repealed.

~~*Conflict of interest* means, as to any matter that comes before the board, the member:~~

~~(a) Because of the member's personal circumstances, including a financial interest in the matter, is unable to exercise complete independent judgment on behalf of the city in the matter; or~~

~~(b) If he or she is a member of an administrative board, is prohibited from participating in the matter under chapter 171 of the Local Government Code.~~

Section 4. That Sections 2-41(b) and (c) of the Code of Ordinances, City of Sugar Land, Texas are repealed.

~~(b) A board member who has a conflict of interest in any matter before the board must state the nature of the conflict of interest immediately after the chair announces the matter and not vote on or participate in any discussion of the matter.~~

~~(c) Members may not appear to make a presentation before the board on behalf of themselves as private citizens or on behalf of other private citizens.~~

Section 5. That Chapter 2, Article IV. Records and Information Management of the Code of Ordinances, City of Sugar Land, Texas is repealed.

~~**ARTICLE IV. RECORDS AND INFORMATION MANAGEMENT**~~

~~**Sec. 2-51.** Short title. This article shall be known and shall be cited as the "Records and Information Management Ordinance for the City of Sugar Land, Texas.~~

~~**Sec. 2-52. Policy.** It is hereby declared to be the policy of the city to develop a records and information management program that provides for efficient, economical and effective controls over the creation, distribution, organization, maintenance, use and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition consistent with the requirements of the Texas Local Government Records Act and accepted records management practice.~~

~~**Sec. 2-53. Definition of city records; declaration as public property.**~~

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

~~(b) All city records as defined in above are hereby declared to be the property of the City of Sugar Land. No city official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unautho~~rized destruction, removal from files, or use of such records is prohibited.

~~**Sec. 2-54. Definitions.** The following definitions shall apply to this article:~~

~~*Department head*: The officer who by ordinance, order or administrative policy is in charge of a department of the city and that creates or receives records.~~

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

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

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

~~*Records liaison officers*: The persons designated under Section 2-59 of this article.~~

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

~~*Records management committee*: The committee established in Section 2-56 of this article.~~

~~*Records management officer*: The person designated in Section 2-55 of this article~~.

~~*Records management plan*: The plan developed under Section 2-57 of this article.~~

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

~~**Sec. 2-55. Records management officer.**~~

~~(a) Designation of officer. The city secretary, and the successive holders of such office, shall serve as records management officer for the city.~~

~~(b) Duties. In addition to other duties assigned in this article, the records management officer shall:~~

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

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

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

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

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

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

~~(7) Provide records management advice and assistance to all city departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;~~

~~(8) Monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and the city's records control schedules are in compliance with state regulations;~~

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

~~(10) Instruct records liaison officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;~~

~~(11) Direct records liaison officers or other personnel in the conduct of records inventories in preparation for the development o~~f records control schedules as required by state law and this article;

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

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

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

~~(15) Bring to the attention of the mayor and city council noncompliance by department heads or other city personnel with the policies and procedures of the records management program or the Local Government Records Act.~~

~~**Sec. 2-56. Establishment of records management committee; duties.**~~

~~A records management committee, consisting of the c~~ity ~~attorney and city manager, is hereby established. The committee shall:~~

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

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

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

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

~~(5) Actively support and promote the records management program throughout the city.~~

~~**Sec. 2-57. Records management plan to be developed; approval of plan; authority of plan.**~~

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

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

~~(c) State law relating to the duties, other responsibilities or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this article and the records management plan adopted under it and~~

~~may not be used by the department head as a basis for refusal to participate in the records management program of the city.~~

~~**Sec. 2-58. Duties and responsibilities of department heads.** In addition to other duties assigned in this article, department heads shall:~~

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

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

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

~~**Sec. 2-59. Records liaison officers.**~~

~~(a) Designation. Each department head shall designate a member of his or her staff to serve as records liaison officer for the implementation of the records management program in the department. If the records management officer determines that in the best interests of the records management program more than one records liaison officer should be designated for a department, the department head shall designate the number of records liaison officers specified by the records management officer. Persons designated as records liaison officers shall be thoroughly familiar with all the records created and maintained by the department and shall have full access to all records of the city maintained by the department. In the event of the resignation, retirement, dismissal or removal by action of the department head of a person designated as a records liaison officer, the department head shall promptly designate another person to fill the vacancy. A department head may serve as records liaison officer for his or her department.~~

~~(b) Duties and responsibilities. In addition to other duties assigned in this article, records liaison officers shall;~~

~~(1) Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;~~

~~(2) In cooperation with the records management officer, coordinate and implement the policies and procedures of the records management program in their departments; and~~

~~(3) Disseminate information to department staff concerning the records management program.~~

~~**Sec. 2-60. Records control schedules.**~~

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

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

~~(c) Approval. Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the members of the records management committee.~~

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

~~**Sec. 2-61. Implementation of records control schedules; destruction of records under schedule.**~~

~~(a) A records control schedule for a department that has been approved and adopted under section 2-57 shall be implemented by department heads and records liaison officers according to the policies and procedures of the records management plan.~~

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

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

~~**Sec. 2-62. Destruction of unscheduled records.** A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the records management officer has submitted to and received back from the director and librarian an approved destruction authorization request.~~

~~**Sec. 2-63. Records center.** A records center, developed pursuant to the plan required by section 2-57, shall be under the direct control and supervision of the records management officer. Policies and procedures regulating the operation and use of the records center shall be contained in the records management plan developed under section 2-57.~~

~~**Sec. 2-64. Micrographics/electronic storage of records.** Unless a micrographics/electronic program in a department is specifically exempted by order of the city, all microfilming/electronic storage of records will be centralized and under the direct supervision of the records management officer. The records management plan will establish policies and procedures for the microfilming/electronic storage of city records, including policies to ensure that all microfilming/electronic storage is done in accordance with standards and procedures for the microfilming/electronic storage of local government records established in rules of the Texas State Library and Archives Commission. The plan will also establish criteria for determining the~~

~~eligibility of records for microfilming/electronic storage and protocols for ensuring that a microfilming/electronic storage program that is exempted for the centralized operations is, nevertheless, subject to periodic review by the records management officer as to cost-effectiveness, administrative efficiency and compliance with commission rules.~~

~~**Secs. 2-65--2-74**. Reserved.~~

Section 6. That Section 2-100 of the Code of Ordinances, City of Sugar Land, Texas is repealed.

~~**Sec. 2-100. Sugar Land municipal airport joint zoning board.**~~

~~(a) Created by joint resolution. As required by state law, the Sugar Land municipal airport joint zoning board was established by the City of Sugar Land and Fort Bend County by Joint Resolution 96-20.~~

~~(b) Number and appointment. As required by the joint resolution and state law, the board has five (5) members. Two (2) members are appointed by the city council, two (2) appointed by the county commissioner's court, and the other member, who serves as chair of the board, is elected by the four (4) appointees. Under the joint resolution, the city's appointees serve two-year staggered terms, expiring on June 1 of each year.~~

~~(c) Duties. The board will perform the duties as provided for by law.~~

~~**Secs. 2-101--2-110. Reserved.**~~

Section 7. That Section 4-36(c) of the Code of Ordinances, City of Sugar Land, Texas is repealed.

~~**Sec. 4-36. Unreasonably noisy animals.**~~

~~(c) *Penalty for violation*. An owner or keeper of an animal who violates this Ordinance shall be guilty of a Class "C" misdemeanor and shall be subject to a fine not to exceed five hundred dollars ($500.00) per occurrence.~~

Section 8. That Sections 4-46(a) and 4-46(b) of the Code of Ordinances, City of Sugar Land, Texas are repealed.

~~**Sec. 4-46. Citations; officers.**~~

~~(a) Enforcement of this chapter shall be responsibility of animal control or any other city officials directed to do so.~~

~~(b) Any animal control officer or police officer shall have the authority to issue citations for violations of this chapter.~~

~~(c) It shall be unlawful for any person to violate any provision of this chapter or interfere with any animal control officer in the performance of his/her duties.~~

Section 9. That Sections 14.5(a) and 14.5(b) of the Code of Ordinances, City of Sugar Land, Texas are repealed.

~~(a) The clerks of the municipal court are authorized to receive payment of fines in the clerk's office during regular business hours from defendants who elect to waive trial, plead guilty or nolo contendere, and pay such fines in addition to statutory costs of court when such payments are tendered either by mail or in person prior to the trial time and date. The clerk accepts fines for the offenses in the amounts as directed by the presiding judge of the municipal court of the City with the approval of the city council. A copy of the current schedule of fines will be on file in the office of the clerk of the municipal court at all times.~~

~~(b) The presiding judge of the municipal court may, after conviction, assess upon the defendant a special expense, not to exceed the maximum amount established by state law, for the issuance and service of a warrant of arrest for an offense under Texas Penal Code Annotated, Section 38.11 (1974), "Bail Jumping and Failure to Appear," or under Texas Revised Civil Statutes Annotated, Article 6701d (Vernon 1977), "Uniform Act Regulating Traffic on Highways, Violation of Written Promise to Appear." The presiding judge may also assess the special expenses described in Texas Code of Criminal Procedure Annotated, Article 17.04 (Vernon 1977), "Requisites of a Personal Bond," and a special expense for the issuance and service of a warrant of arrest, after due notice, not to exceed the maximum amount established by state law.~~

Section 10. That Section 15.17 of the Code of Ordinances, City of Sugar Land, Texas is repealed.

~~**Sec. 15-17. Enforcement generally**. The chief of police, his authorized representative, and the city inspector are each individually authorized to administer the provisions of this article and either of them may enter upon private property to examine vehicles or parts thereof obtain information as to the identity of vehicles or parts thereof, and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this article. The municipal court shall have authority to issue all orders necessary to enforce this article.~~

Section 11. That section 15.21(b) of the Code or Ordinances, City of Sugar Land, Texas is repealed.

~~(b) Any person found guilty of violating this section shall be fined not more than five hundred dollars ($500). Each day a violation occurs is a separate offense.~~

Section 12. That section 15.26(b) of the Code or Ordinances, City of Sugar Land, Texas is repealed.

~~(b) Any person found guilty of violating this section shall be fined not more than five hundred dollars ($500). Each day a violation occurs is a separate offense.~~

Section 13. That Section 16-29 of the Code of Ordinance, City of Sugar Land, Texas is repealed.

~~**Sec. 16-29. Penalty for violation.**~~

~~Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars ($500).~~

Section 14. That the second sentence of Section 21-65 of the Code of Ordinances, City of Sugar Land, Texas is repealed.

~~Any person found guilty of violating a provision of this articles may be fined up to a maximum of five hundred dollars ($500) for each offense.~~

Section 15. That Sections 23-1, 23-2, and 23-3 of the Code of Ordinances, City of Sugar Land, Texas are repealed.

~~**Sec. 23-1.** Penalty and interest on delinquent ad valorem taxes.~~

~~(a) Ad valorem taxes shall become delinquent if not paid before February first of the year following the year in which imposed. A delinquent tax incurs a penalty of six (6) percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July first of the year in which it becomes delinquent. However, a tax delinquent on July first incurs a total penalty of twelve (12) percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent.~~

~~(b) A delinquent tax accrues interest at a rate of one (1) percent for each month or portion of a month the tax remains unpaid.~~

~~(c) Penalties, interest and costs accrued against any land, lots or property need not be entered by the tax assessor-collector on the list referred to in section 23-2, but in each and every instance all such penalties, interest and costs shall be and remain a statutory charge with the same force and effect as if entered on such list, and the tax assessor-collector shall calculate and charge all such penalties, interest and costs on all delinquent tax statements or delinquent tax receipts issued by him.~~

~~**Sec. 23-2**. List and collection of delinquent ad valorem taxes.~~

~~(a) The tax assessor-collector shall, as of the first day of July of each year for which any ad valorem taxes for the preceding year remain unpaid, make up a list of the lands and lots or property on which any taxes for such preceding year are delinquent, charging against the same all unpaid taxes assessed against the owner thereof on the rolls for such year.~~

~~(b) Collection of delinquent taxes due the city shall be enforced in accordance with the provisions of applicable laws of the state.~~

~~**Sec. 23-3. Local sales and use tax for residential use of gas and electricity reimposed.**~~

~~(a) The one percent local sales and use tax is reimposed on the sale, production, distribution, lease, or rental of and the use, storage, or other consumption of gas and electricity for residential use in the city.~~

~~(b) The term "residential use," as used in this section, means use in a family dwelling or in a multifamily apartment or housing complex or building or a part of a building occupied as a house or residence.~~

Section 16. That Section 24-2 of the Code of Ordinances, City of Sugar Land, Texas is repealed.

~~**Sec. 24-2**. **Regulations concerning use of coasters, roller skates and similar devices; devices restricted to certain areas.**~~

~~No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar vehicle, shall go upon any roadway except while crossing a street in a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable.~~

Section 17. That Sections 24-18 and 24-19 of the Code of Ordinances, City of Sugar Land, Texas are repealed.

~~**Sec. 24-18**. **Obedience to police and fire department officials.**~~

~~No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.~~

~~**Sec. 24-19**. **Arrest without warrant**.~~

~~Any police officer of the city shall have the power and is hereby authorized to arrest, without a warrant of arrest being first issued, any person who violates any traffic regulation of the city or any provisions of the state motor vehicle laws as are applicable within the city limits in the presence of or within the view of such arresting officer.~~

Section 18. That Sections 24-61, 24-62, 24-63, and 24-65 of the Code of Ordinances, City of Sugar Land, Texas are repealed.

~~ARTICLE IV. OPERATION OF VEHICLES GENERALLY~~

~~**Sec. 24-61. Weaving.**~~

~~No driver of any motor vehicle or any other vehicle shall weave in and out of traffic to the extent that such weaving unreasonably interferes with the right-of-way of other vehicles on the right or left.~~

~~**Sec. 24-62. Cutting in.**~~

~~When traffic is traveling in parallel lanes, no driver or operator of any vehicle or of any other vehicle shall cut from one lane of traffic to another so as to unreasonably interfere with the right-of-way of any other vehicle, except in an emergency.~~

~~**Sec. 24-63. Prima facie evidence of weaving and cutting in.**~~

~~In regard to sections 24-61 and 24-62, the fact that any adjacent vehicle, into the path of which the weave or cut is made, shall slacken its pace abruptly or shall swerve into any parallel lane or near to any obstruction in the street or object at the side thereof shall be prima facie evidence of unreasonable interference with the right-of-way of that vehicle by the driver of the vehicle weaving or cutting in.~~

~~**Sec. 24-65. Obstructing traffic.**~~

~~No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.~~

Section 19. That the Code of Ordinances, City of Sugar Land, Texas is hereby amended to read as follows:

CHAPTER 1. GENERAL PROVISIONS

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

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

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

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

City, the city, this city or city means the City of Sugar Land, in the County of Fort Bend and State of Texas.

Code, the code or this code" means the "Code of Ordinances, City of Sugar Land, Texas," as designated in section 1-1, as amended.

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

Council, this council, the council, city council means the City Council of the City of Sugar Land, Texas.

County, the county, this county means Fort Bend County, Texas.

Day means the period of time between any midnight and the midnight following.

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

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

In the city means and include all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police, regulatory and other powers.

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

*May i*s permissive.

Month means a calendar month.

Must is mandatory.

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

Oath means and includes 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" will be equivalent to the words "affirm" and "affirmed."

Officers, boards, etc. When reference is made to any officer, board or commission, the same will be construed as if followed by the words "of the City of Sugar Land." Reference to any specific officer will also be deemed to include his duly authorized assistants and representatives.

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

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

Owner, applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of such building or land.

Person extends and is applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property includes every species of property, except real property as defined in this section.

Preceding, following means next before and next after, respectively.

Property includes real and personal property.

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

Real property includes land, tenements and hereditaments.

Roadway means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall is mandatory.

Sidewalk means any portion of the street between the curb, or the lateral line of the roadway and the adjacent property line intended for the use of pedestrians.

Signature or *subscription* includes a mark when a person cannot write.

State, the state or this state means the State of Texas.

Street includes any highway, alley, street, avenue or public place or square, bridge, viaduct, underpass, overpass, tunnel or causeway in the city dedicated or devoted to public use.

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

Written or *in writing* includes any representation of words, letters or figures, whether by printing or otherwise.

Year means a calendar year.

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

Sec. 1-3. Certain ordinances not affected by Code. Nothing in this code or the ordinance adopting this code will be construed to repeal or otherwise affect the validity of any of the following:

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

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

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

(4) Any ordinance designating, or otherwise relating to, city depositories;

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

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

(7) Any ordinance approving, authorizing or otherwise relating to any contract or agreement;

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

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

(10) Any ordinance accepting any plat of a subdivision;

(11) Any ordinance providing the rules and regulations governing the platting or replatting of land into subdivisions or otherwise relating to subdivisions in the city or its extraterritorial jurisdiction;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Sec. 1-4. Code does not affect prior offenses, rights, etc.

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

(b) The adoption of this code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this code.

Sec. 1-5. Provisions considered as continuation of existing ordinances. The provisions appearing in this and the following chapters and sections, so far as they are the same as those of ordinances existing at the time of the adoption of the "Code of Ordinances, City of Sugar Land, Texas," shall be considered as a continuation thereof and not as new enactments.

Sec. 1-6. Catchlines of sections; history notes, etc.; references to Code.

(a) The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which appear after sections or subsections of this code or which otherwise appear in footnote form are provided for the convenience of the user of this code and have no legal effect.

(c) All references to chapters, articles, or sections are to the chapters, articles, and sections of this code unless otherwise specified.

Sec. 1-7. Effect of repeal of an ordinance.

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

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

Sec. 1-8. Burden of proof of exceptions. In any prosecution for the violation of any provision of this code, it shall not be necessary for the complaint to negate or for the state to prove any exception contained in this code concerning any prohibited act; provided, that any such exception made therein may be urged as a defense by the person charged by such complaint.

Sec. 1-9. General penalty for violations of code; continuing violations.

When in this code or in any ordinance of the city an act or commission is prohibited or is declared to be either unlawful, an offense or a misdemeanor and no penalty is provided, the violation is punishable by a fine not exceeding $2,000.00 for violations that govern fire safety, zoning and public health, other than vegetation and litter violations, and not exceeding $500.00 for all other violations. A penalty will not be more or less than the penalty provided by state law for the same offense. Each day any violation continues constitutes a separate offense.

Sec. 1-10. Amendments or additions to code.

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

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

Sec. 1-11. Supplementation of code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

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

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

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

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

Sec. 1-12. Severability of parts of code. The City Council intends that the sections, paragraphs, sentences, clauses and phrases of this code are severable and, if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionally shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the city council without the incorporation in this code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Sec. 1-13. Code enforcement authority. When a provision of this code or any other ordinance requires the city, a city officer or city employee to do some act or make certain inspections it is to be construed to authorize the city manager, head of the department, or the employee whose duties include enforcement or administration of the ordinance to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

CHAPTER 2. ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. Sale of property.

(a) *City personal property*. City personal property may be sold under procedures approved by the city manager. Before the sale occurs, the city manager must provide to the city council a listing of each item of property with an estimated value of more than five thousand dollars ($5,000).

(b) *Abandoned personal property*. Abandoned or unclaimed personal property that comes into the possession of the city may be sold as provided by the applicable provisions of state law.

(c) *Real property*. Any easement, land, or interest in land owned by the city may, upon the approval of the city council, be sold as provided for by the applicable provisions of state law. If a person requests that the city abandon any easement or sell any land or interest in land for the benefit of that person and state law requires or the city wishes to obtain an appraisal of the easement, land, or interest in land as a condition to the abandonment or sale, the person making the request will sign an agreement that provides for the person making the request to pay the cost of the appraisal.

Sec. 2-2. Consent agenda.

(a) A consent agenda is established as a part of each agenda for regular or special meetings of the city council. The consent agenda may consist of any and all business regularly coming before the city council.

(b) Upon passage of a motion that the consent agenda be adopted by a vote of at least three members of the city council, all items set out on the consent agenda will be deemed passed, and the city secretary is authorized to affix to all ordinances therein set out consecutive numbers beginning with the first number available for new ordinances. No further action is deemed necessary, and all items appearing on the consent agenda will, upon passage of said motion, be deemed adopted as if voted upon separately.

(c) Ordinances that appear on the consent agenda for first reading must be acted upon in compliance with all provisions of the city Charter and the captions of all such ordinances must be fully read. In addition, any member of the city council may request or require that a matter be removed from the consent agenda, and upon such request, the matter will be removed and acted upon separately and independently as if it had never been placed on the consent agenda.

Sec. 2.3. Council district boundaries. The current boundaries of the four single-member council districts are as established by Ordinance No. 1376, approved by the city council on October 15, 2002. A copy of the ordinance and descriptions of the districts as contained in Exhibits A and B of the ordinance are on file with the City Secretary and available for public inspection.

Sec. 2-4. Indemnification of elected officials and city employees.

(a) The city will indemnify and hold harmless all elected and appointed officials, city employees, and volunteers appointed by the city, from any and all claims, demands, causes of action and judgments that may be brought or rendered against them in the performance of their duties, including the taking of any action or the failure to take any action in the capacity in which they serve the city.

(b) The city will indemnify and hold harmless said officials and employees from any cost that may be incurred in the defense of any claim or lawsuit that may be filed. The city may designate legal counsel for the purpose of providing representation for said officials and employees under the terms and provisions of this section. Officials and employees may employ

outside legal counsel or secure legal advice from attorneys other than the attorneys that the city may provide. However, in doing so, the official or employee will not have an absolute right to the benefits of this section, and the same may be reviewed by the city council as to the reasonableness of the expenses incurred, the appropriateness and adequacy of any defense offered, as well as all other factors relating to the handling of any such claim or cause of action.

(c) The city has no obligation to pay any damages or expenses incurred by reason of willful and intentional acts and conduct that are injurious to the city or other city officers or employees or by reason of any illegal or unlawful actions of such officers or employees.

Sec. 2-5. Emergency action. Every officer, agent or employee of the city, while responding to emergency calls or reacting to emergency situations, is hereby authorized to take such action as is deemed necessary by him/her to most effectively deal with the emergency. This provision shall prevail over every other ordinance of the city and, to the extent to which the city has the authority to so authorize, over any other law establishing a standard of care in conflict with this section. The city and its officers, agents and employees are not liable for any failure to use a nonemergency standard of care in such emergency.

Secs. 2-6-2.10 Reserved.

ARTICLE II. EMPLOYEES

Division 1. City Manager

Sec. 2.11. Authority of city manager.

(a) In addition to, or pursuant to, the powers granted by the city charter, the city manager may, without specific approval of the city council:

(1) *Administration.* Act as the city's chief administrative officer in all operations of the city in accordance with the charter, this code, and any policies or directives approved by the city council.

(2) *Expenditures.* Expend funds appropriated for that purpose by the city council as authorized by the city charter or this code and execute all checks, drafts and orders to pay funds held by or for the benefit of the city.

(3) *Services, goods, and materials.* Approve a contract for receiving services or for the purchase of materials or goods if the approval does not require or result in an expenditure of more than $25,000.00 from any city fund in one fiscal year. The authority granted in this paragraph does not apply to a series of contracts for the same services or a series of purchases of the same materials or goods if the amount to be paid for the services, materials, or goods, when added together in one fiscal year, require or result in the expenditure of more than $25,000.00 from any city fund in one fiscal year.

(4) *Change orders.* Approve a change order increasing or decreasing the amount of a contract awarded under chapter 252 of the Local Government Code, as amended, if the amount of the change order is $25,000.00or less. In this paragraph, a change order means a necessary change in the plans or specifications or a necessary decrease or increase in the quantity of work to be performed or of materials, equipment, or supplies to be furnished, after the contract has been awarded.

(5) *Claims and lawsuits.* Approve a settlement of a claim or a lawsuit if the approval does not require or result in an expenditure of more than $25,000.00 from any city fund in one fiscal year.

(6) *Leases.* Authorize or approve the lease of improved or unimproved real property owned by the city if the term of the lease does not exceed one year.

(7) *Acquisition of real property.* Approve the acceptance of or the acquisition of real property if the approval or acceptance does not require an expenditure of more than $25,000.00 from any city fund.

(8) *Easement encroachments.* Authorize the maintenance of an encroachment within a city easement if the encroachment does not interfere with the city's use of the easement.

(9) *Execution of documents.* Execute contracts, documents, or instruments in evidence of any act or transaction approved by the city council or in furtherance of any power authorized to be taken by the city manager by the city charter or this code or the development code, except that all ordinances, resolutions and proclamations shall be approved by the city council and signed by the mayor.

(b) *Designee.* The city manager may authorize any other employee to act on his or her behalf in performing one or more administrative powers or responsibilities of the city manager. In the absence of or the incapacity of the city manager, the deputy city manager or second person or persons in the chain of command, by whatever title, shall perform the duties of the city manager, except as otherwise directed by the city manager or city council.

(c) *Council powers reserved.* Any power or authority not specifically delegated to the city manager by the charter, this code, or another document approved by the city council, is reserved to the city council.

Secs. 2-12 - 2-14. Reserved.

Division 2. Texas Municipal Retirement System

Sec. 2-15. Election to participate in Texas Municipal Retirement System; employees included. On behalf of the city, the city council exercises its option and elects to have the city and all of the employees of all departments now existing or hereafter established participate in the Texas Municipal Retirement System, and all of the benefits and obligations of such system are accepted as to such employees.

Sec. 2-16. Membership as condition of employment. Each person who becomes an employee of any participating department on or after the effective date of participation of such department becomes a member of the Texas Municipal Retirement System as a condition of his employment.

Sec. 2-17. Refusal to add new departments; discontinuance of participants. The city may, in the future, refuse to add new departments or new employees to the Texas Municipal Retirement System, but will never discontinue as to any participants.

Sec. 2-18. Employees' contributions. The deposits to be made to the Texas Municipal Retirement System on account of current service of the employees of the several participating departments are fixed at the rate of six percent of the earnings of each employee of such departments, and in determining the deposits to be made on account of such service, the maximum earnings will be full salary.

Sec. 2-19. Remittance to board of trustees, prior service certifications, etc. The city secretary is directed to remit to the board of trustees of the Texas Municipal Retirement System, at its office in Austin, Texas, the city's contributions to the system and the amounts which will be deducted from the compensation or payroll of employees, all as required by such board, and the city secretary is authorized and directed to ascertain and certify officially, on behalf of the city, the prior service rendered to the city by each of the employees of the participating departments, and the average prior service compensation received by each, and to make and execute all prior service certifications and all other reports and certifications which may be required of the city by law or in compliance with the rules and regulations of the board of trustees of the Texas Municipal Retirement System.

Sec. 2-20. Initial allowance of updated service credits.

(a) On the terms and conditions set out in Subchapter E, Chapter 853 of the Texas Government Code, each member of the Texas Municipal Retirement System having current service credit or prior service credit in the system in force and effect on January 1, 1976, by reason of service in the employment of the city is allowed "updated service credit" (as that term is defined in the act) in an amount that is 100% of the base updated service credit of the member, calculated as provided by law. The updated service credit allowed is in lieu of and in substitution for all prior service credits, special prior service credits, and antecedent service credits, if any, heretofore allowed such member by reason of service with the city.

(b) In accordance with the provisions of law, the deposits required to be made to the Texas Municipal Retirement System by employees of the several participating departments on account of current service will be calculated from and after the date aforesaid on the full amount of their earnings as an employee of the city.

(c) Subject to approval of the board of trustees of the Texas Municipal Retirement System, the updated service credits granted become effective on January 1, 1976.

Sec. 2-21. Supplemental death benefits fund.

(a) The city elects to participate in the supplemental death benefits fund of the Texas Municipal Retirement System to provide in-service death benefits for each of the city's employees who are members of the system, and to provide post-retirement death benefits for annuitants whose last covered employment was as an employee of the city, in the amounts and

on the terms provided for in sections 852.004, 854.601 through 854.605, 855.314, 855.408 and 855.502 of the Texas Government Code.

(b) The city is authorized and directed to notify the director of the system of adoption of this section and of the participation of the city in such fund.

(c) Participation of the above-mentioned employees and annuitants in the Supplemental Death Benefits Fund becomes effective on March 1, 1984.

Sec. 2-22. Authorization and updated service credit.

(a) On the terms and conditions set out in Sections 853.401 through 853.403 of Subtitle G of Title 8, Government Code, as amended ("TMRS Act"), each member of the Texas Municipal Retirement System (the "system") having current service credit or prior service credit in the system in force and effect on the 1st day of January of the calendar year preceding such allowance, by reason of service in the employment of the city, and on such date has at least 36 months of credited service with the system, is allowed "updated service credit" (as that term is defined in subsection (d) of Section 853.402 of the TMRS Act) in an amount that is 100% of the "base updated service credit" of the member (calculated as provided in subsection (c) of Section 853.402 of the TMRS Act). The updated service credit allowed replaces any updated service credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(b) On the same terms and conditions set out in Section 853.601 of the TMRS Act, any member of the system who is eligible for updated service credits on the basis of service with this city, and who has unforfeited credit for prior service, current service, or both, with another participating municipality or municipalities by reason of previous service, and was a contributing member on the 1st day of January of the calendar year preceding such allowance, will be credited with updated service credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in said 853.601, both as to the initial grant hereunder and all future grants under this ordinance.

(c) In accordance with the provisions of subsection (d) of Section 853.401 of the TMRS Act, the deposits required to be made to the system by employees of the several participating departments on account of current service will be calculated from and after the effective date of this ordinance on the full amount of their compensation as a city employee.

Sec. 2-23. Increase in retirement annuities.

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

(b) The amount of annuity increase under this section is computed as the sum of the prior and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by 70% of the percentage change in consumer price index for

all urban consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of this section.

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

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

(e) The amount by which an increase under this section exceeds all previously granted increases to an annuitant is an obligation of this city and of its account in the municipality accumulation fund of the system.

Sec. 2-24. Dates of allowances and increases. The initial allowance of updated service credit and increase in retirement annuities hereunder is effective on January 1, 2002, subject to approval by the Board of Trustees of the System. An allowance of Updated Service Credits and an increase in retirement annuities will be made hereunder on January 1 of each subsequent year until this ordinance ceases to be in effect under subsection (e) of section 853.404 of the TMRS Act; provided, that, as to such subsequent year, the actuary for the system has made the determination set forth in subsection (d) of section 853.404 of the TMRS Act.

Sec. 2-25. Additional rights, credits and benefits.

(a) Pursuant to the provisions of sections 854.202(f), 854.105**,** 854.405, 854.406 and 854.410 of the Texas Government Code (the TMRS Act) the city adopts the following provisions affecting participation of its employees in the Texas Municipal Retirement System (the system).

(1) Any employee of this city who is a member of the system is eligible to retire and receive a service retirement annuity if the member has at least 20 years of credited service in that system performed for one or more municipalities that have participation dates after September 1, 1987, or have adopted a like provision under section 854.202(f) of the TMRS Act.

(2) If a "vested member," as that term is defined in section 851.001 of the TMRS Act, dies before becoming eligible for service retirement and leaves a surviving lawful spouse whom the member has designated as beneficiary entitled to payment of the member's accumulated contributions in event of the member's death before retirement, the surviving spouse may, by written notice filed with the system, elect to leave the accumulated deposits on deposit with the system subject to the terms and conditions of section 854.105. If the accumulated deposits have not been withdrawn before such time as the member, if living, would have become entitled to service retirement, the surviving spouse may elect to receive, in lieu of the accumulated deposits, an annuity payable monthly thereafter during the lifetime of the surviving spouse in an amount as would have been payable had the member lived and retired at that date under a joint and survivor annuity (Option I) payable during the lifetime of the member and continuing thereafter during the lifetime of the surviving spouse.

(3) At any time before payment of the first monthly benefit of an annuity a surviving spouse to whom subsection (a)(2) above applies may, upon written application filed with the system, receive payment of the accumulated contributions standing to the account of the member in lieu of any benefits otherwise payable under this section. In the event such a

surviving spouse dies before payment of this first monthly benefit of an annuity allowed under this section, the accumulated contributions credited to the account of the member will be paid to the estate of the spouse.

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

(c) Any employee of this city who is a member of the system is eligible to retire and receive a "standard occupational disability annuity" under section 854.408 of the TMRS Act or an "optional occupational disability retirement annuity" under section 854.410 of the TMRS Act upon making application therefor upon such form and in such manner as may be prescribed by the board of trustees of the system; provided, that the system's medical board has certified to said board of trustees:

(1) That the member is physically or mentally disabled for further performance of the duties of the member's employment;

(2) That the disability is likely to be permanent; and

(3) That the member should be retired.

Any annuity granted under this subsection is subject to the provisions of section 64.609 of the TMRS Act.

(d) The provisions relating to the occupational disability program as set forth in paragraph (c) above are in lieu of the disability program heretofore provided for under sections 854.301 to 854.308 of the TMRS Act.

(e) This section is effective on the first day of January, 1988; provided that it has previously been determined by the actuary for the system that all obligations of the city to the municipality accumulation fund, including obligations undertaken, can be funded by the city within its maximum contribution rate and within its amortization period.

Sec. 2-26. Authorization and restricted prior service credit.

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

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

(c) A member seeking to establish restricted prior service credit under this section must take the action required under said Section 853.305 while still an employee of this city.

Secs. 2-27 - 2-30. Reserved.

ARTICLE III. BOARDS AND COMMISSIONS

Division 1. Generally

Sec. 2-31. Provisions of general applicability. The general provisions of this article apply to all boards and commissions contained in this article except where a specific provision applicable to a particular board or commission provides otherwise.

Sec. 2-32. Definitions. In this division:

Administrative board means a board that, by law, has final decision-making authority on matters within its jurisdiction. The administrative boards are identified in Division 2.

Advisory board means a board that is charged with making recommendations to the city council on matters within its jurisdiction, but has no final decision-making authority. The advisory boards are identified in Division 3.

Board means any board or commission established under this article or by the City Charter.

Member means a person who serves on a board.

Sec. 2-33. Terms. The members of the aviation policy advisory board and the parks and recreation policy advisory board serve one-year terms. All other members of boards and commissions serve two-year terms. Terms begin on October 1 in the year appointed and end on September 30. A member may not serve more than four consecutive terms. A member continues to serve beyond his or her term until a successor is appointed, except:

(a) Where a member submits his or her resignation, a vacancy occurs on the effective date shown in the resignation;

(b) Where the city council removes a member as provided in this article; or

(c) Where a member is deemed to have automatically resigned from his or her position as provided in this article.

Sec. 2-34. Members; number, alternates, and ex-officio.

(a) Each board has the number of regular members specified in this article for each board. The city council may appoint one or more alternate members for a board. The alternate members may, upon the request of the city secretary, serve whenever a regular member is unable to serve.

(b) The mayor may appoint one or more members of the city council to serve as an ex-officio member of a board and to serve as a liaison for that board to the city council. Ex-officio

members may participate in discussions of the board, but may not vote. Ex-officio members serve one-year terms.

Sec. 2-35. Appointment and removal.

(a) When this article provides that a member is appointed by a particular council member, subject to the city council's approval, but the position of that council member is vacant, the city council may make the appointment.

(b) Members serve at the pleasure of the city council and may be removed by the city council at any time, with or without cause.

Sec. 2-36. Chair. Except as otherwise provided in this section, the mayor will appoint, subject to the council's approval, the chair of each board who will serve for one year. The city council will appoint the chair of the planning and zoning commission and the zoning board of adjustment. The chair will:

(a) Preside over all meetings and call special meetings as necessary;

(b) Execute all documents on behalf of the board; and

(c) Appoint one or more committees to study and make recommendations to the board on particular matters within the scope of the board's duties.

Sec. 2-37. Vice-chair. Except as otherwise provided in this section, each year the board will elect a vice-chair from its membership to serve for one year. The city council will appoint the vice-chair of the planning and zoning commission and the zoning board of adjustment. The vice-chair will:

(a) Preside over all meetings and perform the duties of the chair, in the absence, disability, or disqualification of the chair; and

(b) Succeed the chair if that office is vacated and serve until a new chair is appointed.

Sec. 2-38. Secretary. The city secretary will serve as secretary to all boards. The secretary will, as directed by the city manager:

(a) Take minutes for all meetings of administrative boards and present them for approval;

(b) Make an electronic recording of all meetings of advisory boards to serve as the minutes of those boards, which need not be transcribed or approved by the board except upon the request of a majority of the members;

(c) Maintain all board records and documents; and

(d) Prepare and post all notices of board meetings and prepare agendas for the meetings.

Sec. 2-39. Meetings.

(a) Each board will hold regularly called meetings as established by resolution of the city council. If regularly called meetings are not established by the city council, the board may establish its own schedule of meetings. Special meetings may be called by the chair, the vice-chair acting on behalf of the chair, or a majority of the members.

(b) Four members of the zoning board of adjustment constitute a quorum for the transaction of business. For all other administrative boards and advisory boards, a majority of the members are a quorum for the transaction of business.

(c) An affirmative vote of a majority of the members present at a meeting is necessary to take any action.

(d) Robert's Rules of Order will be followed in all board proceedings, except where they conflict with state law, the city charter, a city ordinance, or this article.

Sec. 2-40. Attendance.

(a) Members are expected to be available to attend most board meetings. If a member becomes unable to attend most board meetings, the member should submit his or her resignation so that a replacement may be named.

(b) The city council may dismiss any member for poor attendance. A member who misses three successive meetings of a board or commission is deemed to have automatically resigned from his or her position.

Sec. 2-41. Voting and conflicts of interest. Each member in attendance must vote on every matter that comes before the board, unless the member must abstain from discussing and voting on a matter under the provisions of state law or article IV of this chapter. Each member must comply with the voting and conflicts of interest provisions of state law and article IV of this chapter.

Sec. 2-42. Compensation. Members serve without compensation, but will be reimbursed for all reasonable expenses incurred in the performance of their duties in accordance with the rules of reimbursement applicable to city officers and employees.

Secs. 2-43--2-50. Reserved.

Division 2. Administrative Boards

Sec. 2-51. Planning and zoning commission.

(a) *Created by charter*. A planning and zoning commission has been created by the city charter.

(b) *Number and appointment*. As required by city charter, the board has not less than seven members appointed by the city council. In each odd-numbered year, each of the four district council members will appoint one member, subject to the city council's approval. In each even-numbered year, each of the three at-large council members will appoint one member,

subject to the city council's approval. The entire council will appoint any other members. A council member may not nominate himself or herself as an appointment to the commission.

(c) *Duties*. The board will perform the duties as provided by law.

(d) *Other Public Office*. A member may not hold another public office that has the authority to exercise its powers within the City's corporate limits or the City's extraterritorial jurisdiction. If the commission is appointed to also serve as an airport zoning commission under Chapter 241 of the Local Government Code, as amended, the prohibition of this paragraph also applies to a member who holds another public office that has the authority to exercise its powers within the geographical area governed by the city's airport zoning regulations.

Sec. 2-52. Zoning board of adjustment.

(a) *Created by charter*. The zoning board of adjustment has been created by the city charter.

(b) *Number and appointment*. As required by city charter, the board has five members appointed by the city council.

(c) *Duties*. The board will perform the duties as provided by law.

(d) *Other Public Office*. A member may not hold another public office that has the authority to exercise its powers within the city or within the geographical area governed by the airport zoning regulations adopted under Chapter 241 of the Local Government Code, as amended.

Sec. 2-53. Building code board of appeals and adjustment.

(a) *Created*. A building code board of adjustment and appeals is created.

(b) *Number, appointment, and qualifications*. The board has seven members, at least five of which must have knowledge and experience in the use of the building codes. One member must be a licensed electrician. In each odd-numbered year, each of the four district council members appoints one member, subject to the city council's approval. In each even-numbered year, each of the three at-large council members appoints one member, subject to the city council's approval. A council member may not appoint himself or herself to the commission.

(c) *Duties.* The board may, in accordance with the procedures set forth in the adopted Standard Building Code:

(1) Hear and decide appeals that allege an error in an order, requirement, decision or determination made by an administrative officer or employee in the application or enforcement of any building code adopted by the city.

(2) Authorize a variance from the terms of any building code adopted by the city.

Secs. 2-54--2-60. Reserved.

Division 3. Advisory Boards

Sec. 2-61. Animal advisory board.

(a) *Created.* An animal advisory board is created as required by state law.

(b) *Membership and qualifications*. The city council appoints four members to the board. One member will be a licensed veterinarian, one member will be a municipal official, one member will be a person whose duties include the daily operation of an animal shelter, and one member will be a representative from an animal shelter welfare organization.

(c) *Duties*. The board will:

(1) Review and recommend procedures for the care and maintenance of animal shelter facilities and impounded animals to insure compliance with state law; and

(2) Periodically review the city's animal control ordinances and make recommendations for revisions thereof.

(d) *Meetings*. The board will meet at least three times a year.

Sec. 2-62. Aviation policy advisory board.

(a) *Created*. An aviation policy advisory board is created.

(b) *Number and appointment.* The board has nine members, two of which are airport tenants. Each member of the city council appoints one member, subject to the city council's approval. The two members that are airport tenants are appointed by the city council as a whole.

(c) *Meetings*. The board will meet four times a year if necessary to fulfill the specific duties assigned by this section.

(d) *Duties*. The board's duties are to make recommendations:

(1) To the city council on master plans and long-term goals and objectives for the airport; and

(2) On other matters relating to the airport as requested by the city council or referred to the board by the city manager.

Sec. 2-63. Parks and recreation policy advisory board.

(a) *Created*. A parks and recreation policy advisory board is created.

(b) *Number and appointment*. The board has seven members. Each member of the city council appoints one member, subject to the city council's approval.

(c) *Meetings*. The board will meet quarterly if necessary to fulfill the specific duties assigned by this section.

(d) *Duties.* The board's duties are:

(1) To make recommendations on the city's master park plans and the long term goals and objectives for parks and recreation activities; and

(2) On other matters relating to parks and recreation activities as requested by the city council or referred to the board by the city manager.

Secs. 2-64 - 2-70. Reserved.

ARTICLE IV. RULES OF ETHICAL CONDUCT

Division 1. Statement of Purpose and Principles

Sec.2-71. General Statement. It is the policy of the city council of the City of Sugar Land to hold its members and the city's other appointed officials to the highest standards of ethical conduct. The city council believes that it has a responsibility to make every reasonable effort to assure the citizens of Sugar Land that their elected and appointed officials will always place the public's interest above their own. To that end, the city council has concluded that current state laws regulating the conduct of local public officials should be supplemented by adopting additional regulations for the city's elected and appointed officials and that city staff should be directed to provide, at least once a calendar year, educational programs to the city's elected and appointed officials on their legal and ethical obligations under state and local law, including, particularly, their obligation to avoid conflicts of interest.

Sec. 2-72. Ethical Values. It is the official policy of the city that:

(a) City officials shall be independent, impartial, and responsible to the citizens of the city;

(b) City officials shall not have a financial interest, and shall not engage in any business, transaction, or professional activity, or incur any obligation, that conflicts with the proper discharge of their duties for the city in the public interest.

(c) The principles of personal conduct and ethical behavior that should guide the behavior of city officials include:

(1) A commitment to the public welfare;

(2) Respect for the value and dignity of all individuals;

(3) Accountability to the citizens of the city;

(4) Truthfulness; and

(5) Fairness.

(d) Under such principles of conduct and ethical behavior, city officials should:

(1) Conduct themselves with integrity and in a manner that merits the trust and support of the public;

(2) Be responsible stewards of the taxpayers' resources; and

(3) Take no official actions that would result in personal benefit in conflict with the best interests of the city.

(e) To implement the purpose and principles set out in this Division 1, the city council has determined that it is advisable to enact Rules of Ethical Conduct to govern city officials. It is the purpose and intent of city council to assure a fair opportunity for all of the city's citizens to participate in government, to adopt standards of disclosure and transparency in government, and to promote public trust in government.

Sec. 73. Purpose and Effect. The statements of purpose and principles contained in this Division 1 are for guidance only. They are not intended to create binding obligations, to serve as a basis for disciplinary action, or to create any private cause of action. The Rules of Ethical Conduct contained in Division 3 below, are intended not only to serve as a guide for official conduct, but also as a basis for discipline of city officials who do not abide by them.

Secs. 2-74-2-75. Reserved.

Division 2. Rules of Ethical Conduct.

Sec. 2-76. Definitions. In this article:

Administrative Board means any board, commission, or other organized body:

(1) That has, by law, final decision-making authority on matters within its jurisdiction and that is either: (a) established under the city charter or by city ordinance, or (b) whose members are all council members or are appointed or confirmed by the city council; or,

(2) Created as a non-profit economic development corporation by the city council under the authority of the Development Corporation Act of 1979, as amended.

Advisory Board means a board, commission, or other organized body other than an Administrative Board, that was created by an act of the city council whose members are appointed or confirmed by the city council and are charged with making recommendations to the city council on matters within its jurisdiction.

City Official means a member of the city council, an Administrative Board, or an Advisory Board.

Review Panel means the body charged with reviewing and acting on complaints and requests for declaratory relief filed under this article.

Sec. 2-77. Covered Officials. The Rules of Ethical Conduct contained in this Division 2 apply generally to City Officials and in certain defined circumstances to candidates for city council and former City Officials.

Sec. 2-78. Conflicts of Interest, Generally.

(a) A City Official shall abstain from participation in discussion of and any vote on a matter, and shall file an affidavit stating the nature and extent of his or her interest in a matter, if action on the matter by the body on which the City Official serves will have a special economic effect that is distinguishable from its effect on the public on any of the following:

(1) The City Official;

(2) The City Official's outside employer or client;

(3) The City Official's spouse, parent, or child; or

(4) A public or private business entity for which the City Official, or his or her spouse, parent, or child serves as a director, general partner, or officer, or in any other policy making position.

(b) A City Official shall abstain from participation in, discussion of, and any vote on a matter involving a person if, within the 12 months preceding the date of the vote, the City Official has filed a conflicts disclosure statement under Chapter 176 of the Local Government Code relating to that person.

(c) A City Official shall abstain from participation in, discussion of, and any vote on a matter involving a business entity if:

(1) The City Official has a substantial interest in another business entity that has had one or more business transactions with the business entity involved in the matter to be voted on;

(2) The business transaction or transactions occurred within the 12 months immediately preceding the date of the matter to be voted on; and

(3) The business transaction or transactions resulted in a payment or payments totaling more than $10,000.

A City Official required to abstain from voting under the preceding paragraph (c) must file an affidavit stating the nature and extent of the interest in the business entity. For purposes of the preceding paragraph (c), a "business entity" and "substantial interest in business entity" have the meanings respectively provided for in section 171.001 (2) and section 171.002 (a) of the Local Government Code, as amended.

(d) Affidavits of conflict of interest filed pursuant to the requirements of this section or State law shall be filed with the City Secretary before any vote on the matter and as soon as possible after the City Official becomes aware of the need to file the affidavit.

(e) A City Official who is required to abstain from participation in a matter under this section or under State law shall leave the room where the meeting is held during any discussion of, and vote on, the matter.

(f) The abstention of a City Official, pursuant to the requirements of this section or State law, shall be recorded in the minutes or audio recording of the meeting of the respective body on which he or she serves.

Sec. 2-79. Council Member Prohibited From Doing Business With the City.

(a) Except as provided below, no council member shall have a financial interest in any significant contract or transaction involving the sale or lease of goods, real estate, or services, or the lending of credit, to the city.

(b) For the purposes of this section, the ownership by a council member or his or her spouse, parent or child of the stock or instruments of debt of a publicly traded company does not give the council member a financial interest in any contracts or transactions that company has with the city, provided that the value of the interest held is less than 5% of the value of the company.

(c) For the purpose of this section, a contract or transaction is significant only if the total payments made by the city pursuant to the contract or transaction exceed $1,000 in the aggregate.

(d) This section does not apply to the city's acquisition by eminent domain proceedings of an interest in land owned by a council member.

Sec. 2-80. Disclosure of Certain Gifts to City Officials.

(a) Except as provided below, a City Official who receives as a guest, a gift of food, lodging, transportation, or entertainment that reasonably appears to exceed $500 in value shall file with the City Secretary within 30 calendar days after receiving the gift a written disclosure statement containing the following information:

(1) A description of the gift of food, lodging, transportation, or entertainment that was received;

(2) The date or dates on which the gift was received;

(3) The name of the host who paid for, or provided, the gift; and

(4) A statement that the aggregate value of the gift is believed to exceed the sum of $500.

(b) The requirements of (a), above, do not apply to a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the status of the recipient as a City Official.

(c) This section does not apply to any gift that is required to be and is reported under any other State law, including a required election campaign filing.

Sec. 2-81. Appearance on Behalf of Private Interests of Others.

(a) A member of the city council shall not appear before the city council or any Administrative Board or Advisory Board for the purpose of representing the interests of another person or entity. However, a member of the city council may, to the extent otherwise permitted

by law, appear before any such body to represent the member's own interests or the interests of the member's spouse or minor children.

(b) A City Official who is not a member of the city council shall not appear before the body on which he or she serves for the purpose of representing the interests of another person or entity, and shall not appear before any other body for the purpose of representing the interests of another person or entity in connection with an appeal from a decision of the body on which the City Official serves. However, the City Official may, to the extent otherwise permitted by law, appear before any such body to represent the City Official's own interests or the interests of the City Official's spouse or minor children.

Sec. 2-82. **Misuse and Disclosure of Confidential Information.**

(a) It is a violation of this Ethics Code for a City Official to violate section 39.06 (Misuse of Official Information) of the Texas Penal Code, as amended.

(b) A City Official shall not disclose to the public any information that is deemed confidential under any federal, state, local law, or council rules.

Sec. 2-83. Restrictions on Political Activity and Political Contributions.

(a) No City Official or candidate for city council shall meet with any employee or group of employees of the city for political campaign purposes while such employees are on duty unless part of an approved city council activity.

(b) No City Official shall, directly or indirectly, coerce or attempt to coerce any city employee to:

(1) 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) Refrain from engaging in any lawful political activity.

(c) The following actions by City Officials are not prohibited by this section:

(1) The making of a general statement encouraging another person to vote in an election;

(2) A solicitation of contributions or other support that is directed to the general public or to an association or organization; and

(3) The acceptance of a campaign contribution from a city employee.

(d) No City Official shall use, request, or permit the use of city facilities, personnel, equipment, or supplies for the creation or distribution of materials to be used in a political campaign or for any other purpose in support of a political campaign. However, meeting rooms and other City facilities that are made available for use by the public may be used for political purposes by City Officials under the same terms and conditions as they are made available for other public uses.

Sec. 2-84. Regulations Applicable to Former City Officials.

(a) A former member of city council shall not use or disclose confidential government information acquired during the member's service on the city council. A former member of city council is not prohibited from disclosing information if:

(1) The information is no longer confidential;

(2) The information involves reports of illegal or unethical conduct and is disclosed to a law enforcement agency; or

(3) The disclosure is necessary to further public safety and is not otherwise prohibited by law.

(b) No former member of city council shall have a financial interest in a significant contract with the city, within the meaning of section 2-121 of this article within 13 months following the expiration of the former member's most recent term of office.

Sec. 2-85. Officials Required to Comply With Both State and Local Law. Where a City Official's conduct is regulated by a provision of this article and a similar provision of State law, and it is possible to comply with the requirements of both, a City Official shall comply with both.

Sec. 2-86. City Attorney's Opinions. The City Attorney is authorized and directed to issue to any City Official, upon reasonable request, formal written opinions regarding the applicability of the provisions of this article or Texas law to an action the City Official, a former City Official, or a candidate for city council is considering taking in the future.

Sec. 2-87. Education. The city shall provide training and educational materials to City Officials on their ethical obligations under State law and this article. Such training shall include at least one formal classroom session in each calendar year. All City Officials shall attend the formal training session offered by the City or equivalent training sessions conducted by the Texas Municipal League or similar organizations. The city also shall prepare and distribute brochures and other written materials on the subject to each City Official at the time of his or her election or appointment to office.

Secs. 2-88-2-92. Reserved.

Division 3. Complaint Procedures.

Sec. 2-93. **Detailed Written Complaints Required.** A complaint alleging a violation of any of the Rules of Ethical Conduct contained in this article must be made in writing, signed by the complainant, sworn to before a notary public, and filed with the City Secretary, and must contain the following information:

(a) The name, address, and telephone number of the person making the complaint;

(b) The name of, and office held by, the person against whom the complaint is directed;

(c) The specific provision of this article that is alleged to have been violated;

(d) For each violation alleged, a detailed description of the facts that are alleged to constitute the violation, including the date or dates on which the violation is alleged to have occurred;

(e) The names, addresses, and telephone numbers of any witnesses to the violations; and

(f) Copies or descriptions of any documents that substantiate the allegations.

Sec. 2-94. Time for Filing Complaints. A complaint must be filed on or before the 365th day after the date the violation is alleged to have occurred or the 90th day after the violation was discovered, whichever date is earlier. A complaint may be filed against a City Official who is no longer in office if the complaint relates to conduct of the former City Official that violates this article and is otherwise timely filed.

Sec. 2-95. Preliminary Review of Complaints.

(a) The City Secretary shall provide copies of each complaint to the person or persons accused, to the City Attorney, and to the members of the Review Panel, as soon as practicable.

(b) The City Attorney shall, within five business days of receiving the complaint, provide a written report to the Review Panel. The report shall state whether, in the City Attorney's opinion, the written complaint: (1) was filed timely; (2) alleges misconduct by a person whose conduct is regulated under this article; (3) alleges the occurrence of conduct that might reasonably constitute a violation of the Rules of Ethical Conduct contained in this article; and (4) is signed and sworn to by the person filing the complaint. Additionally, the report shall recommend whether the Review Panel should dismiss the complaint or conduct further proceedings.

(c) The City Attorney shall also advise the Review Panel whether the City Attorney has issued a written opinion or opinions to the accused official that relate to the conduct at issue and whether, in the City Attorney's opinion, the conduct was undertaken in good faith reliance on a written opinion that concluded the conduct was not in violation of this article. Where the City Attorney concludes that the conduct was undertaken in good faith reliance on a written opinion, the City Attorney shall recommend that the Review Panel dismiss the complaint without a hearing.

(d) The City Attorney's recommendation that the Review Panel conduct further proceedings does not mean that any of the allegations of the complaint are true or false or that any current or former City Official or candidate for city council has violated or has not violated this article. The Review Panel will make that determination.

Sec. 2-96. Review Panel.

(a) The City Council shall act as the Review Panel for any ethics complaints filed against City Officials, including members of the City Council, former City Officials, and candidates for the City Council.

(b) A member of the City Council shall be disqualified from serving on a Review Panel to consider a complaint if the complaint was filed:

(1) Against the member;

(2) By the member; or

(3) Against a candidate for election to the member's place on City Council where the member has filed for or is eligible for reelection.

For the purposes of this provision, a complaint filed against a member of the City Council for alleged misconduct related to the member's service on any other City-created entity shall be treated the same as a complaint related to the member's service on the City Council.

(c) The remaining qualified members of the City Council shall act as the Review Panel where one or more members are disqualified from serving. A quorum of the Review Panel is four members. The affirmative vote of at least four members of the Review Panel is necessary to take action.

(d) The City Secretary shall act as the secretary for the Review Panel. Meetings of the City Council, when acting as a Review Panel, shall be held in accordance with the requirements of the Texas Open Meetings Act.

Sec. 2-97. Review Panel Procedures.

(a) Within ten business days after a Review Panel receives a report and recommendation from the City Attorney, it shall render a decision as to whether the complaint should be dismissed as insufficient or because the subject conduct was undertaken in good faith reliance on a formal written opinion of the City Attorney, or whether an investigation into the complaint should be made. The City Secretary shall promptly notify the complainant and the accused of the Review Panel's decision.

(b) Where a Review Panel determines that an investigation should be made, it shall proceed with such investigation using such procedures as are appropriate considering the nature and circumstances of the particular complaint.

(c) A Review Panel may not sustain a complaint or impose sanctions on an accused City Official, former City Official, or candidate for city council without holding a hearing on the complaint. The city council or Review Panel will adopt written rules of procedure to govern the hearing as it deems appropriate that will provide a fair hearing on the complaint. The written rules must include the right of the accused to respond to the complaint, to attend any hearing on the complaint, and to present witnesses and other evidence on his or her own behalf.

(d) A Review Panel may conduct hearings and other proceedings on a complaint in closed executive session if permitted by State law, but any decision must be rendered during an open public meeting.

Sec. 2-98. Sanctions for Violations of this Article. In the event a Review Panel determines that a City Official, former City Official, or candidate for the city council has committed a violation of the Rules of Ethical Conduct contained in this article, it shall impose sanctions against the accused as follows:

(a) Where a Review Panel finds that the accused has committed a minor violation of the Rules of Ethical Conduct contained in this article, the violation was unintentional, and the accused fully cooperated in the investigation, it shall issue a written notice of violation to the accused. The notice shall be titled "Notice of Minor Violation" and shall state the findings of the Review Panel.

(b) Where a Review Panel finds that the accused has committed a minor violation of the Rules of Ethical Conduct contained in this article, and either: 1) the violation was committed knowingly, or 2) the accused has failed to fully cooperate in the investigation, it shall issue a written notice of violation to the accused. The notice shall be entitled "Letter of Admonition" and shall state the findings of the Review Panel, including the finding that the accused acted intentionally and/or failed to fully cooperate in the investigation.

(c) Where a Review Panel finds that the accused has committed a major violation of the Rules of Ethical Conduct contained in this article, it shall issue a written notice of violation to the accused. The notice shall be entitled "Notice of Public Censure", shall announce the Review Panel's findings, including the finding that the accused has committed a major violation and any finding that the accused acted intentionally and/or failed to cooperate in the investigation, and shall express the Review Panel's strong condemnation of the person's actions.

(d) Where the accused person is a current or former member of an Administrative Board or Advisory Board, the Review Panel may, where appropriate, issue in addition to any written notice of violation, a decision suspending or removing such member from office.

(e) In addition to any other sanction imposed, the Review Panel may issue a decision requiring the accused to cease the violation and to file any affidavits, reports, disclosures, or other documents required by law.

(f) Any decision or decisions by a Review Panel on an ethics complaint filed under this article shall be issued in writing and filed as a public record in the office of the City Secretary.

Sec. 2-99. Name Clearing Proceedings. Where informal allegations of a potential violation of the Rules of Ethical Conduct contained in this article have been made against a current or former City Official and the accused person desires an investigation of such allegations in order to clear his or her name, the accused person may file a written request for declaratory relief, which shall contain the information described in section 2-130, and which shall state that the filer denies the allegations and is filing the request for declaratory relief solely for the purpose of clearing his or her name. A request for declaratory relief filed under authority of this section shall be handled in the same manner and in accordance with the same procedures as complaints received from third parties and must be filed no later than the 90th day after the public official first learned of the allegations.

Sec. 2-100. Penalty for Filing False Complaint or Giving False Testimony. It is unlawful for a person to intentionally file a complaint under this article that the person knows contains false information or by making reasonable inquiry should know that it contains false information. It is unlawful for a person to intentionally give false testimony under oath in any hearing before a Review Panel held under this article. Any person found guilty of violating this section will be fined not more than $500 for each offense.

Secs. 2-101-2-105. Reserved.

ARTICLE V. FINANCE

Division 1. Taxation-In General

Sec. 2-106. Taxation of property otherwise exempt under Article VIII, Section 1-j of Texas Constitution. All of the property described in Article VIII, Section 1-j of the Texas Constitution and qualifying as freeport goods thereunder are considered fully taxable for ad valorem tax purposes in the city including and following the 1990 tax year.

Sec. 2-107. Local sales and use tax exemption on telecommunications services repealed.

(a) In this section, "telecommunications services," means the electronic or electrical transmission, conveyance, routing, or reception of sounds, signals, data, or information utilizing wire, cable, radio waves, microwaves, satellites, fiber optics, or any other method now in existence or that may be devised, including, but not limited to, long-distance telephone service. The storage of data or information for subsequent retrieval or the processing or reception and processing of data or information intended to change its form or content are not included in "telecommunications services."

(b) The one percent local sales and use tax exemption on telecommunications services is repealed in the city.

Sec. 2-108. Certain travel trailers exempt from ad valorem taxation. All travel trailers (as defined in Subchapter B, Chapter 11, of the Tax Code) located in the city that are registered in compliance with Chapter 502 of the Texas Transportation Code by January 1 of the tax year and that are not held or used for the production of income are exempt from ad valorem taxation by the City.

Secs. 2-109-2-113. Reserved.

Division 2. Taxation-Homestead Exemptions

Sec. 2-114. Residence. The city grants an exemption from city taxation of real property of one percent of the appraised value of the residence homestead. If the exemption granted produces an exemption of less than $5,000.00, the individual is entitled to an exemption of $5,000.00 of the appraised value.

Sec. 2-115. Persons 65 Years of Age or Older. The city grants an exemption from city taxation of real property in the amount of $69,827 of the appraised value of a residence homestead of a person 65 years of age or older.

Sec. 2-116. Disabled Persons. The city grants an exemption from city taxation of real property in the amount of $69,827 of the appraised value of a residence homestead of a person who is physically disabled.

Sec. 2-117. **Effective date.** The exemptions granted by this division apply to a residential homestead that qualifies for the exemption from and after January 1, 2006.

Sec. 2-118. Application of Exemptions. The exemptions granted in this division apply to persons who comply with all the qualifications or requirements of State law for receiving the exemption.

Sec. 2-119. Repeal of Certain Exemptions. If the city's voters approve at an election a "tax freeze" as authorized by Article VIII, Section 1-b (h) of the Texas Constitution, then the exemptions provided for in section 2-115 (Persons 65 Years of Age or Older) and Section 2-116 (Disabled Persons) of this division are repealed on the same date that the city council adopts the ordinance canvassing the results of that election.

Secs. 2-120-2-124. Reserved.

Division 3. Municipal Hotel Occupancy Tax

Sec. 2-125. Definitions. In this division:

Administrator means the person designated by the city manager to administer the provisions of this division, including the inspection of books and records, receiving reports required to be filed, and receiving the taxes required to be collected and paid to the city.

Hotel means a building in which members of the public obtain sleeping accommodations for consideration. The terms include a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, or rooming house, but does not include a hospital, sanitorium, nursing home, dormitory, or other use that is excluded by section 156.001 of the Texas Tax Code, as amended.

Occupancy means the use or possession or the right to the use or possession of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession is less than 30 days.

Quarterly period means a quarter of the calendar year. The first quarter is composed of the months of January, February, and March; the second quarter is composed of the months of April, May, and June; the third quarter is composed of the months of July, August, and September; and the fourth quarter is composed of the months of October, November and December.

Sec. 2-126. Tax imposed. There is imposed a tax on the person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room in a hotel that costs two dollars or more each day and is ordinarily used for sleeping. The amount of the tax is seven percent of the price paid for the room.

Sec. 2-127. Collection. The tax levied in this division is against the person paying for the occupancy of the room. Every person owning, operating, managing or controlling any hotel will collect the tax imposed for the city.

Sec. 2-128. Reports.

(a) On or before the last day of the month following each quarterly period, every person required to collect the tax imposed in this division must file a report with the administrator showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on the occupancies, and any other information which the administrator may reasonably require.

(b) The person will, at the time of filing the report, pay over to the administrator the amount of taxes required to be collected for room occupancies during the quarter. The report must also show the amount paid for that quarter to the Texas Comptroller of Public Accounts under Texas Tax Code, Chapter 156 (Hotel Occupancy Tax), as amended.

Sec. 2-129. Rules and regulations; inspections. The administrator has the power to make such rules and regulations as are necessary to effectively collect the tax levied by this division. The person responsible for the collection of the tax and payment to the city will, upon the request of the administrator, make his books and records available for inspection during regular business hours as may be necessary to enable the administrator to determine the correctness of any report filed and the amount of taxes due.

Sec. 2-130. Penalties.

(a) Any person who fails to file a report as required by this division or fails to pay over to the administrator the tax imposed herein when the payment is due, must pay an additional five percent of the amount due as a penalty, and if the failure to file the report or pay the tax continues for 30 days or more, must pay an additional five percent of the tax due as a penalty, but the penalty will never be less than one dollar. Delinquent taxes draw interest at the rate of ten percent per annum beginning 60 days from the date due.

(b) Any person found guilty of violating any requirement of this division, including the requirement to collect the tax, file a report, or pay to the city the tax required to be collected, shall be fined not more than five hundred dollars ($500) for each offense.

Sec. 2-131. Use of proceeds. The proceeds of the tax levied will be allocated only for the purposes allowed by state law.

Secs. 2-132-2-135. Reserved

Division 4. Fees for Various City Services

Sec. 2-136. Fees for various city services. The fees set out below are adopted for the city services outlined therein:

(a) *Animal control:*

(1) Impoundment . . . $25.00

(2) Shelter, per day . . . 10.00

(b) *Permits, licenses and inspections:*

(1) Building--As recommended by the Southern Building Code Congress International, Inc., and as adopted by council.

(2) Plumbing and gas permit and inspection fees:

Plumbing fixture or trap or set of fixtures on one (1) trap (including water, drainage piping and backflow protection) . . . 5.00

Building sewer . . . 25.00

Each sample well . . . 10.00

Each water heater and/or vent . . . 5.00

Installation of water piping . . . 5.00

Installation of water treating/softening equipment . . . 5.00

Backflow protective device . . . 5.00

Interceptors/separators (each) . . . 25.00

Lawn sprinklers system:

1 to 10 heads . . . 10.00

Additional sprinkler heads (each) . . . 0.25

Gas permit and inspection fee:

(1 to 3) openings . . . 10.00

Additional gas openings (each) . . . 2.00

Storm sewer tie in . . . 50.00

Catch basin or outside area drain:

First two . . . 10.00

Each additional installed under same permit . . . 5.00

Junction box (each) . . . 5.00

Roof drain or outside downspout . . . 5.00

(3) Mechanical--As recommended by the Southern Building Code Congress International, Inc., and as adopted by council.

(4) Plan checking fee--As recommended by the Southern Building Code Congress International, Inc., and as adopted by council.

(5) Electrical permits and inspection fees:

Meter loop and service:

Up to and including 50 Kw: . . . $10.00

Over 50 Kw through 250 Kw . . . 10.00

Over 250 Kw . . . 25.00

Sub panel with 8 or more circuits (each) . . . 5.00

Electric heat:

Up to and including 1 Kw . . . 1.00

1 Kw through 10 Kw . . . 5.00

Over 10 Kw . . . 5.00

plus 0.25 per kw

Outlets . . . 0.30

Lighting fixtures . . . 0.30

Range receptacle . . . 2.00

Clothes dryer . . . 2.00

Cooking tops . . . 2.00

Ovens . . . 2.00

Garbage disposals . . . 2.00

Dishwasher . . . 2.00

Miscellaneous . . . 15.00

Motion picture/commercial sound equipment . . . 5.00

X-ray machines . . . 5.00

Motors:

Up to and including 1 Hp . . . 1.00

Over 1 Hp through 10 Hp . . . 5.00

Over 10 Hp . . . 5.00

plus 0.25 per hp

Transformers:

Up to and including 1 Kva . . . 1.00

Over 1 Kva through 10 Kva. . . . 5.00

Over 10 Kva . . . 5.00

plus 0.25 per kva

Ball park and parking lot light poles (each) . . . 25.00

Pole with guy wire (each) . . . 5.00

Temporary saw pole . . . 15.00

TCI/letter required . . . 25.00

Reconnection fee . . . 15.00

Sign circuit . . . 5.00

Minimum permit fee . . . 15.00

(6) Electricians' licenses:

a. Apprentice . . . 2.00

b. Journeyman . . . 10.00

c. Master . . . 100.00

d. Inactive master . . . 50.00

e. Maintenance electrician . . . 50.00

(7) Health:

a. Food establishments per year:

1-4 employees . . . $182.00

5--9 employees . . . 364.00

10--25 employees . . . 546.00

26--50 employees . . . 728.00

51--100 employees . . . 910.00

101 or more employees . . . 1,092.00

Nonprofit food establishment . . . 91.00

b. Mobile food establishment medallion fee . . . 273.00

c. Retail frozen dessert manufacturing establishment permit fee . . . 182.00

d. Temporary food establishment permit . . . 27.30

Plus, per day of operation . . . 18.20

e. Frozen dessert excess sample fee . . . 91.00

f. Food establishment permit special processing fee . . . 91.00

g. Food establishment pre-opening inspection fee . . . 136.50

h. Food establishment permit transfer inspection fee . . . 136.50

i. Food establishment pre-opening reinspection fee . . . 91.00

j. Food establishment operations reinspection fee - 40% of fee for existing valid food establishment permit.

k. Replacement of permit or medallion . . . 18.20

(8) Commercial alarm permit . . . 45.50

(9) Vehicles for hire:

a. Taxicab permit . . . 100.00

b. Taxicab driver's license . . . 100.00

(10) Parade permits . . . 10.00

(11) For each reinspection under the building, plumbing, mechanical or electrical code (to be paid prior to reinspection) . . . 27.30

a. First inspection . . . 0.00

b. Reinspection (each) . . . 100.00

(12) Fire safety fees:

(a) Standby fire personnel and equipment fees for each event:

First 4 hours . . . $350.00

Each hour over 4 hours . . . 100.00

(b) Fire alarm installation fees, per building:

No. of Devices

10 or less . . . $50.00

11--25 . . . 75.00

26--100 . . . 100.00

101--200 . . . 200.00

201--300 . . . 300.00

300--600 . . . 300.00

Each 100 over 600 . . . 50.00

(c) Fixed fire extinguishing systems:

Per System

(1) Fixed chemical or wet agent vent hood extinguishing systems . . . $50.00

(2) Fire pumps . . . 100.00

(3) Other engineered fixed systems/automated fire sprinkler systems, per floor . . . 50.00

(4) Smoke control system . . . 100.00

(d) The annual fees for the issuance of permits required under the Fire Prevention Code are as follows:

(1) Single permit . . . $50.00

(2) Combination permit: 1--3 permit items . . . 125.00

(3) Combination permit: 4--5 permit items . . . 175.00

(4) Combination permit: more than 5 items . . . 250.00

(e) If the contractor begins work prior to the issuance of the required permit, the fees established by the preceding paragraphs (a) (b) and (c) are doubled.

(f) The charge for the initial required inspection is included in the permit fee. Any reinspections required as a result of a failure to pass the initial inspection or if the system is not ready for inspection at the requested time, a twenty-five dollar ($25.00) fee will be charged for each reinspection.

(g) Non-profit organizations and other governmental agencies are exempt from the payment of all fees listed in this subsection (b)12.

(h) Single-family residential fire sprinkler systems shall be exempt from the payment of all permit fees.

(13) Solicitor license . . . 35.00

(c) Community Center rentals*:

* Non-residents will be charged a 25% increase in per hour fee.

(1) North Wedgewood Room per hour:
Non Peak. . .$35 Non Peak
Peak. . .$50
Non-Profit/Non Peak. . .$19.50

(plus actual cleanup costs)

(2) South Wedgewood Room per hour:
Non Peak. . . $50
Peak. . . $75
Non-Profit/Non Peak. . . $28

(plus actual cleanup costs)

(3) Red Room per hour :
Non Peak. . . $10
Peak. . . $15
Non-Profit/Non Peak. . . $5.50

(plus actual cleanup costs)

(4) Community Center per hour:
Non Peak. . . $115
Peak . . . $170
Non-Profit/Non Peak. . . $64.50

(plus actual cleanup costs)

(5) Kitchen per hour:

Non Peak. . . $20
Peak . . .$30
Non-Profit/Non Peak. . . $11

(plus actual cleanup costs)

(6) First Colony CC per hour:
Non Peak. . . $35
Peak. . . $50
Non-Profit/Non Peak. . . $19.50

(plus actual cleanup costs)

(7) Meeting Rooms per hour:
Non Peak. . . $25
Peak. . . $40
Non-Profit/Non Peak. . . $14.00

(plus actual clean up costs)

(8) Charitable organizations are exempt from the requirement to pay the rental fees set forth in this section 2-136(c) for meetings during non-peak times and for fundraisers if:

a. The organization has applied for and been recognized as a tax-exempt charitable organization by the Internal Revenue Service under section 501(c)(3) or section 501 (c)(4) of the Internal Revenue Code;

b. The majority of its directors, officers, organizers, and members are residents of the City;

c. Its charitable purposes are primarily directed at activities or persons located within the City; and

d. The organization complies with the written procedural requirements for receiving a fee exemption as established by the Director of the Parks and Recreation Department.

(9) Organizations that do not qualify for an exemption under the preceding section 2-136(c)(8) above may qualify for an exemption from the requirement to pay the rental fees set forth in this section 2-136(c) for fundraising events where 100% of all the funds raised provide a direct charitable benefit to the City of Sugar Land or City residents.

(10) The exemption provided for in this section 2-136(c)(8) and (9) apply as of January 1, 2006.

(d) *Planning and development activities:*

(1) Plat review:

a. Preliminary - cost for review and consideration of approval of a preliminary subdivision plat with the city of the extraterritorial jurisdiction (ETJ), per submittal . . . 800.00

Per lot . . . 2.50

Per acre . . . 12.50

b. Final - cost for review and consideration of approval of a final subdivision plat within the city or the ETJ, per submittal . . . 800.00

Per lot . . . 2.50

Per acre . . . 12.50

(2) Replats:

a. Preliminary - cost for review and consideration of approval of a preliminary subdivision replat with the city or the ETJ, per submittal . . . 400.00

Per lot . . . 2.50

Per acre . . . 12.50

b. Final - cost for review and consideration of approval of a final subdivision replat with the city or the ETJ, per submittal . . . 400.00

Per lot . . . 2.50

Per acre . . . 12.50

(3) Planning variances and encroachments (cost for consideration of a variance request by the city, including planning and zoning commission and council action, for variances submitted separately from the platting process. The fee will be charged prior to placing the item on the commission or council agenda for consideration. The fee will not be applicable when a variance is considered as part of a plat approval), per separate request . . . 500.00

(4) Zoning and conditional use (cost for review and consideration of approval of a zoning request or conditional use permit in accordance with the zoning ordinance. The nonrefundable fee will be collected at the submission of the rezoning or conditional use request), per request . . . 1,000.00

(5) Amending plat (cost for review and consideration of approval of amending plat within the city or the ETJ), per submittal . . . 250.00

(6) Zoning Renotification (due when a rezoning hearing is rescheduled as a result of an action by the applicant) for publication in the City’s official newspaper . . . 200.00

Alternate publication requires a $200.00 fee plus $2,000.00 deposit, additional amount owed or refund based on actual cost of publication, plus $4.00 per each property owner notified within 200 feet of the area to be considered for rezoning or conditional use permit.

(7) Construction variances (cost for consideration of a variance requested of the city, including council action, for individual and blanket variances. The fee will be charged prior to placing the item on the agenda for council consideration), per each separate request . . . 400.00

(8) Flood zone inquiries . . . 0.00

(9) Site plan review (cost for review and consideration of approval of a site plan within the ETJ. The fee will be charged upon submittal of the site plan for development of nonsingle-family sites on platted reserves or lots. The fee will not be charged to each separate site plan that is to be reviewed. The fee will not be charged for site plans within the city limits), each set of plans . . . 400.00

(10) Conditional use permit within the Mixed Use Conservation District (MUC) . . . 400.00

(11) Development agreement . . . 2,000.00

(12) Annexation petition . . . 3,000.00

(13) General plan review (cost for review and consideration of approval of a general plan within the city or the ETJ) . . . 800.00

(14) General Plan Minor Amendment (no new or revised impact analysis required) . . . 100.00

(15) General Plan Major Amendment (new or revised impact analysis required) . . . 800.00

(e) *Recreation**:*

**Non-residents will be charged 25% increase on all fees.

(1) Day Camp:

a. Tiny Tot, per session . . . 55.00

b. Day Camp, per session . . . 115.00

c. Day Camp, extended hours, per session . . . 140.00

(2) Senior Trips . . . Cost of trip

(3) Senior Events and Activities, per person/per activity . . . $0--10.00

(no fee for luncheon)

(4) Swimming Pool Admissions:

a. Adult:

Before 5:00 p.m. . . . 2.00

After 5:00 p.m. . . . 1.00

b. Child:

Before 5:00 p.m; . . . 1.00

After 5:00 p.m. . . . 0.50

(5) Swim lessons, per session . . . 45.00

(6) Pool Youth Sports Association Use, per hour . . . 6.00

(7) Athletic Field Rentals:

a. Recognized Youth Sports--50% of light bill (bought down to 25% of teams investment in field)

b. Other Field Rental Users:

Without lights . . . 15.00

With lights per field/per hour . . . 25.00

(8) Oyster Creek Amphitheater:

Per hour small area . . . 50.00

Per hour larger area around amphitheater . . . 100.00

(9) Pavilion Rental, per hour . . . 15.00

(10) Leisure Classes--80% of gross revenue to Contractor/20% of gross revenue to City

(11) Miscellaneous:

a. Recreational Bags . . . 10.00

b. Volleyball Bags . . . 15.00

c. Youth Sports Deposit . . . 250.00

d. Field Deposit . . . 50.00

e. Building Deposit . . . 250.00

f. Pavilion Deposit . . . 100.00

g. Bag Rental Deposit . . . 50.00

h. Amphitheater Deposit--$500.00/$750.00/$1,000.00 depending on size of group

i. Lost Key Fee . . . 50.00

j. Late Change Fee . . . 50.00

(f) *Solid waste fees and licenses:*

(1) Residential solid waste services fee, per month. . . . $11.57

(2) Application for commercial solid waste operator's license: . . . 100.00

(g) *Miscellaneous:*

(1) Heliport, per year…..500.00

(2) Helistop, per year……500.00

(3) Alcoholic beverages.....Full amount allowed by state statute

(4) Tax certificates.....Full amount allowed by state statute

(5) Accidents report copies . . . 3.00

(6) Copies of city records.....Full amount allowed by state statute

(7) Returned checks….. full amount allowed by state statute.

(8) Hazardous materials incidents.....Actual cost of the response, including time, equipment, material, etc.

(9) Use of the Fire Safety House, per day . . . 50.00

(10) Fingerprinting, per card . . . 10.00

(11) Parking placard (Section 5-140(b)(6)

Residential … $10.00

Guest … $ 2.00

(h) *Sugar Land Municipal Airport Fees and Charges:*

(1) Ramp fees:*

a. Helicopters . . . $10.00

b. Airplanes:

TABLE INSET:

Wingspan	**Piston**	**Jet/Turboprop**
1 – 40 feet	$5.00	$25.00
41 – 55 feet	10.00	35.00
56 – 75 feet	30.00	45.00
76 – 100 feet	50.00	50.00
101 fee and over	100.00	100.00

Rates are per 24 hours.

(No charge with minimum purchase of ten gallons Avgas or 50 gallons Jet A fuel.)

(2) Air conditioning unit, per half hour . . . 10.00

(No charge for first ½ hour with minimum purchase of 50 gallons Jet A fuel.)

(3) Ground power unit, per quarter hour . . . 10.00

(No charge for first ½ hour with minimum purchase of 50 gallons of Jet A fuel.)

(4) Lav cart services . . . 10.00

(No charge for first ½ hour with minimum purchase of 50 gallons Jet A fuel.)

(5) Catering service charge – ten percent of catering invoice.

(6) Outside tie-down space:

Grass, per month . . .50

Hard surface, per month . . .75.00

(7) Aircraft towing, per one-way trip . . . 10.00

(No charge for tow to or from city facilities or common areas.)

(8) Fuel and petroleum products pricing (mark up to be determined annually through budget process to meet the annual operating requirements of the airport.)

a. Avgas
1. Transient customers: Retail price = cost + tax + 100% mark up.
2. Based customers: Based price = cost + tax = 90% mark up.

3. Volume discount program (based customers: 25,000 annual gallons: cost + tax + 78% mark up (based on prior year's purchases).

b. Jet-A Fuel

1. Transient customers (per purchase):

a) 1-299 gallons: retail price = cost + tax + 100% mark up.
b) 300 – 499 gallons: retail price = cost + tax + 98% mark up.
c) 500 – 999 gallons: retail price = cost + tax + 94% mark up.
d) 1,000+ gallons: retail price = cost + tax + 86% mark up.

2. Volume discount program (based on prior year's fuel purchases)

a) 1 – 9,999 gallons: retail price = cost + tax + 91% mark up.
b) 10,000 – 19,999 gallons: retail price = cost + tax + 85% mark up.
c) 20,000 – 39,999 gallons: retail price = cost + tax + 79% mark up.
d) 40,000 – 59,999 gallons: retail price = cost + tax + 73% mark up.
e) 60,000 – 79,999 gallons: retail price = cost + tax + 67% mark up.
f) 80,000+ gallons: retail price = cost + tax + 61% mark up.

c. Fuel additive: Add $0.05 per gallon of fuel for additive.

d. Oil:

1. Synthetic:

a) 15W50: cost + 50%
b) AS100: cost + 75%
c) Turbo oil: cost + 105%

2. Mineral: cost + 75%

(9) Landing fees for scheduled commercial flight operations: $0.75 per thousand pounds of maximum allowable aircraft departure weight established by FAA (rounded to nearest 1,000 lb.)

(10) U.S. Customs and Border Protection User Fee Program:
One – three occupants of an aircraft. . . . 250.00
Four – six occupants of an aircraft 350.00
Seven – ten occupants of an aircraft . . . 500.00
Each occupant over ten of an aircraft. . .50.00 per person
After hour callout fees. . . . as assessed by Customs

Secs. 2-137 – 2-140. Reserved.

ARTICLE VI. MUNICIPAL COURT

Sec. 2-141. Fines and special expenses.

(a) Any defendant convicted of a misdemeanor in municipal court must pay a three-dollar security fee as a cost of court. The fee will be administered and used for the purposes authorized by Article 102.017 of the Texas Code of Criminal Procedure.

(b) There is created a municipal court technology fund in accordance with article 102.0172 of the Texas Code of Criminal Procedure (the enabling law). Any defendant convicted in municipal court, as defined by the enabling law, is required to pay a technology fee of four dollars as a cost of court. The fee authorized by this paragraph will be collected, deposited, kept, used, and administered as provided for by the enabling law.

Sec. 2-142. Jurisdictional limits of municipal court established. The jurisdictional limits of the Sugar Land Municipal Court, as they relate to city ordinance violations, are established and the court may fine or penalize as follows:

(a) For violations of city ordinances governing fire safety, zoning and public health or sanitation--Not to exceed $2,000.00; and

(b) For all other city ordinance violations--Not to exceed $500.00.

Sec. 2-143. Citation to appear in court.

(a) Any police officer or other employee whose duties include enforcement or administration of an ordinance may issue a notice to appear in municipal court to any person violating a city ordinance provision for which a penalty is provided if the person gives his written promise to appear by signing the notice. The notice shall identify the offense and contain the date, which shall not be less than ten days after issuance of the citation, for the person to appear.

(b) Any person willfully violating his written promise to appear shall be guilty of an offense, punishable by a fine not exceeding $200.00.

CHAPTER 3 HEALTH & SAFETY

ARTICLE I. ALARM SYSTEMS

Sec. 3-1. Definitions.

In this article:

Alarm system means any device or system that emits, transmits, or relays a signal or sound intended to summon emergency services of the city to a location.

Sec. 3-2. Providing information on access to alarm system. Any person owning or controlling any residential premises where an alarm system is operated must post a plainly visible notice on the outside of the residence that contains the name and telephone number of one or more persons to contact to disable the alarm system after activation. In lieu of the posted notice, the name and telephone number of the person to contact may be provided to the city or, if in the case of a monitorized alarm system, to the company monitoring the alarm.

Sec. 3-3. Fees for city response to alarm signal.

(a) The city will not charge a fee for responding to activation of an alarm system from one alarm system for the first five responses in a calendar year.

(b) The city will charge $50.00 to the person in control of the premises for each response by the city to the activation of an alarm system from one alarm system on that premises, after the fifth response in a calendar year.

Sec. 3-4. Requirements for alarm systems.

(a) Holdup alarms must not include a money clip, pressure pad or similar device which can cause inadvertent activation. Any holdup alarm must be designed so that it can be activated only by intentional and deliberate human action.

(b) Alarm systems must not be equipped with a dialing device that automatically sends a prerecorded message indicating activation of the alarm system to the police or fire department unless the device is equipped with a means to automatically disconnect and discontinue the transmittal of the prerecorded message after the message has been communicated to the police department or fire department.

(c) It is unlawful for any person in control of a premises where an alarm system is located to knowingly operate or allow any other person to operate an alarm system if any fee assessed by the city for responding to an alarm system as provided in this article has not been paid within 30 days of the date the city mails a notice requesting payment of the assessed fee. For purposes of this paragraph, it is a rebuttable presumption that the person in control of the premises where the alarm system is located received the city's written notice of the fee assessed if the city mailed the notice to the address listed for billing of utility services for the premises where the alarm system is located.

(d) It is unlawful for any person who owns or controls a premises where an alarm system is located to fail to repair a defective or malfunctioning alarm system within ten days after the person had notice that the alarm system was defective or malfunctioning.

(e) It is unlawful for any person who owns or controls a premises where an alarm system is located to allow an activated alarm system to emit a sound that is clearly audible from the exterior of the structure or building where located for more than one hour, unless the activated alarm is a fire alarm.

Secs. 3-5 – 3-10. Reserved.

ARTICLE II. ANIMAL CONTROL

Division 1. In General

Sec. 3-11. Definitions. In this article:

Animal means any living vertebrate creature or invertebrate creature including, but not limited to, mammals, reptiles, fish and fowl, but specifically excluding human beings.

Animal control means the city’s animal control division.

Animal control officer means any person designated as such from time to time by the city to enforce the provisions of this article.

Animal control supervisor means the person designated by the city manager to supervise the aspects of animal control.

Animal welfare shelter means a shelter that is operated by an animal welfare organization that has been duly chartered as a nonprofit organization by the state and has been classified by the Internal Revenue Service as a 501(c)(3) charitable organization. Animal welfare shelters provide temporary care and custody of sick, injured, lost, abandoned, unwanted, or stray animals and provide veterinary services for the animals housed in its shelter facility under the supervision of a licensed veterinarian who is employed or retained by the organization.

Commercial stable means any facility where a fee is charged to house, pasture or rent horses or other livestock.

Currently Vaccinated means having a rabies vaccination that satisfies the following criteria:

(a) The vaccination was administered according to the label recommendations of a United States Department of Agriculture (USDA) approved vaccine;

(b) At least 30 days have elapsed since the initial vaccination;

(c) The time elapsed since the most recent vaccination has not exceeded the label recommendations of the vaccine; and

(d) A licensed veterinarian properly administered the vaccination with a rabies vaccine licensed for use in that species by the USDA.

Fowl means one or more peacocks, pea hens, chickens, guineas, turkeys, ducks or geese.

Kennel means the keeping of or caring for four or more dogs or cats over the age of four months old. Kennels must be located only in a B-2, M-1 or M-2 zone.

Large livestock means any member of domesticated equine family, including ponies, mules, donkeys and burros, and all members of the domesticated bovine family, including, but not limited to, bulls, cows and steers.

Livestock means any member of domesticated equine family, including horses, ponies, mules, donkeys, sheep, swine and burros, and all members of the domesticated bovine family, including, but mot limited to, bulls, cows and steers.

Owner means any person or group of persons living in the same household, a firm or corporation having title to or custody of any animal, or any person who has, harbors, keeps, or causes or permits to be harbored or kept an animal for seven days or who allows an animal to remain on or about his premises for ten days.

Other household pet means any mammal (including guinea pigs, gerbils, hamsters, hedgehogs, chinchillas, and ferrets), reptile (including newts, iguanas, and non-poisonous snakes), caged bird (including canaries, parakeets, cockatiels, finches, parrots, macaws, love-birds, and pigeons), or other animal kept as a household pet. "Other household pet" does not include livestock, a prohibited animal, a wild animal, a dog, a cat, a fish, or other animal prohibited by this chapter.

Prohibited animal means any animal not normally born and raised in captivity, including, but not limited to, the following:

(a) Class Reptilia: Family helodermatidea (the venomous lizards) and all Varanidae (monitor); order Ophidia, family Boidoe (boas, pythons, anacondas); family Hydrophiidae (marine snakes); family Viperidae (rattlesnakes, pit vipers, and true vipers); family Elapidae (coral snakes, cobras, and mambas); family Colubridae, Dispholidus Typus (boommslang), Cyclagras gigas (water cobra), Boiga dendrophila (mangrove snake) and Kirtlandii (twig snake); order Crocodilia (crocodiles, alligators, and gavials);

(b) Class Aves: Order Falconi forms (such as hawks, eagles and vultures) and subdivisions Rapitae (such as ostriches, rheas, cassowaries and emus);

(c) Class Amphibia: Poisonous frogs;

(e) Wallabies, kangaroos;

(f) Monkeys: Any variety, including, but not limited to the common marmoset;

(g) Wombats;

(h) Non-domestic cats: Any variety, including, but not limited to amurian leopard cats;

(i) Wolf hybrids or any wolf/dog mix;

(j) Lemurs;

(k) Llamas;

(l) Coati-mondi, African civet;

(m) Otters (any variety);

(n) Flying squirrels, sugar gliders;

(o) Koalas, bilbies;

(p) Prairie dogs.

Prohibited animals do not include livestock, fowl, poultry or normal household pets, such as a psittacine bird, canary, finch, cockatiel, hamster, guinea pig, gerbil, rabbit, ferret, fish or small nonpoisonous reptiles.

Registered animal means any animal that has a valid vaccination certificate.

Restrained: An animal is be deemed "restrained" when it is:

(a) Confined on the premises of the owner within a building or walled or fenced enclosure;

(b) Fastened or picketed by a lead or chain, not less than three times the length of the animal, measured from tip of the nose to tip of the tail, or not longer than 20 feet in length, so as to keep the animal on the owner's premises;

(c) Under the control of a person by a leash;

(d) On or within a vehicle being driven or parked;

(e) At heel beside a competent person and obedient to that person's command. Minors are not considered competent persons for purposes of this article.

Running at large means an animal not confined within the boundaries of the real property of its owner or keeper. An animal confined only by an electric or "invisible fence" is considered to be running at large. For purposes of this definition, an animal is not considered to be running at large if the animal is:

(a) Secured on a leash and under control of its owner or keeper;

(b) A specially trained dog that is being used with or without a leash by a blind or deaf individual to aid them within the city; or

(c) In attendance at a formal training class and is under the direct supervision of the owner or keeper during the entire class.

Small livestock means all types of domesticated swine, sheep and goats.

Vicious animal means any animal running-at-large that:

(a) Has bitten two or more people or one person on two or more occasions;

(b) Has killed a person or another pet or livestock animal;

(c) Has attacked a human being and the nature of the attack or the resulting injury was such as might endanger the life or permanent health of the human; or

(d) Habitually or repeatedly, without provocation, chases, snaps at, attacks, or bites any person or domestic animal. For the purpose of this paragraph, "without provocation" means that the animal was not reacting to the conduct or action of a person or another animal that could be expected to elicit or provoke an animal to chase, snap at, attack or bite the person or animal.

Wild animal means any poisonous or dangerous reptile, or any other animal which can normally be found in the wild state, not normally capable of being domesticated, including, but not limited to, monkeys, skunks, foxes, raccoons, leopards, panthers, cougars, tigers, lions, lynxes, and opossums, unless certified for medical, biological, herpetological, or other scientific research or study.

Secs. 3-12 -3-20. Reserved.

Division 2. Impoundment, Adoption, Quarantine

Sec. 3-21. Running at large prohibited.

(a) It is unlawful for any person to allow an animal under his or her control to be running at large.

(b) It is unlawful for any person to fail to take the acts necessary to prevent an animal under his or her control to be running at large.

(c) The city may impound any animals found running at large.

Sec. 3-22. Impoundment.

(a) *Animals subject to impoundments*. The following animals are subject to impoundment:

(1) Cats or dogs not exhibiting evidence of being vaccinated or registered.

(2) Any animal treated in a manner determined by an animal control officer to be cruel or inhumane.

(3) Any animal that has bitten, scratched or viciously attacked a person, or that needs to be placed under observation for rabies, as determined by an animal control officer.

(4) Any animal in violation of any provision of this article.

(5) Any animal found running at large.

(b) *Right of property owners to confine animals; notification of animal control officer*. If any animal named in this article is found on the premises of any person, the owner/occupant of the premises has the right to confine such animal in a humane manner until he can notify animal control to impound the animal. When so notified, an animal control officer will impound the animal as herein provided.

(c) *Notification of owner of impounded animal; final responsibility*. Reasonable effort will be made by animal control to contact the owner of any animal impounded that is wearing current registration or vaccination certificates; however, final responsibility for location of an impounded animal is that of the animal owner or custodian.

(d) *Redemption of animals*. The owner or custodian may redeem, during normal business hours of the animal control officer, any animal impounded upon payment of impoundment fees, any veterinary expenses incurred by animal control for the benefit of the animal, and upon compliance with vaccination provisions, except where prohibited in paragraphs (e) and (f) of this section.

(e) *Disposition of suspected abused animals*. Disposition of animals impounded on the grounds of suspicion of cruel or inhumane treatment will be by the court of proper jurisdiction.

(f) *Rabies vaccination required for release*. The owner or custodian is not entitled to reclaim and possess an animal until it has been released from rabies quarantine. Animals under

quarantine for rabies must receive a rabies vaccination upon release if the animal does not have a current vaccination certificate.

(g) *Selection of pound*. The city manager will select and establish a place for impounding all animals under any provision of this article.

(h) *Destruction of animals*. Any animal except vicious, wild or unvaccinated bite case animals not reclaimed by the owners may be humanely destroyed by animal control after being held 72 hours, except that any animal wearing current registration or vaccination certificates must be held six days prior to disposition.

(i) *Disposition of vicious or wild animals*. Any vicious animal impounded, unless there is reason to believe such animal has an owner, may be immediately disposed of as deemed appropriate by the supervisor of animal control. Any impounded wild animal, unless such animal is an endangered species, may be immediately disposed of in a manner deemed appropriate by the supervisor of animal control. Wild animals that are considered endangered species will be immediately reported to and turned over to the Texas Department of Parks and Wildlife for disposition.

(j) *Euthanization of nursing baby animals.* Any nursing baby animal impounded without the mother, or where the mother cannot or will not provide nutritious milk, may be immediately euthanized by animal control to prevent further suffering.

(k) *Adoption of dogs and cats*. Any impounded dog or cat not wearing current registration or vaccination certificates may be given up for adoption after 72 hours except those under quarantine. Any impounded dog or cat wearing current registration of vaccination certificates may be given up for adoption after being held six days. If the rightful owner of the animal appears within 30 days of adoption, he/she may redeem the animal by paying the adoptee all documented expenses incurred and reasonable board for the animal. The adoptee of any animal must sign an affidavit stating that he/she will have the adopted animal spayed/neutered and vaccinated within 30 days after adoption, except animals that are not yet six months old will be exempt until they are seven months old. Failure to show proof of having the animal spayed/neutered and vaccinated within 30 days after adoption is a violation of this article and such adopted animal will be returned to the animal control officer and impounded.

(l) *Disposition of extremely injured or ill animals*. Any impounded animal that appears to be suffering from extreme injury or illness may be euthanized or given to an animal welfare shelter for the purpose of veterinary medical care, as determined by the animal control supervisor.

Sec. 3-23. Impoundment fees.

(a) Impoundment fees for each impoundment within a 12-month period are as set out in this code.

(b) Any animal impounded more than four times in a 12-month period will not be released to its owner of custodian without the written approval of the animal control supervisor. Impoundment fees for such animal will be double the highest listed fee.

(c) A daily handling fee as set out in this code will be charged every day or fraction of a day that an animal is held at the city's animal control facility (shelter).

(d) An impounded animal will not be released to an owner until all impoundment fees have been paid. If the owner of an impounded animal is not able to pay an impoundment fee, the animal may be released to the owner if the owner:

(1) Pays a portion of the fee;

(2) Signs an agreement to pay the balance of the fee on dates specified;

(3) Has not defaulted on a prior agreement.

Sec. 3-24. Adoption.

(a) An individual may adopt an animal (dogs and cats only) from the city's animal control facility under the following conditions:

(1) The animal has been classified as adoptable by the animal control officer.

(2) The prospective owner has proper facilities to care for the animal.

(3) The prospective owner obtains all necessary vaccinations for the animal.

(4) The prospective owner must have the animal sterilized in accordance with chapter 828 of the Texas Health and Safety Code, as amended.

(b) The animal control officer may refuse to allow a person to adopt an animal whom he has reason to believe:

(1) Would not be able to obtain a vaccination certificate.

(2) Would not have proper facilities to contain or care for the animal as required by this article.

(3) Wants the animal for resale or a purpose other than pet ownership.

(c) If an adopted animal is lost, stolen or dies, the adopting owner must notify animal control in writing within seven days of the incident.

Sec. 3-25. Animal quarantine.

(a) *Authority of animal control officer*. The animal control officer has the authority to order quarantine of animals responsible for biting incidents or suspected of having any zoonotic disease to be a hazard to the human or animal population.

(b) *Responsibility of owner; supervised quarantine*. Every animal that bites a human or attacks another animal in an unnatural manner, or has rabies or any other zoonotic disease, or is under suspicion of having rabies or any other zoonotic disease, must be immediately confined by the owner, who will promptly notify animal control or an animal control officer of the place

where such animal is confined and the reason therefor. The owner must not permit such animal to come in contact with any other person or animal. The owner must surrender possession of such animal to animal control on demand for supervised quarantine. Supervised quarantine will be at a veterinary hospital or by any other method of adequate confinement approved by the animal control supervisor. The quarantine must be at least ten days and under the supervision of a licensed veterinarian, who will submit to animal control reports on the quarantined animal's physical condition on the first, fifth and tenth days immediately following the date of bite incidents or any of the other above-enumerated purposes for quarantine. A release from quarantine may be issued if no signs of rabies or other diseases have been observed during the quarantine period. Any animal quarantined other than at the veterinary hospital must be observed by the same veterinarian throughout the entire quarantine period in the same manner as outlined above and the owner and veterinarian must immediately notify animal control as to the veterinarian and location of quarantine. Animals being held in quarantine as a result of bite incidents may not be held in quarantine at a veterinarian located more than five miles outside the corporate limits of the city except with written approval by the animal control supervisor. If the supervisor orders quarantine other than in a veterinary hospital, the owner is responsible for confining the animal. The owner will also be required to obtain the same veterinary supervision of the animal and release from quarantine as would be required in a veterinary hospital. All fees and expenses incurred as a result of the quarantine will be paid by the animal owner prior to release of the animal.

(c) *Just cause for seizure/impoundment; interruption unlawful.* A violation of quarantine by any person is just cause for seizure and impoundment of the quarantined animal by animal control. It is unlawful for any person to interrupt the observation period of any animal for any reason.

(d) *Investigation of bite incidents; killing or removing animals prohibited*. All animal bite incidents will be investigated by animal control. Without the permission of the animal control supervisor, it is unlawful for any person to kill or remove from the city limits any animal that has bitten any person or other animal or that has been placed under quarantine, except when it is necessary to protect the life of any person or other animal.

(e) *Animal control responsible for disposition of suspected rabid animals.* The animal control supervisor directs the disposition of any animal suspected of being rabid or of having any zoonotic disease considered to be a hazard to any other human being.

(f) *Surrender of carcass*. The carcass of any dead animal exposed to rabies or suspected of having been rabid must, upon demand, be surrendered to animal control.

(g) *Responsibility of owners for animals exposed to rabies; manner of handling.* Every animal exposed to rabies must be immediately confined by the owner, who must promptly notify animal control of the place such animal is confined and the reason therefor. The owner must not permit such animal to come in contact with any person or animal. Any animal exposed to rabies will be handled in one of the following ways:

(1) Humane destruction, with notification to, or under the supervision of animal control;

(2) If not currently vaccinated, quarantine under veterinary supervision for at least 12 months immediately following exposure; or

(3) If currently vaccinated, immediate revaccination and quarantine under veterinary supervision for at least 90 days immediately following exposure.

(h) *Refusal to surrender prohibited*. It is unlawful for a person to fail to or refuse to surrender an animal for supervised quarantine or humane destruction, as required herein for rabies control, when the demand therefor is made by the animal control supervisor or officers acting under his discretion.

(i) *Notification of animal control upon escape, sickness or death of quarantined animals.* Any person having possession of or responsibility of any quarantined animal must immediately notify animal control if such animal escapes or becomes or appears sick or dies. In the case of death of the animal while under quarantine, the dead animal must be immediately surrendered to animal control for diagnostic purposes.

(j) *Home quarantine*. The owner of any animal required to home quarantine an animal must comply with written procedures regarding the quarantine as provided to the owner by the animal control officer.

Secs. 3-26 - 3-30. Reserved.

Division 3. Regulations Generally

Sec. 3-31. Number of dogs, cats, and other household pets.

(a) It is unlawful for a person to possess or keep at any one location, including in any one building, residential dwelling, or on any one lot, more than:

(1) Four dogs over four months of age;

(2) Four cats over four months of age;

(3) A combination of four dogs and cats over four months of age;

(4) Four other household pets over four months of age; or

(5) One litter from any dog, cat, or other household pet.

(b) It is a defense to prosecution under this section, that the prohibited animal was kept in a kennel, veterinary facility, pet store, research facility, or other nonresidential land use permitted by the city's zoning regulations that provides for the keeping of the animal.

Sec. 3-32. Sale or giving away. It is unlawful for any person to sell, offer for sale, barter or give away as toys, premiums or novelties baby chickens or ducklings or other fowl under three weeks old or rabbits under two months old, unless the manner or method of display is first approved by the animal control supervisor.

Sec. 3-33. Changing color of certain animals. It is unlawful to color, dye, stain or otherwise change the natural color of any chickens, ducklings, other fowl or rabbits, or to possess for the purpose of sale or to be given away any of the above-mentioned animals which have been so colored.

Sec. 3-34. Keeping wild animals.

(a) It is unlawful to keep any wild or prohibited animal inside the corporate city limits.

(b) It is unlawful to release or to allow to run at large any wild, prohibited or vicious animal or any animal that has known vicious tendencies.

Sec. 3-35. Vicious animals.

(a) *Authority to destroy*. Any vicious animal found running at large may be destroyed by a peace officer or animal control officer in the interest of public safety.

(b) *Removal of vicious animals from city; appeal to municipal court; disposition of matter by court.* The animal control supervisor may order any owner or person having care, control or custody of any vicious animal to remove such animal permanently from the city. This order may be appealed in writing within ten days to the municipal court. Pending appeal the animal must be removed from the city or restrained in a manner acceptable to the animal control supervisor. The court will hear the appeal and may uphold, reverse or modify the order given by the animal control supervisor and may stipulate restrictions on the animal as a condition to allowing the animal to remain in the city. If the court upholds the order as given by animal control supervisor, the owner or person having care, control or custody must not bring the animal back inside the city limits.

(c) *Disposition of animal upon failure to remove*. If the person having care, custody, or control of a vicious animal fails to remove such animal, as provided for herein, such animal may be impounded or destroyed.

(d) *Notification of supervisor upon relocation*. The owner or person having care, custody or control of a vicious animal must report the disposition and relocation of such animal to the supervisor of animal control in writing within ten days after the expiration date for removal of such animal from the city. Each day thereafter such letter is not provided constitutes a violation and a separate offense.

(e) Authority to obtain search and seizure warrant. The animal control supervisor is authorized to obtain a search and seizure warrant if a vicious animal ordered to be removed from the city has not been removed. Such warrant may also be obtained if the owner of such animal that has been involved in a bite incident or is suspected of having rabies or any other zoonotic disease fails to surrender such animal for quarantine purposes or for destruction.

Sec. 3-36. Livestock regulations.

(a) *Swine*. It is unlawful for a person to keep swine within the city except upon premises located within a district zoned M-1; and provided further, that the number of swine permitted does not exceed one adult (six months of age or older) per one-third acre for the first two acres, and two adults per acre for each additional acre over two acres; and provided, that no swine is be permitted within 2,500 feet of any residence, church, school or business other than that of the owner.

(b) *Limitation on number of livestock; application to M-1-zoned property*. The number of cows, horses, sheep, goats or any other livestock, except swine, permitted in any area must not exceed one animal for the first two acres and two animals per acre for each additional acre over two acres of a single tract of land. The persons in lawful possession of the premises, as owner or tenant, may keep thereon livestock belonging to others, but the number of livestock on the premises, the area and distance requirements of this section still apply. The keeping of livestock for others will not be done as a business in violation of the Zoning Ordinance. The limitation of this paragraph as to the number of livestock permitted do not apply when the premises on which such animals are kept is within a district zoned M-1.

(c) *Authority of supervisor to waive requirements*. The animal control supervisor may waive certain requirements of this section in cases involving a scientific program, a nonprofit organization show or humane activity, or animals owned by the city.

(d) *Restrictive areas to be sufficiently strong*. Any enclosure, pasture, pen, corral or other restrictive area for large or small livestock must be of sufficient strength and construction so as to keep such livestock confined.

(e) *Standards for mixed livestock*. When small and large livestock are kept together, the standards for small livestock must be met.

Sec. 3-37. Keeping of fowl and rabbits regulated.

(a) Rabbits must be kept in a secure pen enclosure that is at least 30 feet from any adjoining property line. Limitations on the number of rabbits allowed to be kept are as follows:

(1) It is unlawful to keep more than two rabbits and one litter, less than six weeks old, on any property less than one acre in size.

(2) It is unlawful to keep more than six rabbits over six weeks of age per acre and two litters less than six weeks old on any property zoned other than "M".

(b) Fowl must be kept in a secure pen or enclosure that is at least 50 feet from any adjoining property, except as otherwise allowed by this section.

(1) It is unlawful to keep fowl on property zoned other than M, except fowl may be allowed to inhabit public lakes or ponds, and private lakes or ponds which are managed and maintained by an organization, company or corporation.

(2) The owner or organization(s) in control of any lake or pond where fowl are allowed must provide care and maintenance for the fowl and property.

(3) The property owner or organization(s) in control of the property must remove or otherwise control any fowl which become a nuisance to the residents of surrounding area or community.

Sec. 3-38. Pet and animal care guidelines.

(a) *Guidelines established; intent*. The following are established as guidelines for pet and animal care and are not intended to contravene the provisions for animal cruelty contained in the Texas Penal Code.

(b) *Provision for animals required*. It is unlawful for an owner to fail to provide his animal with sufficient, good and wholesome food and water, shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(c) *Beating, tormenting, etc., prohibited*. It is unlawful to beat, cruelly ill-treat, torment, overload, overwork, trap with steel jaw traps or otherwise abuse an animal, or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

(d) *When animal deemed abandoned; protective custody*. Any animal left without proper food, water or shelter for more than three days will be considered abandoned. Animal control will take any abandoned animal into protective custody until owners of such animals can be located or prosecuted.

(e) *Procedure upon striking with motor vehicle*. An operator of a motor vehicle who strikes a domestic animal must stop at once and immediately report such injury or death to the animal's owner. If the owner cannot be ascertained or located, such operator will at once report the accident to the appropriate law enforcement agency.

Sec. 3-39. Animals in parked vehicles.

(a) It is unlawful to leave a dog or other animal completely enclosed in a parked vehicle in a manner that subjects the animal to extreme temperatures that could adversely affect the animal's health, safety or welfare.

(b) Any animal control officer, police officer or personnel of the fire department may use reasonable force to remove the animal from the vehicle if the person believes that an emergency situation exists because the circumstances described in paragraph (a) exist.

(c) A person may not attempt to remove or use force to remove any animal in the custody of an animal control officer from a motor vehicle.

Sec. 3-40. Unreasonably noisy animals.

(a) *Declared a nuisance*. It is unlawful and declared a nuisance for any owner or keeper of an animal, including, but not limited to, dogs and cats, to allow the animal to bark, growl, howl, whine or make any other sound loud and long enough to unreasonably disturb the peace of other people on the same, adjoining or nearby property.

(b) *Notification of owner before complaint to city*. Prior to filing a complaint with the city, the person having been disturbed by an animal in the above-described manner must give written notice to the owner or keeper of the animal that the animal's conduct has disturbed his

peace on more than one occasion. A copy of such written notice must be presented to the city at the time of filing the complaint.

Sec. 3-41. Transporting animals in open bed trucks or trailers.

(a) *Prohibition*. A person commits an offense if a person operates an open bed pickup truck or an open flatbed truck or tows an open flatbed trailer on a public street or highway in excess of 35 miles per hour while a dog or other animal occupies the bed of the truck or trailer.

(b) *Defense to violation*. It is a defense to a violation of this section that the dog or cat was secured in a "pet kennel" or other secure enclosure, or otherwise restrained by a harness manufactured for the purpose of restraining animals by means other than neck restraints which prevents the animal from jumping or falling from the truck or trailer.

Sec. 3-42. Vaccination of domestic dogs and cats.

(a) The owner or custodian of a domestic dog or cat must have the animal vaccinated against rabies before the animal reaches four months of age, followed by a rabies vaccine booster within 12 months of the initial vaccination.

(b) After the animal has been vaccinated as required in paragraph (a) above, the animal must receive a vaccination within 12 months of the last vaccination if the animal was vaccinated with an annual vaccine.

(c) After the animal has been vaccinated as required in paragraph (a) above, the animal must receive a vaccination within 36 months of the last vaccination if the animal was vaccinated with a triennial vaccine.

(d) Nothing in this section prohibits a veterinarian and owner or custodian from selecting a more frequent rabies vaccination schedule.

(e) The owner or custodian of a dog or cat over four months of age must have the animal wear a tag showing the animal is currently vaccinated.

(f) This section does not apply to animals being held in animal shelters.

Secs. 3-43-3-50. Reserved.

Division 4. Enforcement

Sec. 3-51. Violation. It is unlawful for any person to violate any provision of this article or interfere with any animal control officer in the performance of his/her duties.

Secs. 3-52 – 3-60. Reserved.

ARTICLE III. EMERGENCY MANAGEMENT

Sec. 3-61. Definitions. Words and phrases in this article have the same meanings as they are defined in Chapter 418 of the Government Code, as amended.

Sec. 3-62. Administration of emergency management plan. The city manager may appoint one or more persons to administer the city's emergency management plan that is required by state law. The persons designated will:

(a) Coordinate emergency preparedness activities within the city;

(b) Identify, coordinate, organize, and mobilize resources necessary to implement the emergency management plan;

(c) Work with federal, state, county and other emergency planning and control agencies on emergency preparedness;

(d) Distribute information on emergency preparedness to city residents; and

(e) Perform other duties the city manager assigns.

Sec. 3-63. Declaration of local disaster. The mayor may declare a local disaster as provided for in Chapter 418 of the Government Code or by other law. A declaration of local disaster may not be continued or renewed for a period of more than seven days except with the consent of the city council.

Sec. 3-64 . Penalty for violation. Any person found guilty of violating an ordinance, rule, or order adopted under the city's emergency management plan or as authorized by state law shall be fined not more than $1,000.00. Notice of the enactment of this ordinance shall be given by publishing the ordinance or its descriptive caption and penalty in the city's official newspaper one time within 30 days of passage.

Secs. 3-65 – 3-70. Reserved.

ARTICLE IV. FOOD AND FOOD SERVICES

Sec. 3-71. Food establishment inspection.

(a) *Inspections*. The city will conduct inspections of food establishments within the city limits to implement the requirements of applicable state and federal laws and regulations, and the provisions of this code.

(b) *Inspection report form*. Inspection reports will be recorded on a form provided by the city.

(c) *Posting inspection reports*. When a health inspection report is issued, that document must be retained in the establishment to which it applies, posted on an interior wall so that staff may refer to its findings. The report may not be removed or defaced until another health inspection report is issued by the city.

(d) *Responsibility, assignment*. The permit holder or his designee will ensure that a person in charge is present at the food establishment during all hours of operation. If no designated person in charge is present on the premises during inspection, the inspecting sanitarian may select a person from among employees present to serve as the person in charge, to

implement those corrections requiring immediate action, and communicate the findings of the inspection to the owner or absent person in charge.

Sec. 3-72. Definitions. In this article:

(a) *Nonprofit organization* means an organization that operates to provide benefit to the public at large or to groups whose membership may be defined by some special condition or activity, but inclusion in which is freely available to the public.

(b) *Director* means the person designated by the city to enforce this article.

(c) *Law* means all applicable federal, state and local statutes, ordinances and regulations.

(d) *Uniform temporary food service operation* means a temporary food establishment operated by a nonprofit organization under the direction of a person who holds a food service manager's certificate accepted by the city under the terms of this article.

Sec. 3-73. Construction, remodeling of food establishments.

(a) *Plans required*. Food establishments may not be constructed, remodeled, or altered except in accordance with plans and specifications approved by the city. With the agreement of the building official, the city may waive this requirement for modification of an existing food establishment where examination of the work site and presentation of the person in charge show that the scope of work is so limited that it may be directed effectively by written instructions, and plans are not otherwise required by the Sugar Land Building Code.

(b) *Plan submittal*. Plans must be submitted in compliance with the requirements for obtaining construction permits. The plans and specifications must indicate the proposed layout, arrangement, and construction materials of areas to be modified or constructed, and proposed equipment and facilities.

(c) *Approved plans*. The city will approve the plans and specifications only after the applicant has made any modifications necessary to comply with legal requirements. One set of the approved plans and specifications will be returned to the owner or person responsible for the construction of the establishment. The approved plans must be kept by the person in charge of construction for reference at the construction site until construction is approved by all agencies of the city regulating the project.

(d) *Pre-operational inspections*. The city must inspect the food establishment before the establishment begins operation to determine compliance with the approved plans and specifications and legal requirements. The food establishment may begin operation only after the city issues written approval to operate.

(e) *Payment of fees*.

(1) *Pre-opening inspection*. An applicant must pay a pre-opening health inspection fee at the time the applicant pays for the required building permit.

(2) *Construction reinspection fee*. When the city conducts a pre-opening inspection and finds that the owner has failed to complete more than half of the modifications specified

during the previous inspection of that construction or remodeling, the owner must pay a reinspection fee prior to receiving another inspection.

Sec. 3-74. Food establishment permits.

(a) *Permit required*. It is unlawful for a person to operate a food establishment, frozen desserts retail manufacturing establishment, or temporary food establishment, who does not possess a valid permit issued to him by the city. A food establishment permit is valid for the location specified thereon, and it may not be transferred from place to place. A food establishment permit will become void upon the closing of any sale of the establishment unless transferred to the new owner after an inspection conducted pursuant to this section. Except as otherwise provided in this article, a food establishment permit is valid for one year from the date of issuance and must be renewed on the expiration date of the previous permit or at a date set by the city. All food establishment permits remain the property of the city.

(b) *Temporary food establishment permits*. Permits for temporary food establishments will be issued for a period of time not to exceed 14 days. Dates of operation under a temporary food establishment permit must be consecutive, except in the case of permits issued to uniform temporary food service operations. A temporary food establishment permit is not required if:

(1) The temporary food establishment is operated by a person who holds a valid food establishment permit issued under this article;

(2) The operation of the temporary food establishment is within the scope of the regulated and inspected activities of the holder of a valid food establishment permit; and

(3) All food is prepared inside of the permitted establishment by the holder of the valid food establishment permit and then served outdoors on the same premises.

(c) *Application*. Any person desiring to obtain a food establishment permit must make written application for the permit on forms provided by the city. If the application is for a temporary food establishment, the application must be made at the city in person at least five days prior to the beginning of temporary food service operations.

(d) *Inspection and release*. Prior to approval of an initial application for a food establishment permit, the city will inspect the proposed establishment to determine compliance with the provisions of this article. The city will issue a permit to the applicant only if inspection reveals that the proposed food establishment complies with the requirements of this article.

(e) *Transfer of permit*. If a licensed food establishment is sold, the food establishment permit may be transferred from the seller to the buyer based upon an inspection of the establishment conducted by the city prior to the closing of the sale. Requests for transfer may be made by filing a transfer application with the city at least ten days before the closing of the sale of the establishment and must include the same information specified for original permits. The city will inspect the establishment and approve the permit transfer if the food establishment complies with the requirements of this article. The transferred permit will be valid for the remaining life of the original permit. A nonrefundable transfer inspection fee as specified in this Code must be paid prior to issuance of the transferred permit.

Sec. 3-75. Permitting mobile food establishments.

(a) *Required medallion*. A person must receive a medallion from the city prior to operating a mobile food establishment. A medallion will be issued after an inspection of the vehicle shows compliance with this article.

(b) *Medallion, transferability*. A person must not operate any mobile food establishment which does not possess a valid medallion issued by the city. The medallion will be affixed by the city on the mobile food establishment in a conspicuous place. A medallion must set forth the business name, the manufacturer's serial number for that unit, the state vehicle registration number, and the name of the person who applied for the medallion. Medallions may not be transferred from one mobile food establishment to another. A medallion will become void upon the closing of the sale of the vehicle. Each medallion is valid for one year from the date of issuance and must be renewed on the expiration date of the previous medallion or at a date set by the city.

(c) *Application*. Application for a medallion must be made on forms provided by the city.

(d) *Approved source required*. The provisions of this Code pertaining to food establishments apply to the commissary or other fixed food establishment where the food supplies are obtained. Any suspension or revocation of the food establishment permit for an establishment is cause for suspension or revocation of the medallion of any mobile food establishment whose food supplies are being obtained from that establishment

(e) *Identification of mobile food establishments*. Mobile food establishments must be identified by placing the name of the business or person responsible for the operation of the vehicle on at least two sides of the vehicle in clearly legible letters, contrasting against their background and no less than three inches high.

Sec. 3-76. Retail frozen dessert manufacturing establishment permits.

(a) *General*. In addition to any other information required to be furnished to the city pursuant to this Code, each applicant for a food establishment permit must disclose whether the proposed establishment constitutes a retail frozen dessert manufacturing establishment. The term "retail frozen dessert manufacturing establishment", as used in this section, means any premises where frozen dessert mixes are frozen or partially frozen within and in contact with an enclosed freezing compartment, and dispensed for retail sale or distribution.

(b) *Application*. Each holder of a valid and unexpired food establishment permit under this article who desires to commence operating a retail frozen dessert manufacturing establishment must make an application for a retail frozen dessert manufacturing establishment permit for the affected premises to the city on forms provided by the city.

Sec. 3-77. Notice of change in submitted information. A permit or medallion holder must notify the city of any change to the information submitted in an application for a permit or medallion, including a change in the name, address or telephone number of the permit holder. The notification must be given to the city in writing within ten days of the change.

Sec. 3-78. Fees.

(a) *Duration and proration of food establishment permits*. Except as otherwise provided in this paragraph or in Ordinance No. 1284, at the time of issuance of an original food establishment permit and each renewal thereof, the person requesting the permit must pay to the city a permit fee for one complete year from the date of issuance. When a food establishment is first opened, or when it is purchased by a new owner, if the owner already holds a permit for another food establishment in the city, at the request of the owner, the initial period for the permit at the new establishment may be set to expire concurrently with the permit issued to the owner at the other establishment. When the owner elects to receive a permit with an initial duration of less than one year, the cost of the permit will be prorated at 1/12 of the annual fee of the new permit for each month or fraction of a month during which the existing permit to which the new permit is indexed remains in force.

(b) *Fee schedule*. Fees will be as specified in this code. Temporary food establishments and uniform temporary food service operations will be charged a base permit fee plus an additional fee for each day that the permit is valid.

(1) *Food establishment permit fees*. The non-refundable annual fee for a food establishment permit, other than that issued to a nonprofit organization, will be based on the total number of persons employed full-time or part-time by the food establishment. Where the distribution of food is subsidiary to the primary purpose of the business, all persons receiving, storing, stocking, producing, processing, distributing, or selling foods, and those persons conducting maintenance, cleaning or management in support of food operations will be construed as "employees" for the purpose of this section, but persons not performing any such duties will not be so construed.

(2) *Mobile food establishment medallion fee*. At the time of issuance of an original medallion to operate a mobile food establishment and each renewal thereof, the person requesting the medallion must pay to the city a fee for one complete year, to start on the original month and day of issue.

(3) *Retail frozen dessert manufacturing establishment permit fee and term.* An annual fee for the retail frozen dessert manufacturing establishment permit as specified in this code, will be collected by the city in conjunction with and in addition to the fees prescribed for the issuance of a food establishment permit. The retail frozen dessert manufacturing establishment permit will expire concurrently with the food establishment permit. If the initial term of an applicant's retail frozen dessert manufacturing establishment permit begins at a later date than its food establishment permit, the fee for the retail frozen dessert manufacturing establishment permit will be prorated for the unexpired term of the food establishment permit at the rate of 1/12 the annual fee for the retail frozen dessert manufacturing establishment permit per month for each full month or portion of a month remaining thereon, provided that the minimum prorated fee is half the annual fee.

(4) *Excess sample fee*. When the sample from an enclosed freezing compartment contains numbers of bacteria unacceptable under Texas law, and adequate sanitation is not demonstrated for the enclosed freezing compartment by a second sample, a processing fee as specified in this code will be due and payable to the city upon notice to the operator that the second sample produced unacceptable results. This fee will be due each time that a subsequent sample for that enclosed freezing compartment produces unacceptable results, until testing reveals adequate sanitation in the enclosed freezing compartment.

(5) *Replacement fee*. An individual who has lost a valid, current food establishment permit, temporary food establishment permit, retail frozen dessert manufacturing establishment permit, or mobile food establishment medallion may obtain a replacement from the city for the fee specified in this code.

(6) *Special processing fee*. A special processing fee must be paid for any renewal of a food establishment permit if the renewal application is not received by the city in completed form and accompanied by the permit fee on or before the date of expiration of the permit. For purposes of this fee any new permit issued to the same person(s) for a food establishment at the same location will be deemed a renewal, unless the person(s) demonstrate to the city, by clear and convincing evidence, that the food establishment has not operated since the prior permit expired.

(7) *Operations reinspection fee*. When the city determines that the operation of an establishment has repeated or serious violations, such that upholding the public health and welfare requires a scheduled reinspection to confirm timely abatement of the violations, a fee as specified in this Code will be imposed by the city on the operator to partially defray the cost for follow-up inspection. The owner must pay the reinspection fee prior to receiving another inspection to confirm abatement. In setting the date for any reinspection, the city may consider both the seriousness of the violations, and the resources available to the operator that may be used to achieve compliance.

(c) *Failure to acquire and pay fees for transfer of permit or pre-opening inspection procedures.*

(1) If an establishment is found to be under construction or in operation when examination of plans, a pre-opening inspection and payment of a pre-opening inspection fee is required under this article, and the examination of plans and payment of fee has not already taken place, the person in charge of construction or the operator of the establishment must immediately tender a pre-opening inspection fee as specified in this code.

(2) If an establishment is found to be in operation under new ownership before the ownership has requested a transfer of permit inspection and paid the fee as required in this article, the operator of the establishment must immediately tender a fee equal to the transfer of permit inspection fee specified in this code. Any permit issued subsequent to the payment and inspection is valid for one year from the date of issue, and assessed at the full annual rate specified in this code.

(3) Fees collected pursuant to this subsection may be collected in place of the usual permit transfer inspection fee or pre-opening inspection fee, but do not mitigate the operator's obligation to pay any other fee required under the circumstances, nor imply or grant permission to operate, nor will payment of fees relieve any person of criminal or civil penalties accruing under the circumstances.

Sec. 3-79. Suspension of permit.

(a) *Suspension*. When the city finds any food establishment in a condition which poses an imminent risk to the health or safety of the public or the employees of the establishment, the city is authorized to suspend a permit issued under this article. At the time the permit is suspended,

the city will issue an inspection report to the establishment stating that the permit has been suspended, and specifying the reasons for the suspension. When the inspection report suspending the permit is issued, all food operations must cease immediately. When a permit has been suspended, the city may physically remove it from the premises.

(b) *Reinstatement of suspended permit*. When a permit required by this chapter has been suspended, the party to whom the permit was issued may file a request for reinstatement of the permit with the city. The request must include a statement signed by the applicant that the violations of this chapter specified by the city at the time of the suspension no longer exist. Within 72 hours after the receipt of the request, the city must make an inspection and thereafter as many reinspections as the city may deem necessary to assure that the applicant has complied with the requirements of this article. When the city's findings indicate compliance, the city will reinstate the permit.

(c) *Appeal of a suspended permit*. When a permit required by this article has been suspended, the permit holder may make a written request to the city for a hearing with the director or his designee. Within 24 hours after receipt of the request, the city will provide notice to the permit holder stating:

(1) The date, time and place of the hearing.

(2) That the permit holder may appear in person, may present testimony and may cross-examine all witnesses.

If the permit holder fails to appear at the hearing, the city may present sufficient evidence to establish a prima facie case showing that an act or acts have been committed that constitutes grounds for suspension of the permit.

After completion of the hearing, the hearing officer must make written findings as to whether or not grounds exist for the suspension of the permit. If the hearing officer finds that grounds did not exist for the suspension he will reinstate the permit. A copy of the written findings will be sent by certified mail, return receipt requested, to the permit holder. If the address of the permit holder is unknown, or if the findings are returned undelivered, the findings may be served on the person in charge of the food establishment.

In the event a permit is suspended, the city is not liable to the permit holder for any refund of any part of the permit fee.

(d) The suspension and appeal provisions in this section govern over any other conflicting provision in this code.

Sec. 3-80. Revocation of permit.

(a) A food establishment permit, retail frozen dessert manufacturing establishment permit, or medallion to operate a mobile food establishment may be revoked if:

(1) The permit holder or his agents or employees interfere with the city’s inspection of the food establishment;

(2) There are repeated or serious violations of the applicable portions of this article or the law;

(3) In the case of mobile food establishments, the permit holder or his agent has not reported an accident to the city within 24 hours of the time the accident occurred if the accident resulted in the damage of the water system, waste retention tank, food service equipment, or any facility which may result in the contamination of the food being carried or any damage which results in a violation of the provisions of this article.

(b) Upon service of a written notice that the permit or medallion has been revoked as provided herein, all food operations must cease immediately.

(c) When a permit or medallion is revoked, the city may physically remove it from the premises or vehicle.

Sec. 3-81. Uniform temporary food service operations.

(a) *Approved plan of operations*. A nonprofit organization wishing to operate a uniform temporary food service operation must submit a plan of operation to the city for review. The plan must include the proposed dates of operation, products to be distributed, location, facilities provided, methods of preparation and cleaning, and the identity and qualifications of persons providing supervision, with specific dates on which they will be present and supervise operations. The applicant must modify the plan until all requirements of this article are met.

(b) *Application and permit*. After submittal of an approved plan of operations, completed application for a temporary food establishment permit, and the fee required in this code, the city will issue a temporary food establishment permit to the uniform temporary food service operation. Substantial deviation from an approved operations plan, or operation on dates other than those specified on the permit are grounds for immediate suspension of the permit, without refund of fee.

(c) *Operations*. Each uniform temporary food service operation must be conducted under the direction of a person who holds a food service manager's certificate accepted by the city under the terms of this article.

Sec. 3-82. Condemnation.

(a) *In general*. Pursuant to applicable ordinances, state or federal laws, rules or regulations, the city is authorized and will condemn or initiate the condemnation of any food, food ingredient, or item of food equipment which may be used or held with intent to distribute, sell, offer or expose for sale within the city any food product that is suspected to be adulterated or misbranded. The city may utilize the resources of all available state, county or federal offices and agencies as needed in the prosecution of condemnation actions.

(b) *Quarantine and hearing*. Pending disposition, the city may direct that a food product, ingredient, or equipment item not be used, removed, distributed or sold by placing a tag declaring a quarantine and specifying those products or items to be held. The owner or person in possession of the equipment or products quarantined is afforded the right of a hearing thereon before the director within 24 hours of the time the quarantine is implemented, exclusive of Saturdays, Sundays and legal holidays.

Sec. 3-83. Food service manager's certification.

(a) *Training required*. Food establishments must be conducted under the supervision of persons holding food service manager's certificates issued pursuant to the completion of an approved course of training in sanitation. The course must impart the knowledge required of a person in charge under the Texas Food Establishment Rules, be no less than 15 hours in length, and require applicants to pass an examination prior to issuance of a certificate. The city will compile and maintain a list of approved food service managers' certification courses.

(b) *Food service manager requirements*. It is unlawful for any person to own or operate any food establishment unless the person in charge has a valid food service manager's certification approved under this article and issued within three years previous to the time of operation. It is a defense to prosecution under this subsection:

(1) That the food establishment was not engaged at the time of the alleged offense in the manufacturing, production, preparation, processing, packaging or service of food or in the conduct of any make-ready activities commenced prior to or cleanup activities performed afterwards; or

(2) That the food establishment is a temporary food establishment.

(c) *Multiple preparation areas*. In food establishments having preparation or processing areas separated or at a distance that a single individual may not effectively supervise activities in each, it is unlawful for any person to own or operate any food preparation area unless there is present in that area a person in charge who has a valid food service manager's certification approved under this article and issued within three years previous to the time of operation. It is a defense to prosecution under this subsection that the preparation area was not, at the time of the alleged offense, in use for the manufacturing, production, preparation, processing or packaging of food or the conduct of make-ready activities commenced prior to or cleanup activities performed afterward.

(d) *Use of certification card.*

(1) A person possessing a food service manager's certification card must have the card on his person as proof of certification at all times while on duty.

(2) A person possessing a food service manager's certification card must present the card for examination when requested by the city.

(e) *Invalid training*. The city may declare a food service manager's certificate invalid for the purposes of this article if:

(1) The food service manager interferes with an inspection of the food establishment by the city;

(2) There are repeated or serious violations of law in the food establishment at times the food service manager is employed by that food establishment; or

(3) There are repeated or serious violations of federal or state food laws or laws regulating the operation of the food establishment at times the food service manager is employed by that food establishment.

When a food service manager's certificate is determined to be invalid for the purposes of this article, the city will identify the certificate, declare it invalid, and indicate on the inspection report which is issued to the establishment at that time the reasons for the declaration. When a certificate has been declared invalid, the person to whom the certificate was issued may not serve as a person in charge until the person has completed and passed another approved food service managers' certification course.

(f) *Appeal.* The person whose food service manager's certificate has been declared invalid may appeal the declaration by filing a written request with the city. The request must specify the certificate and person for which the appeal is requested. Upon receipt of the request, the director will schedule an appeals hearing to occur no later than ten working days from the date of the request. The applicant for appeal will be provided with written notice of the hearing in person or by registered mail, return receipt requested, which will specify:

(1) The grounds upon which the city declared the certificate invalid.

(2) The specific violations of law for which the certificate was declared invalid.

(3) That a hearing will be held before the director or his designee, who will serve as the hearing officer.

(4) The date, time and place of the hearing.

(5) That the food service manager may appear in person, may present testimony and may cross-examine all witnesses.

(g) *Failure to appear at hearing*. If the employee fails to appear at the hearing, the city may present sufficient evidence to establish a prima facie case showing that an act or acts have been committed that constitute grounds to declare the certificate invalid.

(h) *Findings*. After completion of the hearing, the hearing officer will make written findings as to whether or not grounds existed to declare the certificate invalid. If the hearing officer finds that grounds did exist for declaring the certificate invalid, he must uphold the declaration. If the hearing officer finds that sufficient grounds to declare the certificate invalid did not exist at the time the certificate was declared invalid, the declaration will be rescinded.

(i) *Notice*. A copy of the written findings must be furnished by personal delivery or by certified mail, return receipt requested, to the employee and to the holder of the food establishment permit for the establishment in which the food service manager is employed.

Secs. 3-84 – 3-90. Reserved

ARTICLE V. ALCOHOLIC BEVERAGES

Sec. 3-91. Sales near schools, churches, or hospitals.

(a) It is unlawful for a dealer to sell alcoholic beverages within the corporate limits of the city where the place of business of the dealer is within 300 feet of any church, public school, or public hospital.

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

(c) The distance between the place of business where alcoholic beverages are sold and the public school will be measured in a direct line from the property line of the public school to the property line of the place of business and in a direct line across intersections.

(d) For any permit or license covering a premises where minors are prohibited from entering a premises under section 109.53 of the Texas Alcoholic Beverage Code, the distance between the premises and a public school will be measured along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

(e) The city council may allow a variance to the prohibition of paragraph (a) if it determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or any other reason the city council, 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.

(f) Words used in this section have the meaning as defined by the Texas Alcoholic Beverage Code. The words "church" and "hospital" have the meaning as defined in the city's comprehensive zoning ordinance.

Sec. 3-92. Extended hours for the sale of alcoholic beverages.

(a) *Mixed beverage late hours permit.* The city council adopts "extended hours" for the city allowing the holder of a mixed beverage late hours permit to sell and offer for sale mixed beverages between midnight and 2:00 a.m. on any day, as authorized by section 105.03 of the Alcoholic Beverage Code.

(b) *Retail dealers on-premise late hours license.* The city council adopts "extended hours" for the city, allowing the holder of a retail dealers on-premise late hours license to sell, offer for sale, and deliver beer between midnight and 2:00 a.m. on any day, as authorized by section 105.05 of the Alcoholic Beverage Code.

Secs. 3-93 – 3-100. Reserved.

ARTICLE VI. NUISANCES

Division 1. In General

Sec. 3-101. Noise regulations.

(a) Definitions. In this section:

Dwelling has the meaning as defined by the Development Code.

Outdoor playground means an area that is not entirely enclosed within a building that contains play equipment for younger children, such as slides, swings, climbing bars, chutes, tunnels, or similar recreational equipment.

Public facility means any park, playground, stadium, entertainment arena, athletic facility, Town Square Plaza, or other real property, other than a public street, highway or right-of-way, which is owned by a city, county, public school, or other governmental entity.

Public service utility means an entity that provides water, wastewater, electric, telephone, telecommunications, or natural gas service to customers from facilities located within a public right-of-way.

(b) It is unlawful for any person to intentionally or knowingly make or create any noise of such volume, intensity, or duration as to disturb or annoy a reasonable person of normal sensitivity in the usual and expected enjoyment or the use of a dwelling. In determining whether a violation of this paragraph occurs, the following may be considered:

(1) The level, frequency, or duration of the noise;

(2) The proximity of the noise to the dwelling;

(3) The nature and zoning of the area within which the noise occurs; and

(4) The time of the day or night the noise occurs.

(c) The operation of any radio, speaker, musical instrument, sound amplifier, or other device used for producing or reproducing sound for entertainment purposes so as to be plainly audible within a dwelling, other than the dwelling where the sound-producing device is located, is prima facie evidence of a violation of paragraph (a).

(d) Any radio, speaker, musical instrument, sound amplifier or other device used for producing or reproducing sound for entertainment purposes that is located within or upon a motor vehicle and is operated at a volume that is plainly audible at a distance of more than 50 feet from the vehicle is prima facie evidence of a violation of paragraph (b). It is presumed that the registered owner of the motor vehicle from which the sound is produced in violation of the paragraph is the person who committed the violation.

(e) It is unlawful for any person operating a business that operates an outdoor playground as an accessory use if the playground is located within 500 feet of a dwelling, to intentionally or knowingly allow any person to make use of the playground between 10:00 p.m. and 6:00 a.m. of the following day.

(f) Exceptions to violations.

(1) It is a defense to prosecution under paragraph (b) of this section that the noise was caused by an employee, contractor, or agent of any city, county, public school, or other governmental entity or of a public service utility in the performance of his or her duties.

(2) It is a defense to prosecution under paragraph (b) or (c) of this section that the noise or sound was created by persons lawfully using a public facility.

(3) It is a defense to prosecutions under paragraph (b), (c) or (d) of this section that the noise was caused by persons participating in a parade conducted on a public street pursuant to a parade permit.

Secs. 3-102 – 3-110. Reserved.

Division 2. Junked Motor Vehicles

Sec. 3-111. Definitions. In this division:

Antique auto means a passenger car or truck that is at least 25 years old.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

Junked vehicle means a vehicle that is self-propelled:

(1) That does not have lawfully affixed to it:
(A) an unexpired license plate; or
(B) a valid motor vehicle inspection certificate; and

(2) That is:
(A) wrecked, dismantled or partially dismantled or discarded; or
(B) inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if the vehicle is on public property;
or
(ii) 30 consecutive days, if the vehicle is on private property.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

Sec. 3-112. Declaration of nuisance. A junked vehicle that is located within the city in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the state by producing urban blight adverse to the maintenance and continuing development of the city, and is a public nuisance. The provisions of this section do not apply to:

(1) A vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

(2) A vehicle or vehicle part that is stored or parked in a lawful manner on private property in connection with a business of a licensed vehicle dealer or junkyard;

(3) An unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.

Sec. 3-113. Notice to abate or remove. Whenever any public nuisance defined by this article exists within the city, the city will notify the owner or occupant of the private premises on which the public nuisance exists or the owner or occupant of the public premises on which the public nuisance exists or the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists, to abate or remove same. Such notifications will:

(1) Be in writing and include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site.

(2) Be mailed by certified mail with a five-day return receipt requested to the last known registered owner of the junked motor vehicle, any lien holder of record and to the owner or occupant of the private premises, public premises or premises adjacent to the public right-of-way on which the public nuisance exists, as applicable. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance will be continued to a date not less than ten days after the date of the return.

(3) State the nature of the public nuisance and the corrective measures required.

(4) Require removal or abatement of the public nuisance within ten days or require that a request for a public hearing be submitted before expiration of such ten-day period.

Sec. 3-114. Hearing by council at request of owner or occupant of premises. When a request for a public hearing is made by the owner or occupant of the premises on which a junked vehicle or part of a junked vehicle is located, to determine whether or not he is in violation of this article, the hearing will be held before a hearing officer designated by the city manager. If the decision of hearing officer is that the vehicle is deemed a public nuisance and a disposition agreement with the owner or occupant cannot be reached, the hearing officer will cause a complaint concerning the public nuisance to be filed in the municipal court with request to issue an order for removal of the vehicle.

Sec. 3-115. Removal by owner or occupant of premises. Junked vehicles or parts thereof declared a public nuisance by this article may be removed from the premises by the owner or occupant of the premises at his own expense, provided the vehicle or parts thereof are disposed of at a licensed vehicle dealer or a junkyard. It is unlawful for any person to reconstruct a vehicle or make it operative after removal.

Sec. 3-116. Removal on court order. If the owner or the occupant of the premises fails to comply with the notification given him by the city pursuant to this article, the municipal court

may issue all orders necessary to have the junked vehicle or part of a junked vehicle removed from the premises by an authorized demolisher. Such junked vehicle may not be reconstructed or made operable after it has been removed. Notice will be given to the state department of highways and public transportation not later than the fifth day after the date of removal, which notice must identify the vehicle or vehicle part.

Sec. 3-117. Disposal of junked vehicles. A junked vehicle or vehicle part may be disposed of by removal to a scrapyard, demolisher or other disposal site for disposal only as scrap or salvage.

Sec. 3-118. Penalty for violation. Any person found guilty of violating any of the provisions of this article is guilty of a misdemeanor will be punished as authorized in section 1-9. Each violation is deemed a separate offense. On conviction, the court shall order removal and abatement of the nuisance.

Sec. 3-119. Effect of granting permission for removal by city. If, within ten days after receipt of notice to remove or abate a nuisance under this article, the owner or occupant gives his written permission for removal of the junked vehicle or part of a junked vehicle from the premises, the giving of such permission will be considered compliance with the provisions of this article.

Sec. 3-120. Notice to state. Any person removing a vehicle under this article must notify the State Department of Highway and Public Transportation not later than the fifth day after removal, identifying the vehicle or vehicle part.

Secs. 3-122 – 3-130. Reserved.

ARTICLE VII. RESTRICTIONS ON OPEN PARTIES

Sec. 3-131. **Definitions.**

In this article:

Alcoholic beverage means the term as defined in section 1.04 of the Texas Alcoholic Beverage Code, as amended.

Drug means the term as defined in section 481.002 of the Texas Health and Safety Code, as amended.

Minor means any person under the age of 21 years.

Open party means a social gathering at a residence or premises at which non-family or non-related persons are present.

Residence or premises means a motel room, hotel room, home, apartment, condominium or other dwelling unit, including the curtilage of the dwelling unit, or a hall, meeting room or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions, or whether owned, leased, rented or used with or without compensation.

Sec. 3-132. Possession, consumption, etc., of alcoholic beverages or drugs by minors prohibited. It is unlawful for any person owning or having possession or control of a residence or premises to allow an open party to take place at such residence or premises if alcoholic beverages or drugs are possessed, consumed or used by any minor there as if such person knows of the existence of such possession, consumption or use. It is an affirmative defense to prosecution hereunder that such person took reasonable measures to prevent or eliminate any prohibited possession, consumption or use of an alcoholic beverage or drug as set forth herein.

Sec. 3-133. Application of article. The provisions of this article do not apply to:

(a) The possession, consumption or use of an alcoholic beverage by a minor while in the presence of such minor's parent, legal guardian, grandparent, or aunt or uncle if such parent, legal guardian, grandparent, or aunt and uncle is not a minor; or

(b) The possession, consumption or use of a drug by a minor pursuant to a lawful prescription issued by a medical doctor.

Secs. 3-134-3-138. Reserved.

ARTICLE VIII. SMOKING IN PUBLIC PLACES

Sec. 3-139. Definitions. In this article:

Bar means an area which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and the serving of food is only incidental to the consumption of the beverages. Although a restaurant may contain a bar, the term "bar" does include the restaurant dining area.

Child care facility means any licensed nursery, day care center, preschool, or other facility engaged in the practice of providing care for children.

Educational facility means any elementary school, middle school, junior high school, senior high school, vocational school, special education center, college or university.

Enclosed area means all space between a floor and ceiling that is enclosed on all sides by smoke-impermeable walls or windows (exclusive of doorways) that extend from that floor to the ceiling, including all space therein screened by partition.

Health care facility means any office or institution providing individual care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions, including hospitals, and doctor's and dentists' offices.

Public areas means any enclosed area to which the public is invited or in which the public is permitted, not including the offices or work areas not entered by the public in the normal course of business or use of the premises. A private residence is not a public area.

Restaurant means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees.

Retail store means any place, other than a restaurant, where goods or services are sold or offered for sale or rental.

Retail tobacco store means any retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Smoking means the inhaling, exhaling, burning or carrying of any lighted cigar, cigarette, or other combustible tobacco product in any manner or in any form.

Sports arena means any enclosed or unenclosed sports pavilion, gymnasium, health spa, swimming pool, roller or ice rink, bowling alley and other similar public place where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Theater means any indoor facility primarily used for the exhibition of any motion picture, stage drama, musical recital, dance, lecture or other similar performance.

Sec. 3-140. Smoking prohibited; exceptions.

(a) Smoking by any person is unlawful in the enclosed area of the public areas of the following places:

(1) Retail stores, including the lobbies, hallways, and other common areas in multiple-unit retail stores and malls;

(2) Libraries, educational facilities, museums, auditoriums, theaters, and art galleries;

(3) Child care facilities;

(4) Health care facilities;

(5) Governmental facilities;

(6) Airports; and

(7) Hotels, motels, and convention centers.

(b) Smoking by any person is unlawful in the public areas of a sports arena.

(c) Smoking by any person is unlawful in any building or motor vehicle owned by or controlled by the city.

(d) The following areas are not subject to the smoking restrictions of this section:

(1) Private residences, except when used as a childcare or health care facility;

(2) Bars and restaurants;

(3) Retail tobacco stores;

(4) Private clubs and private recreation facilities; and

(5) The sleeping rooms or quarters of hotels and motels that are rented to customers and the conference and meeting rooms while these places are being used exclusively for private functions.

Sec. 3-141. Signs.

(a) Any person or employer who owns, manages, operates or otherwise controls the use of any premises where smoking is prohibited by this article must clearly and conspicuously post and maintain "No Smoking" signs or the international "No Smoking" symbol (a picture of a burning cigarette inside a red circle with a red bar across it) in every place where smoking is prohibited by this article. The color of such signs, when not of the international type, must have lettering that is distinct, contrasting to the background and easily read. Letters must have a minimum height of one inch. These signs must be posted in English.

(b) Any owner, manager, operator or employer of any establishment controlled by this section, upon either observing or being advised of a violation of this article, has the obligation to inform the violator of the appropriate requirements of this article and then request immediate compliance.

Sec. 3-142. Violations.

(a) It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this article to fail to comply with any of its provisions.

(b) It is unlawful for any person to smoke in any place or area where smoking is prohibited under this article.

Secs. 3-143 – 3-147. Reserved.

ARTICLE IX. SOLID WASTE AND VEGETATION

Division 1. In General

Sec. 3-148. Definitions. In this article:

Commercial property means real property that is not a residential property.

Commercial solid waste means any solid waste generated from any improved real property, other than improved real property used for single or two-family dwellings.

Commercial solid waste operator means any person who collects, hauls, or transports commercial solid waste industrial solid waste, or residential construction debris for a fee by use of a motor vehicle.

Garbage means the waste resulting from the handling, preparation, cooking or consumption of produce, food and other biodegradable matter.

Hazardous waste means any waste identified or listed as hazardous waste by any state or federal agency.

Household waste means solid waste generated from a residential property that can be enclosed in a container designed for solid waste. Household waste does not include bulk building materials or construction debris.

Industrial solid waste has the meaning as defined in Chapter 361 of the Texas Health and Safety Code, as amended.

Recycled solid waste means solid waste that is not disposed in a landfill after collection by a commercial solid waste operator, but is processed for reuse for the purpose for which the material was made or for another purpose.

Residential property means seal property containing a building designed for use as a single- or a two-family residence.

Solid waste means all garbage, rubbish, refuse, or other solid waste materials normally generated from commercial or residential properties, other than hazardous waste. For residential properties, solid waste may include household waste, garbage, dead animals, tree limbs, lawn trimmings, appliances, and recyclable material.

Weeds means all rank and uncultivated vegetable growth or matter which is liable to become an unwholesome or decaying mass or breeding place for flies, mosquitoes, or vermin.

Sec. 3-149. Improper disposal or removal of solid waste.

(a) It is unlawful for any person to transport any solid waste generated from any private real property and place that solid waste into a container located on public property owned or controlled by the city without the city's consent.

(b) It is unlawful for any person to place solid waste into any solid waste container not owned by, rented to, or under the control of that person, unless the person placing the solid waste has the consent of the owner or person exercising control of the container.

(c) It is unlawful for any person to transport solid waste from any place outside the city limits to any place within the city limits for the purpose of causing the same to be collected as residential solid waste by the city.

(d) It is unlawful for any person to remove any solid waste, including any recyclable solid waste, from any container located on any residential property after the container has been placed in a location for collection by the city. It is a defense to prosecution under this section that the person was authorized by the city to collect the solid waste or the person owns or has the right to use the solid waste container.

Secs. 3-150-3-154. Reserved.

Division 2. Residential Solid Waste

Sec. 3-155. Solid waste containers. Every owner or occupant of residential property must:

(a) Place household waste in a receptacle designed to contain waste. Reusable receptacles must be constructed of plastic, metal, or fiberglass, have a capacity of not less than 20 gallons or more than 40 gallons, and have an opening diameter greater than the diameter of the base. The weight of the container and the container's contents must not exceed 60 pounds. Disposable or one-way containers must be plastic bags designed to store solid waste and refuse with enough wall strength to withstand the weight of the contents when lifted from the top;

(b) Provide and maintain sufficient numbers of containers to hold all the solid waste generated from the property;

(c) Keep all solid waste containers on the property in a clean and sanitary condition and in good repair, free of holes, cracks and splits;

(d) Keep the area surrounding any solid waste containers on the property free of any solid waste spillage and debris and in a sanitary and clean condition; and

(e) Not place or maintain any solid waste container upon any street or sidewalk or in a location that blocks or interferes with the use thereof.

Sec. 3-156. Requirements for collection.

(a) It is unlawful for any person to violate any of the following requirements for the collection of residential solid waste:

(1) Tree limbs placed for collection must be no longer than four feet in length and have a diameter of four inches or less.

(2) To place at curbside for collection any automobile parts, tires, lead batteries, motor oil, gasoline, paint, construction debris, tree stumps and logs, dirt, concrete, bricks, rocks, roofing materials, metal poles, fence pickets with nails, chemicals, corrosives and other hazardous or toxic materials.

(3) To place a refrigerator or freezer out for collection that has not had all doors removed.

(4) The total volume of waste placed for collection for each residence must not exceed 15 cubic yards per collection day.

(5) All solid waste must be placed no farther than six feet from the curb for collection no later than 7:00 a.m. of the day of collection, and no earlier than 6:00 p.m. the evening before. Reusable containers must be removed from the curb no later than 8:00 a.m. on the morning following collection.

(b) The city is not required to collect any residential solid waste that does not comply with the requirements of this section.

Sec. 3-157. Contract required. It is unlawful for any person, other than the city, to operate or cause any other person to operate a motor vehicle upon a public street in the city for the purpose of collecting for compensation solid waste generated from residential property. It is a defense to prosecution under this section that:

(a) The person has a contract with the city or the consent of the city to collect solid waste from residential property within the city; or

(b) When the residential property was annexed into the city, the person had a contract to collect residential solid waste for the annexed area and had received the city's consent to collect residential solid waste at that location and on that date.

Sec. 3-158. Fees and billing. Each residential property must pay a monthly fee as established by the city council for having available or receiving residential solid waste collection and removal services. The fee is billed monthly by the city and is payable on the due date shown on the bill. The charge for residential solid waste service shown on a customer's monthly billing is not considered a separate billing from other city services for purposes of determining delinquency. Should the customer fail to timely pay the total combined monthly bill for water, sewer, and residential solid waste collection, the city may discontinue water service to the residential property in accordance with the provisions applicable to delinquent payments for water and sewer service.

Secs. 3-159 – 3-163. Reserved.

Division 3. Vegetation

Sec. 3-164. Trees and objects in the visibility triangle or right-of-way.

(a) *Findings.* Before the city may provide landscaping services, including tree-trimming, tree disposal, remediation, cleanup and recycling services on private property to protect the public health, safety, or welfare, the city council must make certain findings pursuant to Chapter 756 Subchapter G of the Health and Safety Code. Therefore, the city council makes the following findings:

(1) That trees and other vegetation on private property and within street right-of-ways, if not properly trimmed, may obstruct the view of traffic-control devices and the view of approaching traffic and pedestrians' use of sidewalks;

(2) That the obstructions constitute a safety concern;

(3) That the city's ordinance requires that trees and other vegetation be kept trimmed to address these safety concerns; and

(4) That property owners are required to correct the obstruction within 30 days of the date the city notifies the owner of the obstruction.

(b) *Definitions.* In this section:

Visibility triangle is an imaginary triangle located on property located at the corner of intersecting streets. The first two sides of a visibility triangle are drawn by measuring a distance of 25 feet from the street corner intersection of the curb line parallel to the curb line. The third side is established by drawing a diagonal line intersecting the two curb points. If there is no curb, the measurements are made along the edge of the street pavement.

(c) *Objects in the Visibility Triangle or Right-of-Way.* It is unlawful for a person to knowingly place or maintain in a visibility triangle or right-of-way any object permanently affixed to the ground and having a height greater than three feet above the pavement surface of the nearest abutting street.

(d) *Trees and branches in the visibility triangle or right-of-way.* It is unlawful for a person to knowingly place or maintain a tree or allow branches of a tree to extend into a visibility triangle or right-of-way unless the branches are pruned so that:

(1) They do not substantially obstruct a motorist's view of traffic control devices;

(2) There is a clear space from the public street surface to 12 feet above the street surface on a residential street, (a residential street means any street not shown as a freeway, highway, arterial or major collector on the city's thoroughfare plan);

(3) There is a clear space from the public street surface to 14 feet above the street surface on a non-residential street, (a non-residential street means any street shown as a freeway, highway, arterial or major collector on the city's thoroughfare plan); and

(4) There is a clear space from the public sidewalk surface to eight feet above the sidewalk surface.

(e) *Trees and Objects Near Fire Hydrants.* It is unlawful for a person to knowingly plant or maintain any tree or maintain any object permanently affixed to the ground within three feet of a fire hydrant.

Sec. 3-165. Weeds and offensive conditions.

(a) *Limitation on height of grass and weeds.* The owner of any real property of two acres or less will keep weeds or grass trimmed to a height of nine inches or less.

(b) The owner of any real property of more than two acres will keep weeds or grass trimmed to a height of nine inches or less on any portion of the property:

(1) That is within 30 feet of any building or structure on the property;

(2) That is within 30 feet of any adjacent developed property; or

(3) That is within 30 feet of a public roadway or sidewalk.

(c) The requirements of this section apply to any public right-of-way or easement or portion thereof located on the real property or portion thereof required to be cut, including specifically the areas of any real property that extend to or abut upon any curb or paved portion

of a public street, the area between a public sidewalk and a public street or highway, and ditches and drainage channels located thereon.

(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 following the final blooming of the majority of the plants.

Sec. 3-166. Unhealthy conditions on property. It is unlawful for the owner of any property to knowingly keep or maintain any of the following conditions on any property in the city:

(a) Any dead animal;

(b) Accumulations of solid waste, dangerous materials or matter, or stagnant or polluted water or liquids;

(c) Accumulations of earth, rocks, concrete, waste building materials, or other construction debris left on the property that is not associated with on-going construction on the property;

(d) Any substance, matter, or condition that causes or creates a foul smelling odor or fumes; or

(e) Any other condition on the property which is unhealthy, unsanitary, or unwholesome or reasonably interferes with the use and enjoyment of the property where located or adjacent property.

Sec. 3-167. Correction of violations by the city. If the owner of any real property fails or refuses to comply with this division, the city may remedy the violation by any of the following procedures:

(a) *Written notice to property owner.* The notice must be given:

(1) Personally to the owner of the property in writing;

(2) By letter addressed to the owner of the property at the owner's post office address;

(3) By letter addressed to the owner as indicated in the tax rolls; or

(4) If personal service cannot be obtained or the owner's post office address is unknown;

i. By posting the notice on or near the front door of each building on the property to which the violation relates; or

ii. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(b) *City to correct violation*. If the owner of the property does not correct the violation within 30 days after notice is given, the city may enter into the right-of-way to do the work or pay for the work necessary to correct the violation.

(c) *Statement of costs incurred by city.* A statement of the costs incurred by the city in correcting a violation will be mailed to the property owner. The costs will include an administrative fee of $30.00. Payment of all costs is due within 30 days of the date of mailing.

(d) *Lien on property*. If the statement is not timely paid, the city may file a statement with the county clerk of the costs incurred, including administrative costs. Upon filing the statement, the city will have a privileged lien on the land upon which the costs were incurred, second only to tax liens and liens for street improvements. The amount of the lien will include ten percent per annum on the delinquent amount from the date payment was due. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city. To collect the costs, suit may be instituted and recovery and foreclosure had in the name of the city.

Secs. 3-168-3-172. Reserved.

ARTICLE X. MISCELLANEOUS OFFENSES

Sec. 3-173. Discharge of weapons.

(a) Definitions. In this article:

Air rifle means a gun that uses compressed air, gas or a compressed spring to launch a projectile of any kind and includes a BB gun.

Firearm means a firearm as defined by the Texas Penal Code, as amended.

Bow: means a weapon consisting of a curved, flexible strip of material, strung taut from end to end and used to launch arrows.

Crossbow means a weapon consisting of a bow fixed crosswise on a stock, with grooves on the stock to direct an arrow, bolt or other projectiles.

Range means any public or private facility at which firearm, bow or crossbow training or practice, or both, is regularly conducted under controlled circumstances.

(b) It is unlawful for a person to discharge a firearm, bow, or crossbow within the corporate limits of the city.

(c) It is unlawful for a person to discharge an air rifle upon or across any public street, park, or other public property of the city, or upon or across the real property of another person without the person's consent.

(d) It is a defense to prosecution under paragraphs (b) or (c) that:

(1) The firearm, air rifle, bow or crossbow was discharged upon a range;

(2) The firearm, air rifle, bow or crossbow was discharged by a law enforcement officer acting within the scope of his duties;

(3) The firearm, air rifle, bow or crossbow was discharged in lawful defense of a person or property; or

(4) The bow or crossbow discharged was a toy bow or crossbow designed to be used by children.

Sec. 3-174. Operation of motorboats prohibited, exceptions; model boats prohibited.

(a) The practice of operating a boat or other waterborne craft propelled by means of an internal-combustion engine, either inboard or outboard, upon any lake, creek, canal or other waterway within the city is declared to be a nuisance and punishable as such nuisance as a misdemeanor.

(b) The provisions of this section do not apply to officers of the state on state business.

(c) The operation of gasoline and other fuel-powered model boats upon any lake, creek, canal or other waterway inside the city limits is declared a nuisance and punishable as such nuisance as a misdemeanor.

(d) Failure to comply with this section shall be a class C misdemeanor and subject the person or persons operating the model boat to a fine of up to two hundred dollars ($200) per occurrence.

Sec. 3-175. Fishing from or leaving bait on streets or bridges. It is unlawful for any person to engage in fishing from or to deposit or leave any dead fish, crabs or bait upon any street, highway or bridge in any street or highway in the city.

Sec. 3-176. Drilling of wells.

(a) *Drilling prohibited generally*. It is unlawful for any person to drill a water well or any type of well for the purposes of extracting oil, gas or any other mineral from any land within the city.

(b) *Drilling in case of extraordinary and emergency circumstances*. In a case of extraordinary circumstances representing an emergency or making it necessary for such a well to be drilled, and prior to the commencement of drilling, a person may make application to the city for a drilling permit. The city council will hold a hearing on such application and may, after hearing and upon appropriate findings, authorize the issuance of such a permit. Upon application and hearing, the applicant will be required to show:

(1) That there exists an urgent necessity for the drilling of such well;

(2) That it is impracticable or impossible to obtain the necessary water and oil, gas or other minerals from other sources and the reasons that the same is impracticable or impossible;

(3) That the applicant will establish and institute such safety standards as may be desirable and necessary to prevent injury to the health, safety and well being of the residents, citizens and inhabitants of the city, and the specific safety standards which the applicant proposes;

(4) That the proposed well will not constitute a breach or violation of the terms and provisions of any subdivision restrictions or restrictive land covenants that may be in force and effect;

(5) That the proposed well will not represent a potential hazard to residential subdivisions or properties in residential use, either adjoining or abutting the proposed drilling site, either through the emission of noxious odors, unusual sounds or the erection of large and unsightly derricks or drilling devices.

At the time of hearing, the city council may inquire into such other circumstances and conditions which it may find to exist which either justify the issuance of a permit hereunder or which necessitate the denial of such a permit upon a determination of the likely impact of such drilling on the health, safety and well being of the residents, citizens and inhabitants of the city.

(c) *Drilling for city services purposes*. Nothing herein prevents the drilling of necessary wells by the city or by contractors authorized by the city to do such drilling for the purposes of providing necessary city services, or by any lawfully created and existing municipal utility district or other body politic which may be created from time to time and be charged with the function of providing city services or services customarily provided by a city.

Sec. 3-177. City-owned waterways; swimming, boating, etc., prohibited. It is unlawful for any person to engage in any swimming, diving, wading or boating activity of any type in any city-owned waterway, including, but not limited to, any lake or pond that is located in a city park.

CHAPTER 4 LICENSES, PERMITS, AND BUSINESS REGULATIONS

ARTICLE I. UNIFORM PERMIT PROCEDURES

Sec. 4-1. Purpose and Application. These uniform procedures apply to the denial, suspension, or revocation of a permit issued by the city under the code except where another provision of the code relating to a permit specifically states otherwise.

Sec. 4-2. Definitions. In this article:

Hearing officer means the city manager or person designated by the city manager to hear an appeal of a denial, revocation, or condition of a permit, as provided in this article.

Permit means all permits, licenses or medallions issued under this code.

Sec. 4-3. Notice.

(a) A notice given by the city under this article is effective:

(1) On the date it is delivered in person to the applicant or permit holder or to any person residing at or employed at the address provided in the application for a permit or for the permit issued.

(2) On the third business day following the date it is deposited in the U.S. mail, postage prepaid, addressed to the applicant or permit holder at the address listed in the application or permit.

(3) On the date the applicant or permit holder receives the notice by email, facsimile, courier, or any other method that provides actual notice.

(b) The failure to provide any notice in the manner or within the time as provided in this article does not affect the validity of any proceeding held under this article unless the hearing officer finds, upon the request of the person appealing, that the person was prejudiced by the failure.

Sec. 4-4. Notice of permit denial. If the city refuses to issue a permit, the city will give written notice of the denial to the applicant as soon as reasonably possible, but not more than five business days after the decision is made to deny the permit. The written notice will include:

(1) A clear statement of the reason for the city's denial; and

(2) A statement that the applicant may appeal the denial of the permit by filing a written notice of appeal with the city within five days of the effective date of the notice of denial.

Sec. 4-5. Notice of intent to revoke permit. The city will give written notice to a permit holder of the city's intent to revoke the permit not less than ten business days prior to the date of revocation. The notice will include:

(1) A clear statement of the reason the city intends to revoke the permit;

(2) The date the revocation will become effective, which will not be less than ten business days from the date the written notice is given; and

(3) A statement that the permit holder may file a written appeal of the proposed revocation within five business days of the date of the notice.

Sec. 4-6. Emergency suspension of permit. The city may immediately issue a written order suspending a permit if the city manager, assistant city manager, or city director, determines that any activity carried out under the permit is an immediate danger to the public or public property. The city will give notice of the order suspending the permit as soon as possible and in the manner determined to be most likely to give notice of the suspension to the person holding the permit. If the permit holder fails to promptly correct the condition that poses an immediate danger, the city may begin revocation proceedings of the permit and take such lawful action as

necessary to remedy the condition. It is unlawful for any person to take any action otherwise permitted under a permit if the person has notice that the permit has been suspended, other than corrective action to remedy the reasons for the suspension of the permit.

Sec. 4–7. Appeals.

(a) A person may appeal a denial of a permit, the proposed revocation of a permit, or a condition imposed upon a permit, by filing a completed written appeal with the city on a form provided for that purpose, along with any required filing fee or other documents required thereunder. The completed appeal must be filed within five business days of the effective date of the notice of the denial, revocation, or condition imposed. For purposes of this paragraph, notice of the condition imposed on a permit is the date the city issues a permit containing the condition.

(b) The city's hearing officer will hold an informal hearing on an appeal as soon as is reasonably possible, but not more than five business days after the date the appeal is properly filed. The city, the person appealing, and any interested party, may present evidence and argument to the hearing officer to the extent the hearing officer believes the same are relevant to the appeal. An audio recording of the hearing will be made.

(c) After completion of the hearing, the hearing officer will render a written decision on the appeal that includes a summary of the evidence that supports the decision. The hearing officer may issue appropriate orders to implement any decision made (i.e. order the issuance of the permit). A copy of the written decision will be provided to the person filing the appeal.

Secs. 4-8 - 4-9. Reserved.

ARTICLE II. ELECTRICAL WORK

Sec. 4-10. Definitions. In this article:

Apprentice electrician means a person, other than a journeyman electrician, licensed under this article who undertakes electrical work under the direct supervision and control of a master electrician or a journeyman electrician.

Electrical work means installing, maintaining, altering, repairing, or erecting any electrical wiring, apparatus, devices, appliances, fixture or equipment for which a permit is required under this chapter, except poles or guy anchors installed by a public service company as part of its distribution system.

Electrical sign contractor license means a person licensed as required by this article to manufacture, install and do such wiring as is required to connect the sign, outline lighting or inside lighting to existing circuits that have been approved by the city for the specific load covered by the permit issued and to install the necessary service and circuits and equipment for signs, outside lighting and inside lighting installations.

Journeyman electrician means a person licensed as undertaking electrical work under the supervision and control of a master electrician.

License means any type of license, permit, certificate, registration, or other form of written authorization by whatever name required to be issued by the city to a person under this article as a condition of performing electrical work.

Maintenance electrician means a person who maintains electrical equipment and conductors, or installs new equipment and conductors, only on the premises of his employer.

Master electrician means a person who is licensed under this article to perform any type of electrical work.

Sec. 4-11. License required. Except as otherwise provided in this article, it is unlawful for any person to do electrical work within the city unless the person has a license authorizing the person to perform that specific type of electrical work as required by this article.

Sec. 4-12. General provisions for application and license.

(a) An application for a license required under this article must be made in writing to the city on forms provided by the city for that purpose and be accompanied by the applicable fee.

(b) Each applicant for a master, maintenance, and electric sign contractor license required under this article must provide proof of having passed the appropriate examination for that license as administered by the city or its agent.

(c) Each license issued must specify the name and address of the person licensed, the date of issuance, and other relevant information required by the city.

(d) A license issued under this article expires on the last day of the month following 12 months from the date of issue. The license will be renewed by the city upon application and payment of the required fee. If a license has lapsed for two or more months, it will not be renewed except upon the same terms and conditions as provided for original applications.

(e) Every person required to have a license under this article, must carry the license upon or about his person while performing the acts which the license entitles him to perform.

(f) A license issued under this article is not assignable or transferable.

(g) A duplicate license required by this article may be issued upon payment of a five-dollar fee.

Sec. 4-13. Qualifications for master, journeyman, and apprentice licenses.

(a) Each applicant for a master electrician's license must furnish proof of four years' experience as a journeyman electrician or a registered professional engineering license (electrical).

(b) An applicant for license as a journeyman electrician must provide proof of having four years' active and practical experience, at least two-thirds of which must have been devoted to electrical work, exclusive of normal periods of rest and recreation. A degree or diploma from an accredited school of electrical engineering is considered as the equivalent of two years' active and practical experience.

(c) An applicant for a license as an apprentice electrician must furnish with his application a letter from a master electrician licensed by the city, recommending the applicant for licensing and also stating that such master electrician will employ the applicant as an apprentice electrician.

Sec. 4-14. Revocation of license. Any license or certificate issued under this article may, after hearing by the city, be revoked or suspended by the city for any of the following reasons:

(1) Conviction of a crime as provided in section 4-86;

(2) Fraud in obtaining the license or certificate;

(3) Knowingly violating, on more than one occasion, any provision of this article or any amendment thereto;

(4) Defrauding any person for whom he has rendered or contracted to render service;

(5) Securing a permit for work not to be performed by the permittee; or

(6) Securing a permit under any pretext for an installation concerning which the applicant has no valid contract.

Sec. 4-15. Suspension of license for failure to pay inspection fees. If a holder of an electrician's license fails to pay an inspection fee within 30 days after the final certificate of approval is granted on a job for which the license holder was issued a permit under this article, the license of the electrician is automatically suspended and will remain suspended until the fee is paid. A license which is suspended under this section for six months or more will not be renewed except upon the same terms and conditions as provided for in the case of original applications.

Sec. 4-16. Notice by maintenance electricians. Each holder of a maintenance electrician's license must notify the city immediately when the holder makes any change in his employment, giving in such notice the name of his new employer and the location of the premises in and on which he is to be employed to perform maintenance work.

Sec. 4-17. Insurance for master electricians and electrical sign contractors.

(a) Every master electrician and electrical sign contractor licensed under this article must as a condition of receiving and maintaining a license, keep the following insurance, in full force and effect at all times: Workers compensation insurance as required by law; general liability insurance of a minimum of $100,000.00 for any one accident and $300,000.00 for any one person; and property damage insurance to the extent of $50,000.00 for any one accident and $1,000.00 for any one piece of property.

(b) A copy of the required policy or a certificate of insurance must be filed with the city. Each policy must include an endorsement that the city will be notified at least ten days in advance if the policy is canceled or expires before the expiration date of the license of the insured.

Secs. 4-18 – 4-25. Reserved.

ARTICLE III. PARADES AND PROCESSIONS

Sec. 4-26. Definitions. In this article:

Parade means a procession of pedestrians, runners, vehicles or animals, or combination thereof, along or upon a public road, street or highway. A parade does not include a funeral procession; a procession of pedestrians along a public sidewalk or on private property; a procession of vehicles on a public street, road or highway operated in compliance with ordinary traffic laws; or a governmental agency acting within the scope of its functions.

Sec. 4-27. Permit required. It is unlawful for a person to participate in a parade unless a parade permit has been obtained from the city or to fail to comply with a permit issued.

Sec. 4-28. Permit application.

(a) A person seeking the issuance of a parade permit must file an application with the city on forms provided by the city. An application for a parade permit must be filed with the city not less than 30 days before the date of the proposed parade. The application must be signed by the applicant and notarized. The application for a parade permit sets forth the following information:

(1) The name, address and telephone number of the person seeking to conduct the parade.

(2) If the parade is proposed to be conducted for, on behalf of 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.

(3) The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct.

(4) The date the parade is to be conducted.

(5) The route to be traveled, the starting point and the termination point.

(6) The approximate number of persons, animals and vehicles in the parade; the type of animals and description of the vehicles.

(7) The hours the parade will start and terminate.

(8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

(9) The location by streets of any assembly areas for the parade.

(10) The time at which units of the parade will begin to assemble.

(11) The purpose of the parade.

(12) Any additional information that the city finds reasonably necessary to administer this chapter.

(b) Where good cause is shown, the city has the authority to consider any application hereunder which is filed less than 30 days before the parade is proposed to be conducted.

Sec. 4-29. Review of application, rules and conditions. The application will be promptly reviewed by the police, fire and other departments designated by the city manager. The city may suggest and consult with the applicant on alternative times, routes or other conditions of the parade. The reviewing departments may specify that the permit to be issued contain reasonable rules and conditions affecting the time, route and conduct of the parade if the rules and conditions:

(1) Are related to the movement of the persons, vehicles or animals in the parade and are clearly necessary to protect persons, property or the safe use of the streets;

(2) Are of the type that are or normally would be imposed on other parades with the same number and mix of persons, vehicles or animals;

(3) Are imposed without regard to the purpose of the parade or any messages or ideas sought to be communicated by the sponsors or participants;

(4) Are not so burdensome, financially or otherwise, as to prevent the holding of the parade or substantially interfere with its conduct; and

(5) Have been approved by the city attorney.

Sec. 4-30. Issuance of permit. Upon proper application, the city will issue the permit to the applicant. The permit will contain:

(1) The date of the parade.

(2) The starting and termination time of the parade.

(3) The portions of the streets to be traversed.

(4) The estimated number of persons, animals and motor vehicles in the parade.

(5) Any rules and regulations agreed to by the applicant or imposed in accordance with this article.

Sec. 4-31. Appeal of rules or conditions. An applicant may appeal any rule or condition imposed on a permit by filing a written appeal with the city. The city manager or designee will review the appeal within 24 hours after its filing to determine whether the rule or condition meets the standards imposed by this article. The appeal provisions in this section govern over any other conflicting provision in this code.

Sec. 4-32. Public conduct during parades.

(a) It is unlawful to unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(b) It is unlawful for the driver of any vehicle to drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.

(c) The city has the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along streets, highways or portions thereof constituting a part of the route of a parade. The city will post signs to such effect and it is unlawful for any person to park or leave unattended any vehicle in violation thereof.

Secs. 4-33 – 4-40. Reserved.

ARTICLE IV. PEDDLERS AND SOLICITORS

Division 1. In General

Sec. 4-41. Peddling upon public property.

(a) It is unlawful for any person to expose for sale or to sell any foodstuffs of any nature, any liquids, any flowers, or any other goods, wares, or merchandise, on any sidewalk, street, or any other public property or any property dedicated to public use. This section does not apply to any person acting in compliance with a permit granted by the city, nor to transactions in public buildings or on public property in which transactions the city is a party.

(b) It is unlawful for any person to cause or aid a minor in conduct prohibited by this section or to provide foodstuffs, liquids, flowers or any other goods to a minor with knowledge that the minor intends to sell or offer for sale such goods in contravention of this section.

(c) It is unlawful for any person to peddle, sell or offer for sale beverages served by the glass, hot tamales, enchiladas, red hots, weiners, sausages, hamburgers, fresh and salt water fish and all other marine life, sandwiches or any other similar food products easily contaminated by dust, dirt or flies, along or upon any public street, sidewalk, alley or any other such public easements or rights-of-way in the city.

(d) It is unlawful for any person to sell or offer for sale ice cream, sherbet, flavored ices or other frozen dairy products along or upon any public streets, sidewalks, alleys or other public easements or rights-of-way within the city unless such products are individually packaged frozen dairy products sold from vehicles equipped with refrigeration facilities adequate to maintain temperatures sufficient to ensure that the products remain frozen. The products must be prepackaged frozen dairy products manufactured, frozen and packaged by a frozen dairy foods products plant licensed by the state department of health. Any person who sells or offers for sale packaged frozen dairy products from refrigerated vehicles must first obtain a license as provided for in chapter 3, article IV. Following the issuance of a license, each vehicle operating under

such permit must be inspected once every six months on the premises of the city. Revocation of license will be in accordance with chapter 3, article IV.

(e) It is unlawful for any person to sell or offer for sale any comestible, ice cream, sherbet, flavored ices or other frozen dairy products, or any other goods, wares or merchandise within any residential district of the city from any vehicle. "Residential district" includes any areas within the city zoned R-1 single-family residential, R-2 duplex, R-3 townhouse, R-4 medium density residential or R-5 high density residential as defined in the zoning ordinance.

(f) It is unlawful for any person selling or offering for sale any comestible, ice cream, flavored ice or other frozen dairy products, or any other goods, wares or merchandise within the city to advertise their presence through the use of whistles, bells, horns, sirens, recorded music or other noises.

Sec. 4-42. Solicitation of motor vehicles. It is unlawful for a person to stand or sit in a roadway or roadway median to solicit money or other items of value, or to distribute any material to the occupant of any motor vehicle. In this section, roadway means any public street that has more than two main travel lanes or a speed limit over 30 miles per hour.

Secs. 4-43 - 4-50. Reserved.

Division 2. License

Sec. 4-51. Definitions. In this article:

Canvass means to: (a) attempt to enlist support for or against a particular religion, political party, candidate, cause or issue or (b) leave written information, including flyers, leaflets, and brochures, or other forms of advertising, for non-commercial purposes.

Solicit means to: (a) request a donation of money or other thing of value, (b) sell or attempt to sell any item for money or other thing of value, or (c) to leave written information, including flyers, leaflets, and brochures, or other forms of advertising, for commercial purposes.

Sec. 4-52. Prohibitions.

(a) It is unlawful for a person 14 years of age or older to solicit an occupant of a residential dwelling:

(1) without first obtaining a license issued by the city;

(2) between the hours of 8:00 p.m. and 9:00 a.m.;

(3) listed on the No Solicitation Registry;

(4) at a location other than the primary entrance to the residence.

(b) It is unlawful for any person other than the licensee to use or wear any license or badge issued under the provisions of this article.

Sec. 4-53. License application. License applications must be made on the forms provided by the city and accompanied with the application fees. Licenses are valid for six months or until revoked. Before a license is issued or renewed, the applicant must provide:

(a) Reasonable evidence of age and identification of the applicant;

(b) A brief description of the business or activity to be conducted;

(c) The name, address and telephone number of the person, company or organization represented;

(d) A statement as to whether or not the applicant has been convicted of a felony or misdemeanor and the nature of the offense or violation (excluding traffic offenses);

(e) A statement as to whether or not the applicant has had a civil judgment for fraud, deceit, or misrepresentation entered against them within 5 years preceding the date of the application;

(f) Two photographs of the applicant taken within sixty days immediately prior to the date of filing of the application. The photographs must measure two inches by two inches and show the head and shoulders of the applicant.

Sec. 4-54. Denial or revocation of license.

(a) The City may refuse to issue a license or may revoke a license in accordance with the procedures established by this code, for any of the following reasons:

(1) The applicant provided false information in the application;

(2) The applicant has been convicted of a felony or misdemeanor involving a sex offense, trafficking in controlled substances, burglary, theft, or any violent acts against persons or property, within 5 years preceding the date of application;

(3) A civil judgment for fraud, deceit, or misrepresentation was entered against the applicant within 5 years preceding the date of application;

(4) A violation of the prohibitions listed in this article.

(b) The applicant may appeal a license denial or revocation by filing a written appeal with the city. The city manager or designee shall review the appeal within twenty-four hours after its filing to determine whether the denial or revocation meets the standards imposed by this article. The appeal provisions in this section govern over any other conflicting provision in this code.

Sec. 4-55. Identification Badges.

(a) The city will issue each licensee an identification badge, which must be worn by the licensee at all times while soliciting in the city.

(b) A canvasser, otherwise exempt from the provisions of this article, may request an identification badge from the City.

Sec. 4-56. No Solicitation Registry.

(a) A resident may place their address on the city's no solicitation registry by completing a form provided by the city.

(b) The no solicitation registry will be provided to solicitors upon their receiving a license.

Secs. 4-57 – 4-65. Reserved.

ARTICLE V. SOLID WASTE OPERATORS

Sec. 4-66. Definitions.

The definitions in section 3-148 of this code apply to this article.

Sec. 4-67. License required.

(a) It is unlawful for any person to operate or cause any other person to operate a motor vehicle upon a public street within the city for the purpose of collecting or removing solid waste from a commercial property or construction debris from a residential property located within the city's corporate limits for compensation unless the person that owns or controls the motor vehicle has a valid commercial solid waste operator's license issued by the city.

(b) To obtain a commercial solid waste operator's license, application must be made on forms provided by the city for that purpose along with any application fee. The application requires that the applicant:

(1) State the name under which the operator conducts business, the business address, and telephone number;

(2) State the make, model and body style of each motor vehicle to be used in the city;

(3) Submit proof of liability insurance for the motor vehicles in the amounts required by state law;

(4) By submitting the application agrees to abide by and be bound by the provisions of this article and to comply all other state and federal laws applicable to the licensee's activities; and

(5) Submit any other information reasonably required by the city to administer this article.

(c) Upon proper application, a commercial solid waste operator's license will be issued in the name of the person or entity responsible for the operation of the motor vehicles used for commercial solid waste collection in the city. The license is valid for a term of two years, unless earlier revoked.

(d) The city manager or his designee may revoke a commercial solid waste operator's license for any violation of this article after giving the licensee prior written notice of the violation and an opportunity to respond in writing or in person as to why the license should not be revoked.

Sec. 4-68. License fee.

(a) Each person granted a license under this article must pay a license fee equal to four percent of the operator's gross revenues from the collection, hauling, or transporting of commercial and industrial solid waste collected within the city, after excluding therefrom the revenues licensee received from the collection, hauling, or transporting of recycled solid waste collected within the city.

(b) Each licensee must pay the required license fee quarterly to the city within 45 days following each September 30, December 31, March 31, and June 30. Each quarterly payment must be computed on the revenues for the quarter preceding the quarter in which the payment is due. Each licensee must provide with each quarterly payment a statement of the gross revenues upon which the payment is computed, prepared according to generally accepted accounting practices, and signed by an authorized representative of the licensee. The licensee must pay a late penalty of 12 percent per annum, compounded daily, on any quarterly payment, or portions thereof, that is paid subsequent to the required payment date.

(c) Each quarterly payment must also be accompanied by a listing of the location and number of commercial containers serviced by the licensee in the city.

(d) The city may inspect and audit the licensee's records upon which payments to the city are computed and paid. If the city's inspection or audit shows that the licensee has underpaid an amount required to be paid under this article, licensee must pay the deficiency within 60 days of the date the city gives licensee written notice of the deficiency. If the deficiency is more than ten percent of the amount the licensee was required to pay for the quarter, the licensee must also pay a penalty of ten percent per annum on the deficiency and the city's reasonable cost incurred for the inspection or audit.

(e) The city's acceptance of a payment is not deemed to be a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable under this article. The city is not liable to refund to the licensee any payment licensee makes to the city that is more than the amount required to be paid by licensee under this article.

Sec. 4-69. License regulations.

(a) All licensees must identify each vehicle the licensee operates within the city by placing clearly legible letters identifying the name of the person or business responsible for the operation of the motor vehicle.

(b) A licensee must notify the city of any change in the information submitted in an application for a license, including a change in the name, address or telephone number of the licensee. The notification must be given to the city in writing within ten days of the change.

(c) It is unlawful for any person to operate or use a motor vehicle to unload or empty a solid waste container by means of a mechanical lifting apparatus or device attached to the motor

vehicle between the hours of 10:00 p.m. and 7:00 a.m. of the following day, if the container is located within 400 feet of a residential property.

(d) All garbage must be transported in leak proof containers or in leak proof vehicle bodies or compartments and be so fitted and constructed so that the garbage is kept covered at all times except when being loaded and emptied.

Sec. 4-70. Suspension or revocation of license. The city may suspend or revoke a license issued under this article for a violation of this article in accordance with the uniform permit procedures of this code.

Secs. 4-71 – 4-75. Reserved.

ARTICLE VI. VEHICLES FOR HIRE

Sec. 4-76. Definitions. In this article:

Taxicab means a chauffeured motor vehicle that transports passengers for hire where the passenger specifies the destination and the metered fare is calculated on the basis of distance traveled, waiting time, or any combination thereof.

Sec. 4-77. Permit and license required.

(a) It is unlawful to drive or operate a taxicab within the city, unless:

(1) The taxicab has a valid permit issued under this article; and

(2) The taxicab driver has a valid license issued under this article.

(b) Exception: if the taxicab or driver is operating under a permit or license issued by another municipality that meets the minimum requirements of this article.

Sec. 4-78. Permit requirements for taxicabs.

(a) Permit applications must be made on the forms provided by the city and accompanied with the application fees. Permits are valid for one ~~(1)~~ year.

(b) Before a permit is issued or renewed, the applicant must provide proof of:

(1) Current state vehicle registration;

(2) Current state inspection; and

(3) Commercial auto liability policy containing coverage meeting at least the minimum amounts specified in the Texas Motor Vehicle Safety Responsibility Act and issued by an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. A copy of the required policy or a certificate of insurance must include an endorsement that the city will be notified at least ten days in advance if the policy is canceled or expires before the expiration date of the permit.

Sec. 4-79. Age and mechanical conditions of taxicabs. Permits will not be issued or renewed for any taxicabs that are more than six years old. A taxicab will be considered to be six years old on January 31 of the sixth-year following the manufacturer's model year of the vehicle, regardless of the purchase date or the date it was originally placed into service. A vehicle may not be placed into service for the first time as a taxicab if it has been driven more than 100,000 actual miles, which will be determined from the odometer and from odometer and title records.

Sec. 4-80. Identification of vehicles--Generally. Permits will not be issued or renewed for any taxicabs that do not have signs on the front doors on each side of the taxicab stating the telephone number and the name or the assumed name under which the owner operates or the name that the owner has on file with the city. The name and numbers must be in letters of not less than three inches in height and not less than five-sixteenths of one inch in width and must be a solid color that contrasts with the background. The telephone number must also be placed where plainly visible on the rear of the taxicab.

Sec. 4-81. License requirements for taxicab drivers.

(a) License applications must be made on the forms provided by the city and accompanied with the application fees. Licenses are valid for one year.

(b) Before a license is issued or renewed, the applicant must:

(1) Be 18 years of age or older;

(2) Provide proof of valid state class A, B or C Texas driver's license; and

(3) Have no criminal history that is disallowed under chapter 53 of the Texas Occupations Code, as amended. Upon initial license application and all annual renewals, the city will research each applicant's criminal history with the FBI and the Texas Department of Public Safety.

Sec. 4-82. Revocation of permit or license. The city may revoke a license for a violation of this article in accordance with the procedures established by this code.

Sec. 4-83. Posting of taxicab driver's license and other information. Each taxicab permitted by the city must post the city issued permit, license, and rate card in a conspicuous location where the passengers may see the contents.

Sec. 4-84. Duty to transport passengers by shortest route. Each driver must transport passengers to their destination by taking the most direct and expeditious route available unless otherwise directed by the passenger.

Sec. 4-85. Compliance required. It is unlawful for any person to drive or operate a taxicab in the city that does not meet the requirements of this article.

Sec. 4-86. License denial, suspension or revocation based on conviction. As authorized by state law, a license issued pursuant to this article must be denied, suspended or revoked if the licensee has been convicted of any of the following offenses within the seven-year period immediately preceding the date of the filing of an application.

(1) Unauthorized use of a motor vehicle;

(2) Violation of state or federal laws regulating firearms;

(3) Violence to any person (except for conduct classified as a Class C misdemeanor);

(4) Rape, sexual abuse, sexual assault, indecency with a child;

(5) Sale or use of illegal drugs; or

(6) Driving while intoxicated (drugs or alcohol).

Secs. 4-87 - 4-95. Reserved.

ARTICLE VII. HELIPORTS AND HELISTOPS

Division 1. In General

Sec. 4-96. Definitions. In this division:

Church means a building or structure, which is exempt from ad valorem taxes, where a society of persons who profess a religious belief regularly assemble for religious worship or religious instruction or for propagating a particular form of religious belief.

Emergency operation means any operation on the roof or other portion of a building or a ground level area during emergency conditions.

FAA means the Federal Aviation Administration or its successor agency.

Helicopter means an aircraft whose support in the air is derived from the aerodynamic forces acting on one or more rotors turning about a substantially vertical axis.

Heliport means an area of land, water or a structural surface containing fuel facilities that is designed, used or intended to be used for the landing and takeoff of helicopters, and any appurtenant areas including buildings or other facilities such as parking, maintenance and repair facilities.

Helistop means a minimum facility without the logistical support provided by a heliport at which helicopters land and take off, including the touchdown area and parking and related facilities other than maintenance and repair buildings. A helistop may be at ground level or elevated on a structure.

Hospital means any building or structure used for the care of the sick or injured, licensed by the State of Texas.

Medical evacuation means any operation where a helicopter has been authorized or directed to land to administer medical aid or perform a medical evacuation.

Operation means the takeoff, flight and landing by a helicopter. A touch and go movement is counted as one operation.

Person means any person, corporation or association having a legal or equitable interest in the property.

Plot plan means a graphic depiction or drawing of a planned area, either on the roof of a building or on the ground, which reflects the location of the actual landing area, markings and identification of the landing area, aircraft parking area, peripheral area, other unobstructed areas, fencing, safety barriers, screening, ingress and egress path, the designation of an approach and takeoff zone, any proposed structures or accessory equipment, fire protection equipment, communication signs, patron and employee parking area, maintenance and fuel area, and any other details, if any, required under the building code, the fire code or this chapter. The plot plan map must be drawn to a scale of no less than one inch equals twenty feet (1" = 20').

Public-use heliport means a heliport or helistop that has been designated by the FAA for use by the general public and is available for such use, whether owned or operated by an individual or a private firm or corporation; provided, that such individual, firm or corporation has agreed to such use of his property in writing.

Residence means any building or structure containing habitable rooms for non-transient occupancy, designed primarily for living, sleeping, cooking and eating, which is being used as a dwelling place for residential purposes, whether single-family or multifamily. A hotel, motel, boardinghouse, nursing home, hospital, nursery school or childcare facility is not considered a residence within the terms of this definition.

School means any building or structure where persons regularly assemble for the purpose of instruction or education, together with playgrounds, dormitories, stadia and other structures or grounds used in conjunction therewith. The definition of school is limited to a public or private elementary, junior high or high school.

Site plan means a graphic depiction or drawing of an area or space on the ground within a 2,400-foot radius from center of the touchdown pad, indicating the approach and departure routes, obstructions along and adjacent to the approach-departure path, and the location of all residences, schools and churches within a radius of 750 feet and 400 feet of the center of the touchdown pad. The site plan map must be drawn to a scale of no less than one inch equals one hundred feet (1" = 100').

Sec. 4-97. Landings and takeoffs prohibited.

(a) It is unlawful for any person to cause any helicopter to take off or land within the city at any point, except at heliports or helistops duly licensed under the terms and procedures specified in this article. The owner of any helicopter violating the terms and provisions of this section or any other provisions of this article is deemed and presumed to be the operator of the helicopter at the time of any violation. If the owner of the helicopter is a corporate entity, the entity may also be deemed in violation of this provision. If an owner of a helicopter consents to or permits the operation of a helicopter in violation of the terms and provisions of this section, the owner shall also be deemed in violation of this section.

(b) It is an affirmative defense to any prosecution under this section that the landing or takeoff prohibited by this section occurred at a facility exempt under Section 4-99 of this article or as a part of a medical evacuation or a duly proclaimed emergency.

Sec. 4-98. Inspection of premises and structures. For the purpose of ensuring compliance with the terms and provisions of this article, upon presentation of proper identification to the owner, agent or tenant, city may, at reasonable hours, enter upon, inspect and examine the premises, including any buildings, of any heliport or helistop for which an application for a license has been submitted under the provisions hereof, or which is subject to the provisions hereof. Provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life or severe property damage, where the owner, agent or tenant is not available after the city has made a good faith effort to locate same, the city may enter the premises at any time upon presentation of proper identification to any other person on the premises. When on private property the city will observe the establishment's rules and regulations concerning safety, internal security and fire protection.

Sec. 4-99. Exemptions. The provisions of this article do not apply to any helicopter, heliport, helistop, or other aircraft facilities owned, leased for use or operated by federal, state or municipal governments or agencies. The provisions of Sections 4-101 and 4-102 do not apply to any hospital or entity licensed by the Federal Communications Commission to operate a broadcast station for the purpose of newsgathering whose principal use of such heliport or helistop is for such newsgathering.

Sec. 4-100. Maintenance. All buildings, structures or ground areas used as a heliport or helistop must be maintained in a safe and sanitary condition. All equipment or machinery required by adopted building or fire codes for any building or structure or ground level area, when erected, altered or repaired, must be maintained in good working order. The owner or operator is responsible for the maintenance of all buildings, structures or ground areas used as landing areas by helicopters.

Sec. 4-101. Location of heliports and helistops.

(a) A heliport or helistop, other than a licensed temporary heliport or helistop, cannot be located closer than 750 feet to a church, school or residence. All heliports and/or helistops existing at the time of the adoption of this article, otherwise meeting all of the requirements of this article, may be located not closer than 400 feet to any church, school or residence. All measurements will be in a straight line horizontally from the center of the touchdown pad of the heliport or helistop to the property line for the church, school or residence. If a helistop is to be located on a building, the measurement will be the number of feet from a point on ground level where a vertical line from the center of the heliport strikes the ground to the property line of a church, school or residence.

(b) A licensed heliport or helistop, other than a licensed temporary heliport or helistop or a heliport or helistop, located within an area zoned for business or industrial uses, cannot be located within 2,400 feet of any other licensed heliport or helistop. All measurements will be made in a straight line horizontally from the center of the touchdown pad of the heliport or helistop.

Sec. 4-102. Change in land use. Any heliport or helistop which is licensed under this article, or which was not located within 750 feet of a church, school or residence on the date of final enactment of this article, will not be in violation of this article or its license or be prohibited from subsequently being granted a license due to subsequent changes in land use, construction or

placement of a church, school or residence within 750 feet of the location of such licensed heliport or helistop.

Secs. 4-103 – 4-107. Reserved.

Division 2. Licensing and Permit Regulations

Sec. 4-108. License required. It is unlawful for any person, association, firm or corporation to construct, establish, maintain or operate a heliport or helistop within the corporate limits of the city without first having obtained a license from the city unless exempted herein.

Sec. 4-109. Fee; term of license; deposit.

(a) *Heliport.* The fee for a heliport license shall be as set out in Section 2-136 of this code. Such license will be valid for a period of six years from the date of issuance unless sooner revoked or terminated.

(b) *Helistop.* The fee for a helistop license shall be as set out in Section 2-136 of this code. Such license will be valid for a period of six years from the date of issuance unless sooner revoked or terminated.

(c) *Inspection fee.* The fee for the annual inspection of a heliport or helistop is $50.00 each year while the license is in effect. Such inspection will be for the purpose of ensuring compliance with the terms and conditions of the license.

(d) *Temporary license.* The fee for a temporary helistop license under Section 4-112 of this article is $300.00; provided, however, that if such temporary license is issued for a period not to exceed ten consecutive days, the fee is $100.00.

(e) *Deposit for license.* Any application submitted for a heliport or helistop license, other than a temporary license, must be accompanied by a deposit of $300.00. Such deposit will be nonrefundable and will be applied to the license fee when the application for license is approved. The effective date of the license will be the date the application is approved for the issuance of a license.

(f) *No refund of fees.* The applicant for a license or holder of a license is not entitled to a refund of any deposit or any fee paid if the license is revoked or if any change of status occurs.

Sec. 4-110. Application for license.

(a) *Form and content.* An application for a heliport or helistop license, other than a temporary license, must be submitted in such form as the city prescribes and must be accompanied by drawings, descriptive data and inspection reports to verify compliance with the provisions of this article, the FAA-adopted building code, all provisions of the city's currently existing codes and regulations. The application must further show compliance with the design standards for heliports and helistopsas herein set out or as may be later provided by amendment. In addition, the application must contain the following:

(1) A site plan;
(2) A plot plan;

(3) FAA letter of airspace determination;
(4) FAA statement of no objection to approach and departure routes, if available;
(5) Types and weights of helicopters to be used;
(6) Number of operations daily for each type of helicopter listed;
(7) Days and hours of operation;
(8) Name of insurance carrier and proof of insurance as required by this chapter;
(9) Affidavits of publication and other proof that all required notices have been given;
(10) A photograph of the sign posted in accordance with subsection (d) of this section.

(b) *Oath.* Every application for license must be executed and verified under oath by the owner of the premises upon which the heliport or helistop is to be constructed, or the authorized lessee of such premises, that the proposed facility is authorized to be constructed or to be hereafter maintained on the premises, and must contain the sworn affidavit of the owner or lessee that the proposed facility does not violate any deed restrictions or other similar restrictions applicable to the property.

(c) *Permission to inspect premises.* By applying for a license under this article, the owner or lessee specifically grants permission for the city's duly authorized agents, officials and employees to enter upon the premises for the purpose of making all inspections required or authorized to be made under this article. A statement to this effect shall be set forth in the application form.

(d) *Public notices:*

(1) The applicant must post a sign, in a form as prescribed by the city, on the ground facing the most traveled street at the prospective location of the heliport or helistop for at least 20 days before an application is submitted to the city. The applicant must file an affidavit of posting with the city, which must set out the date of posting, place of posting and a statement as to the continuous period of time that said sign has been in place.

(2) Prior to filing an application for a license, the applicant must cause a notice of intent, in a form approved by the city, to be published twice in a newspaper of general circulation in Fort Bend County, Texas, no less than ten nor more than 20 days prior to the date of application (the "notice period").

(e) *Issuance of license.* Where the applicant is in compliance with each and every requirement of this araticle, the city will issue the applicable license upon payment of the full amount of the required fee.

(f) *Terms and conditions of the license.* By applying for a license under the provisions of this article, each applicant agrees that, in the event the license is granted, the contents of the application will become part of the license and that the license is granted subject to applicant's compliance with the terms and conditions contained in the application. The applicant further agrees that failure to comply fully with the terms and conditions of the license as granted and as from time to time altered or changed in accordance with this article, including, but not limited to, failure to comply with the approach and departure routes, is grounds for the revocation of such license.

Sec. 4-111. Change in operation.

(a) Any change which affects or alters the terms and conditions of a heliport or helistop license, pertaining to the time of operation, the frequency of operations, the type of helicopter used in such operations, the relocations of the touchdown pad or any other changes, must be submitted to the city for approval before such changes in the license are effective.

(b) Any application to enlarge, modify or otherwise substantially change the surface of that part of a heliport or helistop that is used or intended to be used for the landing or takeoff of a helicopter must be submitted in writing to the city 30 days prior to the commencement of such alteration or change; and such change must not be commenced until written airspace determination and a letter of no objection has been obtained from the FAA and the city has been provided with a true copy of such FAA approval.

Sec. 4-112. Temporary landing permits.

(a) A permit for temporary landing privileges may be granted in conjunction with the issuance of a building permit; provided, that the applicant for such permit and the temporary landing site meet all other requirements of this article for a heliport/helistop. However, the requirements as herein set out for notification by publication and posting are waived. Such temporary permit will be for a period not to exceed 90 days and may be renewed for not more than two additional 90-day periods.

(b) In the event of a request for a temporary landing permit for a period greater than contemplated herein, the city council may consider and grant the same upon finding of unusual circumstances, conditions and factors which are unique to the individual construction project or site, and may provide, upon appropriate findings, conditions and safeguards, additional extensions as may be deemed just and appropriate.

Sec. 4-113. Suspension or revocation of license.

(a) The city may order the suspension or revocation of any license issued hereunder for failure to comply with the provisions of this article or other terms and conditions of the application and license, or for any false statements or misrepresentations made by the applicant in the application for a license hereunder.

(b) Prior to revocation or suspension of a license, the city will notify the licensee in writing of reasons for the proposed order of suspension or revocation and grant such licensee the opportunity to appear before the city council at a time and place specified within such notice. Such hearing will be held not less than five days after receipt of such notice by the licensee. Under extreme conditions where the city council determines that life and property are threatened by the operation of the heliport or helistop, the city council may suspend the license for up to five days prior to the hearing being held. At the hearing, the licensee will be afforded an opportunity to show cause why such license should not be suspended or revoked. At such hearing, the licensee will be confronted with any evidence supporting the charges against him and may introduce evidence relating to such charges. If, after the hearing, the city council finds that the license should be revoked or suspended, it will, within ten days, issue an order suspending or revoking such license. If the licensee fails to appear for the hearing as provided herein, the order suspending or revoking the license will become final upon its issuance.

(c) The licensee has the right to appeal an order of the city council suspending or revoking a license.

Sec. 4-114. License renewal.

(a) A helistop or heliport license granted under the provisions of this article may be renewed for an additional six-year term on or before the expiration date of the current license, for the fee current at that time. Each licensee desiring to renew a license must make application on forms provided by the city at least 60 days prior to the expiration date of the license. The application must be accompanied by the following:

(1) An affidavit, sworn to by the applicant, that it will continue to comply with the terms and conditions of the original application, together with any such changes that have been approved in accordance with this article;

(2) Payment of the deposit as set out in Section 4-109 of this article, which deposit is nonrefundable.

(b) The city will review the application for renewal and, following an inspection, will grant or deny the application.

(c) The city will issue a renewal license where it finds that the applicant is in compliance with the requirements of this article and has paid the full amount of the required fees.

Sec. 4-115. Insurance.

(a) A license for a helistop or heliport will not be issued unless the applicant has in effect liability insurance that covers the service provided by the applicant at the location specified in the application.

(b) The minimum limit for public liability coverage maintained by the applicant must be combined single limit of liability for bodily injury and property damages of $1,000,000.00 per occurrence.

(c) Each license and the insurance policy obtained by each licensee will indemnify and hold harmless the city from all claims including, but not limited to, noise, nuisance, personal injury, death or property damage arising from the use of the helistop or heliport facility for which a license has been issued; and the insurance policy must meet the requirements set forth herein and shall not be cancelable unless at least 30 days' written notice is given to the city. The city shall be named as an additional insured on such insurance policy.

(d) Any cancellation or suspension of insurance of an applicant to whom a license has been issued will constitute good cause for revocation of the license by the city. All insurance policies must be issued by an insurance company duly authorized to do business in the State of Texas, maintaining an office or represented by an authorized agent in the State of Texas.

(e) Proof of insurance may be accomplished by filing with the city secretary one of the following:

(1) A certified original copy of the policy;
(2) An abstract of the original policy signed by the issuing company; or
(3) A certificate of insurance, including the policy limits, attested to by the insurer.

Sec. 4-116. Transferability. A license issued pursuant to the terms of this article may be sold, transferred or assigned; provided, that the licensee gives written notice to the city at least 30 days prior to any sale, transfer or assignment; and further provided, that such licensee is in compliance with the terms and conditions of the license. Such written notice to the city of impending sale, transfer or assignment must be accompanied by a fee of $300.00.

CHAPTER 5 PUBLIC PROPERTY AND SERVICES

ARTICLE I. PARKS AND RECREATION

Sec. 5-1. Definitions. In this article:

Commercial purposes means an activity intended to promote or that results in a commercial transaction, other than a solicitation.

Director means the city's director of the parks and recreation department or other person authorized to act for the director.

Park means land designated for public recreation and owned or leased by the city but does not include Sugar Land Town Square.

Park building means a building that is owned or leased by the city and controlled by the City of Sugar Land Parks and Recreation Department.

Park facility means any land, athletic field, or other special use facility owned or maintained by the city for park and recreational activities, other than a park building.

Solicitation means to:

(a) request a donation of money or other thing of value from another person by the spoken, written, or printed word, or by other means of communication and includes providing a nominal or token gift in return for the donation; or

(b) sell any item to another person for money or other thing of value if the proceeds from the sale are intended to provide support for non-commercial protected speech.

Special use means any temporary gathering, rally, parade, festival, exhibit, display, entertainment, performance, or presentation held in a park, park building or park facility:

(a) In which more than 500 persons are expected to attend or participate; or

(b) That requires the placement or erection of one or more stages, booths, kiosks, tables, tents, barricades, or similar temporary structures or facilities to support or serve the special use; or

(c) That provides an alcoholic beverage for sale or consumption to the attendees.

A special use does not include persons gathering in a park to participate in or observe an athletic event held at the facility designed for that purpose.

Sec. 5-2. Director authority.

(a) The director may adopt, revise or rescind rules, regulations, departmental policies and procedures, create or alter recreational programs and take action regarding the day-to-day management and operations of the parks, park buildings, and park facilities that do not conflict with this article, council-adopted policies, or federal or state laws. The director may make the following rules or take the following actions relating to the operation of the parks, park buildings, and park facilities:

(1) The closing of all or part of a park or park facility because of weather or unsafe conditions that could endanger users or result in damage to the park, park building or park facility;

(2) The reservation, scheduling, and use of parks, park facilities and park buildings designed for or designated for specific uses;

(3) Processing applications for special use permits;

(4) Regulating the use of a park, park buildings and park facilities for public, private and commercial purposes;

(5) Any other rule or action reasonably necessary to manage and operate parks, park buildings, and park facilities.

(b) The director may not adopt any rule or take any action that is intended or has the effect of preventing any person from making use of a park, park building, or park facility based on the subject matter of an oral or written message or communication the person conveys or attempts to convey to the public or another person if the message or communication is subject to constitutional protection.

(c) It is an offense for any person to violate any rule adopted by the director if the rule or notice thereof is prominently posted at the park, park building, or park facility to which the rule applies.

(d) Citizens may request a change or elimination of a park policy or rule by submitting a request in writing to the parks and recreation policy advisory board. The board will review the request and make a recommendation to the city manager for review and implementation.

Sec. 5-3. Park hours. All city parks are open to the public each day from sunrise to sunset. Park facilities and park buildings designed for specific purposes, including athletic fields, are open as designated by city policy or rules adopted by the director. Notice of the rule or policy will be posted at the applicable location to give notice of the hours the facility is open for public use.

Sec 5-4. Prohibited activities. It is unlawful for a person to do any of the following in a park:

(a) Interfere with city scheduled park activities;

(b) Interfere with an activity operating under a special use permit;

(c) Camp or sleep in a park overnight, except as authorized by a special use permit;

(d) Abandon any animal;

(e) Bathe in, or pollute the water of any fountain, pond, lake or stream;

(f) Swim in any fountain, pond, lake or stream, unless designated by the city;

(g) Operate or park any motorized vehicle in an area not specifically designated or intended to be used for the parking or movement of motorized vehicles or park a vehicle within a park when the park is closed. It is a defense to prosecution under this paragraph that the motor vehicle was a city vehicle, was operated by a person performing an activity sponsored or approved by the city; or that the motor vehicle was an emergency vehicle;

(h) To place or maintain an unattended display. For purposes of this provision, an unattended display means any item, including a picture, statue, symbol, or similar item, that is intended to serve or be seen as a visual depiction or expression of an idea where the person responsible for the placement or maintenance of the display is not in attendance or in close proximity to the item displayed. The city may remove any display that violates this provision. The prohibition of this paragraph does not apply to an unattended display that is required by or placed by the city or other governmental entity for a governmental purpose;

(i) Consume or possess an alcoholic beverage in an open container. There is a rebuttable presumption that a person in possession of an alcoholic beverage in an open container intends to consume the beverage. It is a defense to prosecution under this section that the person consumed or possessed the alcoholic beverage in an open container at a time and place allowing the sale or consumption of alcoholic beverages under a special use permit.

Sec. 5-5. City exclusive control of park facilities. The city allows various groups to make use of park facilities for organized athletic events, including the city's scheduling or reservation of the facilities for those groups based on rules and regulations adopted and administered by the city. The city's authorization to an organization to use a park facility for a particular purpose at a specific time does not grant the organization any right to regulate or control the use of that facility. It is unlawful for any person, organization, or group, other than the city, to:

(a) Charge any other person a fee for the use of a park facility unless:

(1) the activity or event is scheduled through the city; and

(2) the fee is authorized by the city.

(b) Take any direct action to physically prevent or prohibit any other person from using a park facility.

Sec. 5-6. Special uses.

(a) *Permit required*. It is unlawful for any person to sponsor, hold, or conduct a special use without first receiving a permit from the city.

(b) *Application process*. A person seeking a permit for a special use in a city park, park building, or park facility must file an application with the city on the form provided for that purpose. A complete application must be filed not less than 30 days before the proposed date of the special use. The application must be signed by the person or persons responsible for the special use and must include the following information:

(1) A description of the use and the number and type of activities planned;

(2) The date and time of the special use;

(3) The number and types of vendors that will be present;

(4) The number of people expected to attend the special use;

(5) The arrangements that will be made for traffic control, security, additional restroom facilities, medical care and other services or facilities to support the special use;

(6) Whether there will be a charge for the special use and the basis upon which persons may or may not be admitted to the event if other than a charge;

(7) A description of any structures that will be used or erected to support the event;

(8) The circumstances under which any alcoholic beverages will be served or possessed;

(9) Any other information the city determines is necessary to evaluate the application and determine whether it meets the requirements of this article.

(c) *Fees and deposits*. The city may establish and collect fees, deposits, and bonds to pay for or ensure the payment of costs incurred by the city relating to the use of a park, park building, or park facility for a special use, including costs incurred for trash cleanup and removal, providing security, protection or medical care, for the administration of this article and for any other necessary or related services that arise directly from the use of the park, park building, or park facility. However, the city may not impose an additional fee on any applicant because of any constitutionally protected speech to be expressed during the special use that may create the need for additional security for persons opposing the speech expressed.

(d) *Permit decision*. The city will make a decision on the permit application as promptly as possible after the applicant has provided all the information required by the application, including in the form and manner required, but in no case later than ten business days after the date a complete application is submitted. The city will grant a permit unless the city finds one or more of the following exist:

(1) The application submitted is not sufficient or complete, provides false information, does not comply with this article or a regulation approved hereunder, or was not submitted with any required documents, fees or deposits;

(2) The time or location for the proposed special use conflicts with the time or place of either a city sponsored event or a special use for which a permit has been issued or an application was already pending and there is insufficient space in the park, park building, or park facility to accommodate both events;

(3) The applicant has failed to arrange or provide for adequate parking, trash cleanup, security, or other arrangements to ensure that the special use will be safe, secure and healthful for the participants thereof;

(4) The special use does not comply with this article, state or federal laws or regulations, or a reasonable condition imposed by the director for issuance of a permit;

(5) The applicant has held a prior special use for which the applicant failed to comply with a requirement of this article, failed to pay any required fees, charges, or deposits, failed to comply with all of the conditions of the permit, failed to pay or remedy damage incurred to public property, created a dangerous condition or situation, failed to comply with reasonable requests of the director, or otherwise violated the purpose or intent of this article;

(6) The special event is being held primarily for commercial purposes;

(7) The proposed use would present an unreasonable danger to the health or safety of the applicant, special use attendees, or other users of the park, park building, or park facility.

(e) *Conditions*. The director may impose reasonable conditions on a special use permit issued to ensure compliance with city rules, regulations, and this article. The permit issued will contain in writing all the conditions and requirements that apply to the special use.

(f) *Denial of permits*. If the Director refuses to issue a permit as authorized by this article, the director will specify in writing the provisions of this article upon which the refusal was based as well as any factual information in support of the determination.

(g) *Permit revocation*. The director may revoke a permit for a special use after it is issued because of the failure to comply with any condition or requirement of the permit or this article. The director will given written notice of the revocation of the permit at the address of the applicant as listed on the application.

(h) *Appeals from denial or revocation*. An applicant may appeal a permit denial, revocation, or imposition of conditions by following the uniform procedures of this code applicable to the denial, revocation, or imposition of conditions of city permits.

Sec. 5-7. Persons excluded from parks.

(a) The director may exclude any person from the use of a park or parks if the person:

(1) Engages in conduct that the director determines poses a continuing threat to the safety of park users;

(2) Intentionally damages park property;

(3) Continually violates park rules or regulations.

(b) The director will provide to a person excluded from a park a written notice of the exclusion. If the exclusion applies to a minor the notice will also be provided to a parent or guardian of the minor. The notice will include:

(1) The facts upon which the director determined that the person should be excluded;

(2) The park or parks to which the exclusion applies;

(3) The period of time the exclusion applies;

(4) The penalty that may be imposed if the person violates the exclusion.

(c) A person may appeal their exclusion from a park to the city manager by sending written notice to the city manager. This notice must include an explanation as to why the person believes that the exclusion should be rescinded. The city manager will render a written decision within ten business days from the date the appeal is received.

Secs. 5-8 - 5-15. Reserved.

ARTICLE II. STREET NAME CHANGES

Sec. 5-16. Application.

(a) An application for a change in the existing name of a street must be filed with the city in the form of a petition signed by:

(1) Not less than 75 percent of all owners fronting the city street for which the name change is sought. "Owners" of such fronting property are determined by the city based on the then current city real property ad valorem tax roll; or

(2) A duly authorized officer or attorney representing a governmental subdivision agency, or department.

(b) The application must state:

(1) The present street name, the proposed new name, and the reason for the request;

(2) The name, address, and telephone number of one person with authority to represent binding commitments and take official action relative to such street name change on behalf of such unincorporated association, group, or entity, if any, applying; and

(3) The name of each person, group, agency, or entity requesting the street name change.

(c) The application must be accompanied by the application fee as set by ordinance.

Sec. 5-17. Processing, approval and implementation.

(a) The application will be referred to all city departments and appropriate utilities and governmental entities affected by the requested change.

(b) The city secretary will send written notification by person, by mail, by telephone, or combination thereof, to all property owners fronting on said street.

(c) All applications properly filed will be submitted, along with comments from city departments and affected entities, to the city council for action without a public hearing, or for such action after a public hearing, if any fronting property owner opposes the proposed change.

(d) Applications for street name changes may be considered to:

(1) Establish continuity of the street's name (i.e., to assure one name for a public way commonly traveled as a single thoroughfare);

(2) Eliminate name spelling duplication, phonetic duplication, or misspelling;

(3) Bring coherence to the street numbering system designation (east, west, north, south);

(4) Provide necessary roadway designation (Street, Road, Boulevard, etc.);

(5) Honor a person, place, institution, group, entity, event or similar subjects;

(6) Enhance a neighborhood through association of the street name with its location, area characteristics, history and the like.

(e) The city council may grant or deny the request as it deems proper. The city council may base approval and implementation of the change upon the condition that the applicant pay, within 60 days of the date of the council action, the actual cost of implementing the change of street signs.

(f) The city secretary will provide a copy of each street name change ordinance to all affected or interested parties.

Secs. 5-18 – 5-20. Reserved.

ARTICLE III. USE OF PUBLIC RIGHT-OF-WAY

Division 1. In General

Sec. 5-21. Definitions. In this article:

Director means the director of public works or any other person designated by the city manager to administer this article.

Public right-of-way means the land below, above, and at the surface of any public street, highway, alley, sidewalk, bridge, tunnel, easement or similar property in which the city holds any property interest or exercises any rights of management or control.

Sidewalk means that portion of a public right-of-way improved and designated for or ordinarily used for pedestrian travel.

Street means that portion of a public right-of-way improved and designated for or ordinarily used for vehicular traffic.

Sec. 5-22. Consent required. It is unlawful for any person to construct, place, maintain, or operate any line, wire, pipe, conduit, equipment, structure, or facility in a public right-of-way or other public property owned or controlled by the City for the purpose of providing water, wastewater, electrical, natural gas, telephone, telecommunications, cable television, or other service to any person, without first receiving the consent of the city council. The city council may, as a condition of its giving its consent, require the person requesting such use to enter into a written agreement with the city containing the conditions under which the use of the public right-of-way will be permitted.

Sec. 5-23. Insurance requirements. Any person required under this code to obtain the city's consent to make use of the public right-of-way or any person required by this chapter to obtain a permit to perform construction in the public right-of-way must, during the period of the use or work, obtain and keep in effect insurance against claims for injuries to persons or damages to property arising from or in connection with the performance of the work, comprehensive general liability and property damage insurance with minimum limits of $500,000.00 for the injury or the death of any one person, $1,000,000.00 for each occurrence, and $100,000.00 for each occurrence of damage to or destruction of property.

Sec. 5-24. Relocation of facilities. Within 60 days following written notice from the city, any person owning facilities located in the public right-of-way, must, as directed by the city, temporarily or permanently remove, relocate, change or alter the position of any of their facilities that are in the public right-of-way whenever the city determines that the removal, relocation, change or alteration is necessary for the construction, repair, maintenance or installation of any city improvement, facilities, or equipment, in or upon the public right-of-way.

Sec. 5-25. Unauthorized use of public right-of-way. It is unlawful for any person to knowingly place any facilities or equipment in a public right-of-way or make use of the public right-of-way for any purpose not authorized by the city in accordance with this article or other city ordinances. Each unauthorized use is a separate offense. And each day a violation continues is a separate offense.

Sec. 5-26 - 5-30. Reserved.

Division 2. Construction in Right-of-Way

Sec. 5-31. Permit required and exceptions.

(a) It is unlawful for any person to dig up, break up, cut, excavate, drill, or tunnel in or upon any public right-of-way, sidewalk, or street, or to place any earth or excavated material on a public right-of-way, sidewalk, or street without first obtaining a right-of-way work permit from the city. If emergency work in the right-of-way that would require a permit is necessary and the city permit office is closed, the person doing the work must apply for a permit the next business day after the emergency work.

(b) The permit requirements of this section do not apply to:

(1) The repair, replacement, or maintenance of an existing telephone line, natural gas line, electric line, cable television or telecommunications line, irrigation line, or other existing pipe, cable, or facility lawfully located in the public right-of-way, if the repair, replacement, or maintenance does not require the digging up, breaking up, cutting, excavation, drilling or tunneling under or the removal, modification, or excavation of a public street, sidewalk, water or sewer line, or other city-owned improvement;

(2) The repair, replacement, or maintenance of existing trees, shrubs, flowers, grass, vegetation, berms, decorative landscaping, or watering systems lawfully located in the public right-of-way, or to existing ornamental gates, columns, signs, or other ornamental features or materials denoting the entrance to a neighborhood or subdivision if lawfully located in a public right-of-way and if the repair, replacement, or maintenance does not require the digging up, breaking up, cutting, excavation, drilling or tunneling under or the removal, modification, or excavation of a public street, sidewalk, water or sewer line, or other city-owned improvement;

(3) Any work performed for the city under a contract with the city;

(4) Any work required to install a sign on a public right-of-way if the applicant has received a sign permit from the city and has complied with the requirements of this article; or

(5) The placement or maintenance of trees, shrubs, irrigation systems, or other landscaping materials or equipment placed in the right-of-way of a residential lot at the direction of the owner or person in control of the lot.

Sec. 5-32. Application and issuance of permits.

(a) A completed application for a permit must be submitted to the city on a city form, accompanied by the applicable fee. The application may require information, including plans, that the director determines is reasonably necessary to administer this article and to protect the public and public property.

(b) The permit will be issued if the application complies with the provisions of this article. The permit must contain the name, address, and telephone number of the person performing the work, the location of the work, and any other information designated by the director. The permit may also contain special conditions the director determines are necessary to insure compliance with this article or to protect the public and public property. It is unlawful for any person doing work under a permit to violate any special condition or other provision of the permit.

(c) The permit holder must keep the permit posted at a visible place at the work site and make it available for inspection upon the request of any city employee.

(d) A permit issued under this article is valid for the time period specified by the director, based on the estimated time to complete the work. Upon the written request of the permit holder, the director may grant additional time to complete the work under the permit.

Sec. 5-33. Stop work orders; revocation and appeals.

(a) If a person violates a provision of this article, the director may issue a written stop work order to the violator directing any work or activity authorized to be done under a permit to cease until the violation is corrected. Upon receiving a stop work order, the permit holder must immediately cause all work authorized under the permit to stop, but may take steps necessary to secure the site. It is unlawful for any person to continue work under a permit after receiving a stop work order or receiving notice that a stop work order has been issued or to resume the work or activity until the director withdraws the stop work order.

(b) The director may revoke a permit for a violation of this article. To revoke a permit the director must send or deliver written notice of a violation to the permit holder ordering the violation to be corrected within a specified time. If the permit holder fails to correct the violation as directed, the director may revoke the permit by giving notice to the permit holder in writing.

(c) Any person may appeal the denial or revocation of a permit, the interpretation or application of a requirement of this article, the issuance of a stop work order or notice of violation, or other requirement or action imposed under this article by the director. The appeal must be submitted in writing to the city manager or the city manager's designee within 72 hours of the action being appealed. The city manager or designee will promptly review the facts and issue a written determination.

(d) The revocation and appeal provisions in this section govern over any other conflicting provision in this code

Sec. 5-34. Regulations and requirements. Any person performing any construction or other work in the public right-of-way, whether under a permit issued under this chapter or otherwise, must comply with the following regulations and requirements:

(a) *Specifications*. All excavations, alterations, backfill, repairs, and other work must be made in conformance with any written specifications or requirements adopted by the city. The director may allow modifications of a specification if unusual circumstances are present, the modifications would comply with the spirit and intent of the specification, and the modification would not adversely affect the public safety or interest.

(b) *Boring and encasing*. If the director determines it is impractical to excavate within a street, all pipelines, conduits, or other crossings must be bored, tunneled, or drilled under the paved section, and, if required by the director, the crossings must be encased in a manner approved by the director.

(c) *Damage to city streets*. Any type of ditching equipment used on city streets must be equipped with street pads. All damage done to public property during the work must be repaired by the permit holder to city specifications. If the permit holder fails to make the repairs, the director may make the repairs and charge the cost to the permit holder.

(d) *Correction of defects*. If a permit holder fails to properly restore the surface of the public right-of-way, abandons the work, or fails to correct a hazardous condition after notice to do so, the director may take any action necessary to restore the right-of-way, complete the work, or correct the hazardous condition at the permit holder's expense.

(e) *Bonds*. For good cause, the director may require as a condition to the issuance of a right-of-way work permit or before work begins under the permit, that the applicant or permit holder post a bond to insure the repair of streets or the completion of the proposed work or to insure compliance with any other requirement of this article.

(f) *Debris on public rights-of-way*. During the work, the public right-of-way must be kept clean of excessive rubbish, earth, mud, rock, and other debris, to the satisfaction of the director.

(g) *Traffic safety*. All work in a public right-of-way or adjacent to a roadway must be done with barricades, traffic cones, lights, flares, signs, flagmen, and other traffic control devices as specified in the latest edition of the Manual for Uniform Traffic Control Devices of the Texas Department of Transportation. Where the director believes it necessary to avoid traffic congestion or for public safety, he may require work be done only at certain hours during the day or night. Any excavation in the public right-of-way that is a potential danger to the public must be secured against entry in the manner specified by the director.

Secs. 5-35 - 5-40. Reserved.

ARTICLE IV.TRAFFIC

Division 1. In General

Sec. 5-41. City traffic engineer.

(a) The position of city traffic engineer is established. The city engineer is the city traffic engineer and will exercise the powers and duties with respect to traffic as provided in this article.

(b) The city traffic engineer has the general responsibility and authority to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigations of traffic conditions, to plan the operation of traffic on the streets and highways of this city, and to cooperate with officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinances of this city.

(c) The city traffic engineer may make regulations necessary to make effective the provisions of the traffic ordinances of this city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation will remain in effect for more than 90 days.

(d) The city traffic engineer may test traffic-control devices under actual conditions of traffic.

(e) When in this article the authority is given to the city traffic engineer to do acts as he deems or, in his opinion, are advisable, necessary, or desirable, such acts will be based on his observations and studies, according to generally used, accepted traffic-control principles or techniques.

(f) Traffic innovations and experiments, however, are not to be inhibited.

(g) Any responsibility or authority imposed or conferred on the city traffic engineer by the provisions of this article may be performed by the city traffic engineer or by those officers, employees, or agents of the city working under his supervision and control and designated by him to perform the same.

Sec. 5-42 – 5-50. Reserved.

Division 2. Enforcement and Obedience to Traffic Regulations

Sec. 5-51. Authority of police and fire department officials.

(a) It is the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all traffic laws of the city and of the state.

(b) Officers of the police department or such officers as are assigned by the chief of police are authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic there or in the immediate vicinity thereof.

Sec. 5-52. Required obedience to traffic regulations. It is unlawful and a misdemeanor for any person to do any act forbidden or to fail to perform any act required in this article. Further, all persons and operators of any vehicles of any type must obey the instructions of any official traffic-control device, sign, signal or marking applicable thereto, placed in accordance with this article, unless otherwise directed by a police officer.

Secs. 5-63-5-70. Reserved.

Division 3. Traffic-Control Signs, Signals, Devices, Etc.

Sec. 5-71. Existing devices ratified. All traffic-control signs, signals, devices and markings heretofore placed or erected by the chief of police or other officials or employees of the city and now in use for the purposes of regulating, warning or guiding traffic, are affirmed, ratified and confirmed to be official traffic-control devices; provided, however, such traffic-control devices are not inconsistent with the provisions of state law or this chapter.

Sec. 5-72. Presumptions.

(a) It is initially presumed that any given traffic control device, signal, sign, marker, or marking independently erected by the city traffic engineer has been installed pursuant to his observations and studies, based on generally used, accepted traffic-control principles or techniques.

(b) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this article, such devices are presumed to have been placed by the official act or direction of lawful authority, unless the contrary is established by competent evidence.

(c) Any official traffic-control device placed pursuant to the provisions of this article and purporting to conform to the lawful requirements pertaining to such devices are presumed to comply with the requirements of this article, unless the contrary is established by competent evidence.

Sec. 5-73. Manual and specifications. All traffic-control devices, including signs, signals and markings (pavement and/or curb), installed or used for the purpose of directing and controlling traffic within the City, must conform to the Texas Manual on Uniform Traffic Control Devices for Streets and Highways (hereinafter called "the Manual"), pursuant to state law. All signs, signals and markings erected or used by the City must be uniform and be located, so far as practicable, according to the directions and specifications shown in the Manual throughout the city. All existing traffic-control devices, and those erected in the future pursuant to the authority of this section, must be consistent with the Manual, state law and this section and are deemed to be official traffic-control devices.

Sec. 5-74. General authority to install.

(a) The city council directs that the traffic engineer has the duty of erecting or installing upon, over, along or beside any highway, street or alley traffic-control devices, signs, signals and markings, or to cause the same to be erected, installed or placed in accordance with this article and consistent with the Manual and the provisions of law. Such traffic-control devices will be installed by the traffic engineer as soon as practicable after he determines the necessity for the same in accordance with the Manual.

(b) When the traffic engineer has erected and installed an official traffic-control device, sign or signal at any location in the city, or has allowed such a traffic-control device, sign or signal to be maintained as existing, or has caused the same to be done under his direction in obedience to this article, a written report will thereafter be filed with the city secretary, signed officially by the traffic engineer, stating the type of traffic-control device, signal or sign and where the same was erected or installed. In addition, he will file, as a part of his report, a certification that the traffic-control device, signal or sign is in accordance with the warrants specified in the Manual, or in the case where no warrants are specified or no provisions are contained in such Manual, then in accordance with law.

(c) It is unlawful for any person, except as otherwise authorized by the traffic engineer, to attempt to, or in fact alter, deface, injure, knock down or remove any official traffic-control device, sign or signal.

Sec. 5-75. City traffic engineer to designate crosswalks, safety zones and traffic lanes. The city traffic engineer is authorized:

(a) To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

(b) To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(c) To mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

Sec. 5-76. Authority to place devices altering or restricting turns. The city traffic engineer is authorized:

(a) To place official traffic-control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than prescribed by law.

(b) To determine those intersections at which drivers of vehicles may not make a right, left or U-turn, and to place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same be plainly indicated on the signs or they may be removed when such turns are permitted.

Sec. 5-77. Authority to sign one-way streets and alleys and to restrict direction of movement on streets. The city traffic engineer is authorized:

(a) To determine and designate one-way streets or alleys and to place and maintain official traffic-control devices giving notice thereof. This designation is not effective unless such devices are in place.

(b) To determine and designate streets, parts of streets, or specific lanes thereon upon which vehicular traffic may proceed in one direction during one period and the opposite direction during another period of the day and to place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The city traffic engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

Sec. 5-78. Authority for stop signs and yield signs. The city traffic engineer is authorized to erect and maintain stop signs, yield signs or other official traffic-control devices to designate through streets or to designate intersections or other roadway junctions.

Sec. 5-79. Signs or markings indicating angle parking. The city traffic engineer is authorized to determine upon what streets angle parking may be permitted and to mark or sign such streets, but such angle parking may not be indicated upon any federal-aid or state highway within the city unless the Texas Commission on Highways and Public Transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

Sec. 5-80. Loading zones. The city traffic engineer is authorized to determine the location of loading zones and passenger loading zones and to place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this article are applicable.

Sec. 5-81. Authority of city traffic engineer to limit stopping, standing or parking.

(a) The city traffic engineer is authorized on the basis of engineering and traffic investigations to prohibit or limit stopping, standing or parking of vehicles at all times or during specified hours.

(b) No prohibition, regulation or limitation relating to stopping, standing or parking imposed under any ordinance of this city are effective unless official traffic-control devices are erected and in place at the time of an alleged offense and it is the duty of the city traffic engineer to erect and maintain such devices.

Sec. 5-82. Gross weight limits signs authorized. The city traffic engineer is authorized, on the basis of an engineering and traffic investigation, to erect and maintain traffic-control devices on any streets or parts of streets to impose gross weight limits.

Sec. 5-83. Prohibiting trucks on designated streets.

(a) It is unlawful for any person to operate a truck on Elkins Road from its intersection with Sweetwater Boulevard to its intersection with Alcorn Oaks Drive between the hours of 7:00 to 9:00 a.m. and 2:00 to 4:00 p.m on any Monday through Friday from August to May when Clements High School is in session.

(b) The city traffic engineer is authorized to designate other streets or parts of streets on which the operation of trucks are prohibited by erecting appropriate traffic control signs giving notice thereof.

(c) It is unlawful for any person to operate a truck on any portion of a street where operation of a truck is prohibited under this section after notice has been given by the placement of appropriate traffic control devices.

(d) For purposes of this section, "truck" means a motor vehicle which:

(1) Has three or more axles;

(2) Is designed and maintained primarily for the transportation of material or property; and

(3) Is used for the loading and unloading of such material or property.

(e) It is a defense to prosecution under this section that the truck on the prohibited street:

(1) Is going directly to or from a premises for the purpose of delivering or picking up merchandise or material and the truck could not access the premises without making use of the prohibited street;

(2) Is owned by a governmental entity or is performing work under a contract with a governmental entity which requires it to be on the prohibited street; or

(3) Is owned by a public utility company or is performing work under a contract with a public utility company which requires it to be on the prohibited street.

Sec. 5-84. Commercial motor vehicles prohibited on residential streets.

(a) It is unlawful for any person to operate a commercial motor vehicle on any residential street in the city.

(b) It is a defense to prosecution under this section that the person was operating a commercial motor vehicle on a residential street to provide a service, make a delivery or pick up at a residence and that the person used the most direct route to get to the residence.

(c) In this section, "Commercial motor vehicle" means a vehicle as defined by section 522.003 of the Texas Transportation Code, as amended, and "residential street" means any street not shown as a freeway, highway, arterial or major collector on the city's thoroughfare plan.

Sec. 5-85. Parking; disabled persons; enforcement. Unauthorized use of or the blocking of access to a parking space or area designated and established exclusively for the use by transport vehicles for disabled persons, which is located either on property owned or controlled by the city or on private property and is identified in the manner provided by law, is unlawful and will be punished as provided by law.

Sec. 5-86. Parking prohibited in certain places. It is unlawful for a person to stop or park any vehicle upon a street in the city in such a manner or under such conditions as to leave available less than 12 feet of the width of the roadway for free movement of vehicular traffic; except that a driver may stop temporarily during the actual loading or unloading of passengers or merchandise; and except that a driver may stop or park a vehicle when necessary to avoid conflict with other traffic or when necessary in obedience to the directions of a police officer or official traffic-control device.

Sec. 5-87. Owner and operator responsible for illegal parking. It is unlawful for any person, having registered in his name or owning or operating or in charge of any vehicle, knowingly to allow or suffer or permit the vehicle to stop or be parked in any street in the city in violation of any of the provisions of this section or other ordinances of the city regulating the stopping or parking of vehicles.

Sec. 5-88. Presumption of illegal parking by owner. When any person is charged with having parked a vehicle on any street in the city at a place on such street where parking of vehicles is prohibited, or with parking such vehicle on a street in a manner which violated the designated manner of parking a vehicle, or with parking such vehicle for a length of time in excess of that allowed in the space where such vehicle was parked, proof that the vehicle was, at the date of the offense alleged, owned by the person charged with the offense constitutes prima facie evidence that the vehicle was parked at the place charged by the owner, but the owner has the right to introduce evidence to show that such vehicle was not parked by him as charged in the complaint.

Sec. 5-89. When removal is required.

(a) *Removal*. The police department may remove a vehicle from the streets, alleys, sidewalks and public ways of the city any time when, in the opinion of one of its peace officers, such vehicle constitutes a hazard or interferes with a normal function of the city, or by reason of any catastrophe, emergency or unusual circumstances, the safety of the vehicle is imperiled.

(b) *Notice of removal.* Whenever an officer removes a vehicle from a street as authorized herein and the officer knows or is able to ascertain the name and address of the owner thereof, such officer will give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed.

Whenever an officer removes a vehicle from a street as provided herein and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of three days, then the officer will send a written report of such removal by mail to the State Department of Highways and Public Transportation in Austin, Texas as required by law, and file a copy of such notice with the proprietor of any garage in which the vehicle may be placed. Such notice will include a complete description of the vehicle; the date, time and place from which removed; the reasons for such removal; and the name of the garage or place where the vehicle is stored.

Secs. 5-90--5-100. Reserved.

Division 4. Operation of Vehicles Generally

Sec. 5- 112. Dig out or tire squeal prohibited.

(a) It is unlawful for the driver of any motor vehicle within the city to dig out or produce tire squeal. For the purposes of this section, dig out means tire squeal. Tire squeal means the sound produced by the friction of a motor vehicular tire against a dry pavement under sudden acceleration of the vehicle to which said tire is mounted, said tire then turning at a rate of revolution disproportionately greater than the length of distance then traveled on said pavement by said tire.

(b) Prima facie evidence of such disproportional revolution will include skid marks or tire marks left by such tire upon the pavement or smoke produced by such revolution.

Sec. 5-113. Use of streets.

(a) It is unlawful for any person to operate a motor vehicle, as defined by Section 541.201 Subtitle (C) of the Texas Transportation Code, as amended, upon any part of any public property or public right-of-way owned or controlled by the City other than the paved or improved surface of a public street or a driveway or other paved or improved surface that is specifically designed for, designated, or intended to be used for the operation of a motor vehicle. It is a defense to prosecution under this section that the person was operating a motor vehicle that is designed for or customarily used:

(1) In the suppression of fires, to provide medical treatment, to provide for law enforcement, or to provide similar emergency services;

(2) To construct, repair, maintain, monitor, operate, or service utilities or other public or utility equipment or facilities located within or adjacent to the public property or public right-of-way; or

(3) As a motorized mobility device as defined in Section 542.009 of the Texas Transportation Code as amended.

(b) It is unlawful for any person to operate a scooter, neighborhood electric vehicle, or similar motorized or non-motorized device, as defined by Chapter 551 of the Texas Transportation Code, as amended, on a public sidewalk.

(c) It is unlawful for any person to operate a scooter, neighborhood electric vehicle, or similar motorized or non-motorized device, as defined by Chapter 551 of the Texas Transportation Code, as amended, on a public street, unless the street has a posted speed limit of 30 miles per hour or less, the operation is between sunrise and sunset, and the person is a licensed operator.

(d) It is unlawful for any person under 21 years of age to operate a scooter on a public street unless the person is wearing a properly fitted protective headgear that is not structurally damaged and that conforms to the standards of the American National Standards Institute, the American Society for Testing and Materials, the Snell Memorial Foundation or any federal agency having regulatory jurisdiction over bicycle helmets, as applicable, at the time of the manufacture of the helmet.

(e) It is unlawful for any person to operate a scooter, neighborhood electric vehicle, or similar motorized or non-motorized device, as defined by Chapter 551 of the Texas Transportation Code, as amended, with more passengers than the vehicle is designed to carry.

(f) A person operating a toy vehicle, roller skates, or a skateboard, must yield the right-of-way to any pedestrian on a sidewalk.

(g) A person may not allow a child in their care, who is under 16 years of age, to operate a neighborhood electric vehicle, scooter, similar motorized or non-motorized device, toy vehicle, mini-motorbike, pocket bike, roller skates, or a skateboard, on a public street.

(h) A person found guilty of violating this section will be fined not more than $200.00 for each offense. Notice of the enactment of this ordinance will be given by publishing the ordinance or its descriptive caption and penalty in the City's official newspaper one time within thirty days of passage.

Secs. 5-113 – 5-125. Reserved.

Division 5. Speed Regulations

Sec. 5-126. Posting of limits. Appropriate signs must be posted giving notice of the speed limits established by this division, and such limits are not effective unless such signs are so posted.

Sec. 5-127. Maximum limit in school zones.

(a) *Elementary schools.*

(1) It is unlawful for a person to drive or operate a vehicle at a speed in excess of 20 miles per hour on the following streets, or portions thereof, hereby designated as school zones, when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session, during the hours of 7:00 a.m. to 8:15 a.m. and 2:30 p.m. to 3:30 p.m. at the following locations:

Austin Parkway Elementary

(1) Austin Parkway, from 825 feet north of Crosslakes Boulevard to 225 feet south of Crosslakes Boulevard.

(2) Crosslakes Boulevard, from Austin Parkway to Lakefield Way.

(3) Crosslakes Boulevard, from Austin Parkway east to the city limit line.

Barrington Place Elementary

(1) Alston Road, from 100 feet west of Reddington Road to 200 feet east of Magnolia Crest.

(2) Reddington Road, from Alston Road to 125 feet south of Alston Road.

(3) Barrington Place Drive, from Alston Road to 125 feet north of Alston Road.

(4) Fountain Drive, from Alston Road to 125 feet north of Alston Road.

(5) Squire Dobbins Drive, from Alston Road to 175 feet south of Nantucket Drive.

Colony Meadows Elementary

(1) Sweetwater Boulevard, from 575 feet south of Lexington Boulevard to 100 feet south of Alcorn Oaks Drive.

(2) Colony Meadow Drive, from Sweetwater Boulevard to Meadow Green Drive.

(3) Meadow Green Drive, from 150 feet north of Colony Meadow Drive to 350 feet south of Colony Meadow Drive.

(4) Elkins Road, from Sweetwater Boulevard to 175 feet east of Sweetwater Boulevard.

(5) Greystone Way, from Sweetwater Boulevard to 100 feet west of Sweetwater Boulevard.

Commonwealth Elementary

(1) Commonwealth Boulevard, from 340 feet west of Briarwood Drive to 650 feet west of Pendleton Drive.

(2) Aberdeen Drive, from 100 feet north of Commonwealth Boulevard to Commonwealth Boulevard

(3) Briarwood Drive, from Commonwealth Boulevard to 285 feet west of Cambridge Street.

(4) Nottingham Drive, from 75 feet north of Commonwealth Boulevard to 55 feet south of Commonwealth Boulevard.

(5) Glen Hollow Street, from Briarwood Drive to 75 feet west of Briarwood Drive.

(6) Glen Heather Court, from Briarwood Drive to 75 feet west of Briarwood Drive.

(7) Avondale Drive, from Briarwood Drive to 80 feet west of Briarwood Drive.

Highlands Elementary

(1) Williams Trace Boulevard, from 50 feet north of Ferry Landing to 100 feet north of Quarry Hill Road.

(2) Edgewater Boulevard, from 375 feet east of Colonist's Park Drive to Williams Trace Boulevard.

(3) Colonist's Park Drive, from 75 feet south of Rifle Gap Lane to Edgewater Boulevard.

(4) Ferry Landing, from 100 feet west of Steamboat Run to Williams Trace Boulevard.

(5) Steamboat Run, from Ferry Landing to 150 feet south of Ferry Landing.

(6) Serene Oaks Drive, from Colonist's Park Drive to 100 feet east of Colonist's Park Drive.

(7) Pecan Point Drive, from 315 feet west of Colonist's Park Drive to 200 feet east of Colonist's Park Drive.

Honor Roll School

(1) Alcorn Oaks Drive, from 450 feet north of Oakland Drive to Sweetwater Boulevard.

(2) Alcorn Bayou Drive, from Sweetwater Boulevard to 35 feet north of Sweetwater Boulevard.

Lakeview Elementary

(1) Wood Street, from 100 feet north of Kempner Street to 100 feet north of Lakeview Drive.

(2) Lakeview Drive, from 200 feet west of Wood Street to 1,200 feet east of Wood Street.

(3) First Street, from Wood Street to 175 feet west of Wood Street.

(4) Second Street, from Wood Street to 125 feet west of Wood Street.

Settlers Way Elementary

(1) Settlers Way Boulevard, from 125 feet south of Sam Houston Drive to 275 feet south of Green Fields Drive.

(2) Green Fields Drive, from 125 feet west of Settlers Way Boulevard to 250 feet east of Bee Bayou Lane.

(3) Sleepy Hollow Drive, from Settlers Way Boulevard to 250 feet west of Settlers Way Boulevard.

(4) Bee Bayou Lane, from Green Fields Drive to 200 feet south of Green Fields Drive.

Sugar Mill Elementary

(1) Jess Pirtle Boulevard, from 150 feet east of Oak Knoll Court to 250 feet east of Bournewood Drive.

(2) Bournewood Drive, from 300 feet north of Green Belt Drive to 150 feet north of Greywood Drive.

(3) Greywood Drive, from 75 feet west of Bournewood Drive to 125 feet east of Bournewood Drive.

(4) Mill Run Court, from Jess Pirtle Boulevard to 100 feet south of Jess Pirtle Boulevard.

(b) *Middle schools*. The following streets, or portions thereof, are designated as school zones and it is unlawful to drive or operate a vehicle at a speed in excess of 20 miles per hour in any of those zones when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session, during the hours of 8:00 a.m. to 9:00 a.m. and 3:30 p.m. to 4:30 p.m. at the following locations:

First Colony Middle School

(1) Austin Parkway, from 700 feet southeast of Hickory Run Drive to 300 feet east of Mesquite Drive.

(2) Timber View Drive, from Mesquite Drive to 100 feet west of Kempwood Drive.

(3) Mesquite Drive, from 25 feet north of Honey Locust Drive to 600 feet southwest of Green Fields Drive.

Sugar Land Middle School

(1) Seventh Street, from 200 feet west of Wood Street to 100 feet east of West Green Belt.

(2) Wood Street, from Seventh Street to 100 feet south of Seventh Street on Wood Street.

(3) West Green Belt, from Seventh Street to 125 feet north of Seventh Street.

(4) Muirwood Lane, from Seventh Street to 150 feet south of Seventh Street.

(5) West Hillary Circle, from Seventh Street to 150 feet south of Seventh Street.

(c) *High schools.* The following streets, or portions thereof, are designated as school zones and it is unlawful for a person to drive or operate a vehicle at a speed in excess of 20 miles per hour in any of those zones when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session, during the hours of 7:00 a.m. to 8:15 a.m. and 2:30 p.m. to 4:00 p.m. at the following locations:

Clements High School

(1) Elkins Road, from 324 feet south of Oakland Drive to Sweetwater Boulevard.

(2) Elkins Road, from Sweetwater Boulevard to 175 feet east of Sweetwater Boulevard.

(3) Greenleaf Oaks Drive, from 100 feet north of Elkins Road to Elkins Road.

(4) Oakland Drive, from 290 feet north of Elkins Road to 100 feet south of Elkins Road.

(d) *Other zones.*

(1) M.R. Wood Alternative Education Center - Avenue E, from Ash Street to Pine Street is designated as a school zone and it is unlawful for a person to drive or operate a vehicle at a speed in excess of 20 miles per hour in this zone when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session, during the hours of 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 4:00 p.m.

(2) Dulles Campus - Dulles Avenue, from city limits on the north side of the Dulles campus to 300 feet south of the Dulles Elementary driveway, is designated as a school zone and it is unlawful for a person to drive or operate a vehicle at a speed in excess of 30 miles per hour in this zone when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session, during the hours of 7:00 a.m. to 9:00 a.m. and 2:00 p.m. to 4:30 p.m.

(3) Burney Road at Harman Street - Burney Road, from 150 feet north of Harman Street to 575 feet south of Harman Street, and Harman Street, from 150 feet west of Burney Road

to Burney Road, are designated as school zones and it is unlawful for a person to drive or operate a vehicle at a speed in excess of 20 miles per hour within those zones when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session, during the hours of 7:00 a.m. to 9:00 a.m. and 2:30 p.m. to 4:30 p.m.

(4) Faith Lutheran School - Brooks Street (Spur 58), from 150 feet north of Ken Hall Boulevard to Bluebonnet, is designated as a school zone and it is unlawful for a person to drive or operate a vehicle at a speed in excess of 35 miles per hour within this zone when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session, during the hours of 6:00 a.m. to 5:00 p.m.

(5) Fort Bend Baptist Academy - Seventh Street, from 300 feet west of Gillingham Lane to 760 feet west of Gillingham Lane, is designated as a school zone and it is unlawful for a person to drive or operate a vehicle at a speed in excess of twenty (20) miles per hour within this zone when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session, during the hours of 7:00 a.m. to 8:00 a.m. and 2:30 p.m. to 3:30 p.m.

(6) St. Laurence School/Colony Bend Elementary – It is unlawful for a person to drive or operate a vehicle at a speed in excess of 20 miles per hour on the following streets, or portions thereof, hereby designated as school zones, when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session, during the hours of 7:00 a.m. to 8:15 a.m. and 2:30 p.m. to 4:00 p.m. at the following locations:

(1) Austin Parkway, from 1,550 feet northwest of Williams Trace Boulevard to 1,000 feet southeast of Williams Trace Boulevard.

(2) Sweetwater Boulevard, from Austin Parkway to 450 feet south of Austin Parkway.

(3) Williams Trace Boulevard, from Austin Parkway to 325 feet north of Planters Street.

(4) Planters Street, from 125 feet northwest of Williams Trace Boulevard to 300 feet northwest of Colony Creek Drive.

(7) Ft. Settlement Middle School – (1) Commonwealth Boulevard, from approximately 344 feet west of the center line of Elkins Road to approximately 527 feet east of the center line of Elkins Road; and (2) Elkins Road, from approximately 390 feet north of the center line of Commonwealth Boulevard to approximately 1860 feet south of the center line of Commonwealth Boulevard are designated as a school zone and it is unlawful for a person to drive or operate a vehicle at a speed in excess of twenty (20) miles per hour within this zone when signs are in place giving notice of the speed limit, on Monday through Friday, when school is in session during the hours of 8:00 a.m. to 9:15 a.m. and 3:30 p.m. to 4:45 p.m.

Sec. 5-128. Other maximum limits. Upon the basis of an engineering and traffic investigation made as authorized by state law, the following prima facie speed limits for vehicles traveling on the streets or roads listed below are determined and declared to be reasonable and safe and it is unlawful for a person to drive or operate a vehicle at a speed in excess of those limits:

(a) *State and federal highways and roads.*

Farm Road 1876 (Eldridge Road):

(1) From the northern city limit line to the intersection of Jess Pirtle Boulevard, a distance of approximately 1.482 miles, 45 miles per hour.

(2) From the intersection of Jess Pirtle Boulevard to U.S. 90A, a distance of approximately .879 miles, 40 miles per hour.

Spur 41:

(1) From the city limits to U.S. Highway 90A, a distance of approximately 0.037 mile, 40 miles per hour.

Spur 58 (Brooks Street):

(1) From U.S. 90A to Azalea Street, a distance of approximately 0.60 miles, 35 miles per hour.

(2) From Azalea Street to State Highway 6, a distance of approximately .350 miles, 40 miles per hour.

State Highway 6:

(1) From the northern city limits to a point 52 feet south of Voss Road to the centerline of U.S. 90A, a distance of approximately 2.125 miles, 55 miles per hour.

(2) From the centerline of U.S. 90A to a point 1,580 feet northwest of First Colony Boulevard, a distance of approximately 0.950 miles, 50 miles per hour.

(3) From a point 1,580 feet northwest of First Colony Boulevard to a point 1, 850 feet northwest of Frost Pass Road, a distance of approximately 3.050 miles, 45 miles per hour.

(4) From a point 1,850 feet northwest of Frost Pass Road to the southeastern city limits, a distance of approximately 0.670 miles, 50 miles per hour.

U.S. Highway 90A:

(1) From the west city limits to a point 1,000 feet west of State Highway 6, a distance of approximately 0.559 miles, 55 miles per hour.

(2) From a point 1,000 feet west of State Highway 6 to a point 530 feet east of Spur 41, a distance of approximately 3.268 miles, 45 miles per hour.

(3) From a point 530 feet east of Spur 41 to the east city limits, a distance of approximately 0.642 miles, 50 miles per hour.

U.S. Highway 59 Frontage Roads:

(1) From the north city limit to the centerline of U.S. 90A, a distance of approximately 0.185 miles, 45 miles per hour.

(2) From the centerline of U.S. 90A to the centerline of State Highway 6, a distance of approximately 2.969 miles, 50 miles per hour.

(b) *Secondary Streets.*

Alcorn Oaks Drive

(1) From Elkins Road to Sweetwater Boulevard, a distance of approximately 0.816 miles, 35 miles per hour.

Alston Road

(1) From Blake Road to Dairy Ashford Road, a distance of approximately 0.587 miles, 35 miles per hour.

Austin Parkway

(1) From Lexington Boulevard to State Highway 6, a distance of approximately 3.258 miles, 35 miles per hour.

Burney Road

(1) From Harman Street to Voss Road, a distance of approximately 1.100 miles, 35 miles per hour.

(2) From Voss Road to the northern city limits, a distance of approximately 0.852 miles, 45 miles per hour.

Commonwealth Boulevard

(1) From Austin Parkway to Oilfield Road, a distance of approximately 0.705 miles, 40 miles per hour.

(2) From Oilfield Road to University Boulevard, a distance of approximately 2.954 miles, 35 miles per hour.

(3) From the centerline of University Boulevard to the western city limit line, a distance of approximately 277 feet, 35 miles per hour.

Corporate Drive

(1) From Julie Rivers Road to Dairy Ashford Road, a distance of approximately 0.189 mile, 35 miles per hour.

Dairy Ashford Road

(1) From Alston Road south to a point 950 feet north of Corporate Drive, a distance of approximately 1.320 miles, 45 miles per hour.

(2) From a point 950 feet north of Corporate Drive, south to U.S. Highway 90A, a distance of approximately 0.790 mile, 35 miles per hour.

Dulles Avenue

(1) From State Highway 6 to Cartwright Road, a distance of approximately 0.245 miles, 35 miles per hour.

(2) From Cartwright Road to the city limit line south of Country Club Boulevard, a distance of approximately 2.809 miles, 40 miles per hour.

Edgewater Boulevard

(1) From Williams Trace Boulevard to Settlers Way Boulevard, a distance of approximately 0.700 miles, 35 miles per hour.

Elkins Road

(1) From Fort Bend County L.I.D #14 South Levee to Sweetwater Boulevard, a distance of approximately 2.328 miles, 35 miles per hour.

First Colony Boulevard

(1) From US Highway 59 to State Highway 6, a distance of approximately 1.034 miles, 40 miles per hour.

Gillingham Lane

(1) From Jess Pirtle Boulevard to West Airport Boulevard, a distance of approximately 0.700 mile, 40 miles per hour.

Industrial Boulevard

(1) From U.S. Highway 90A to approximately 1,196 feet north of W. Airport Boulevard, a distance of approximately 1.316 miles, 35 miles per hour.

Jess Pirtle Boulevard

(1) From Burney Road to Eldridge Road (FM1876), a distance of approximately 1.100 miles, 35 miles per hour.

(2) From Eldridge Road (FM 1876) to Industrial Boulevard, a distance of approximately 0.700 mile, 40 miles per hour.

Julie Rivers Drive

(1) From Dairy Ashford Road to Reed Road, a distance of approximately 0.189 mile, 35 miles per hour.

Knightsbridge Boulevard

(1) From Commonwealth Boulevard to Palm Royale Boulevard, a distance of approximately 0.378 miles, 35 miles per hour.

Lexington Boulevard

(1) From Fort Bend County L.I.D. #2 West Levee to Sweetwater Boulevard, a distance of approximately 0.530 miles, 35 miles per hour.

(2) From Sweetwater Boulevard to Williams Trace Boulevard, a distance of approximately 1.951 miles, 40 miles per hour.

(3) From Williams Trace Boulevard to Oyster Creek, a distance of approximately 0.852 miles, 35 miles per hour.

(4) From Oyster Creek to Dulles Avenue, a distance of approximately 0.590 miles, 40 miles per hour.

Palm Royale Boulevard

(1) From Sweetwater Boulevard to Commonwealth Boulevard, a distance of approximately 2.409 miles, 40 miles per hour.

Pinecroft Drive

(1) From Ravenscourt to Barrowgate Drive, a distance of approximately 0.140 mile, 20 miles per hour.

Reed Road

(1) From Industrial Boulevard to Julie Rivers Drive, a distance of approximately 0.303 mile, 35 miles per hour.

Settlers Way Boulevard

(1) From Lexington Boulevard to Austin Parkway, a distance of approximately 1.880 mile, 35 miles per hour.

Sweetwater Boulevard

(1) From US 59 to Lexington Boulevard, a distance of approximately 0.417 miles, 40 miles per hour.

(2) From Lexington Boulevard to Austin Parkway, a distance of approximately 1.818 miles, 35 miles per hour.

University Boulevard:

(1) From the northbound U.S. 59 frontage road to Commonwealth Boulevard, a distance of approximately 1.50 miles, 45 miles per hour.

West Alkire Lake Drive

(1) From Alkire Lake Drive to a point 600 feet north of the one-way bridge over Alkire Lake, a distance of approximately 0.227 mile, 20 miles per hour.

West Airport Boulevard

(1) From Dairy Ashford Road to Mason Road, a distance of approximately 2.116 miles, 40 miles per hour.

(2) From Mason Road to Burney Road, a distance of approximately 0.513 miles, 35 miles per hour.

Williams Trace Boulevard

(1) From U.S. Highway 59 to Lexington Boulevard, a distance of approximately 0.600 mile, 40 miles per hour.

(2) From Lexington Boulevard to Austin Parkway, a distance of approximately 1.600 mile, 35 miles per hour.

Woodchester Drive

(1) From Briarbank to Barrowgate Drive, a distance of approximately 0.170 mile, 20 miles per hour.

Secs. 5-129--5-135. Reserved.

Division 6. Stopping and Parking

Sec. 5-136. Stopping in passenger loading zone. It is unlawful for a person to stop or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger loading zone during hours when the regulation applicable to such loading zones are effective, and then only for a period not to exceed three minutes.

Sec. 5-137. Stopping in a loading zone.

(a) It is unlawful for a person to stop or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of property in any place marked as a loading zone during hours when the provisions applicable to such zones are in effect. The stop for loading or unloading of property may not exceed 30 minutes.

(b) The driver of a vehicle may stop temporarily at a loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any vehicle which is waiting to enter such zone to load or unload property.

Sec. 5-138. Parking in residence district. It is unlawful for any person to park or cause to be parked on any highway, street or alley within a residence district within the corporate limits of the city any truck with a manufacturer's rated carrying capacity in excess of 2,000 pounds or any trailer, semitrailer, pole trailer, or house trailer. A "residence district" is the territory contiguous to and including a highway or street when the property on such highway or street for a distance of 300 feet or more is in the main improved with residences.

Sec. 5-139. Storage of vehicles on streets. It is unlawful for any person to knowingly leave a vehicle parked or standing in the same location on a public street for more than 48 continuous hours. In this section, a vehicle means a device that can be used to transport a person or property on a street or highway.

Sec. 5-140. Prohibited parking on certain residential streets

(a) It is unlawful for any person to park a motor vehicle from 8:00 a.m. to 9:00 a.m. or from 2:00 p.m. to 3:00 p.m. on any Monday through Friday from August to May when Clements High School is in session upon any of the following public streets:

Alcorn Bayou Drive, from Sweetwater Boulevard to Misty Morn Lane

Alcorn Hill Drive, from Alcorn Bayou Court to Elkins Road

Alcorn Oaks Drive, from Oakland Drive to Sweetwater Boulevard

Bright Trail

Bountiful Crest Lane, west of Alcorn Bayou Drive

Caroline Court

Colony Crossing Drive, west of Elkins Road

Colony Court

Court of St. Jude

Dorothea Lane

Elkins Road, from Colony Crossing Drive to Alcorn Hill Drive

Fountainview Circle

Green Hills Circle

Howell Lane

Lyndhurst Place, west of Alcorn Bayou Drive

Martin's Way

Misty Morn Lane, west of Alcorn Bayou Drive

Oakland Drive, west of Alcorn Oaks Drive and east of Oakland Drive to Hogan Court

Sarah's Cove

Sweetwater Boulevard, from Greystone Way to Alcorn Oaks Drive

Willow Bank Drive

Willowview Court

(b) It is a defense to prosecution under this section that the vehicle parked on the designated street at a prohibited time:

(1) Was parked for the purpose of delivering or picking up merchandise or material from a residence located on the street;

(2) Was owned by a governmental entity or was performing work under a contract with a governmental entity;

(3) Was owned by a public utility company or was performing work under a contract with a public utility company;

(4) Displays a disabled parking placard or special license plates as defined in chapter 681 of the Texas Transportation Code and is registered to a resident of the designated street; or

(5) Was parked for purposes of private residential construction or remodeling and the residence owner has obtained the proper building permits from the city.

(6) Displays a parking placard issued by the city and is located directly in front of the residence to which the permit is registered.

Secs. 5-141--5-145. Reserved.

Division 7. Vehicles Used for Transportation of Explosives, Flammables, Poisons, Etc.

Sec. 5-146. Definitions. In this division:

Compressed gas means any material with a gauge pressure exceeding 40 pounds per square inch at 70 degrees Fahrenheit; or any flammable material having a Reid vapor pressure exceeding 40 pounds per square inch, absolute, at 100 degrees Fahrenheit.

Corrosive liquids means liquids which will cause severe damage to living tissue and to freight by chemical action when in contact therewith. These liquids may also cause fire when in contact with organic matter or certain chemicals.

Explosive means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion.

Flammable liquid means any liquid that that gives off flammable vapors.

Oxidizing materials means substances that yield oxygen readily to stimulate the combustion of organic matter.

Poisons:

(a) *Class A poisons* means extremely dangerous poisonous gases or liquids of such nature that a very small amount of the gas or vapor of the liquid, mixed with air, is dangerous to life.

(b) *Class B poisons* means less dangerous poisonous liquids or solids (including pastes or semiliquids) which are chiefly dangerous by external contact with the body or being taken internally, as in contaminated foods or feeds. The vapors of some of this class of poison are also offensive and dangerous, but to a lesser extent than class A poisons.

(c) *Class C poisons* means tear gas or irritating substances in liquid form, giving off dangerous or intensely irritating fumes when exposed to air or upon contact with fire.

(d) *Class D poisons* means radioactive materials or substances which spontaneously emit radiations which are capable of penetrating and severely damaging living tissues and surrounding shipments.

Sec. 5-147. Operation on streets or alleys prohibited; exceptions.

(a) It is unlawful for any person to drive or cause to be driven, or operate or maintain, any motor vehicle, truck, trailer or any other vehicle having thereon or attached thereto a tank or tanks or other receptacle used for the carrying of explosives, flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gas, Class A poisons, Class B poisons, Class C poisons or Class D poisons, over any street, highway or alley within the corporate limits of the city, except the following specifically designated streets or highways:

(1) Eldridge Road, or FM 1876, from Highway 90A north to the city limits.

(2) Brooks Street or Spur 58, from Highway 90A south to the city limits.

(3) Highway 90A within the city limits.

(4) Highway 59 within the city limits.

(5) Spur 41 within the city limits.

(6) Corporate Drive from Julie Rivers Drive east to the city limits.

(7) Julie Rivers Drive.

(8) Industrial Boulevard from Highway 90A north to its terminus.

(b) It is unlawful for any person to drive or cause to be driven or operate or maintain any motor vehicle, truck, trailer or any other vehicle having thereon or attached thereto a tank or tanks or other receptacle used for the carrying of explosives, flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gas, Class A poisons, Class B poisons, Class C poisons or Class D poisons over any street, highway or alley within the corporate limits of the city for the purpose of traveling through the city only, except for the following specifically designated highways:

(1) Highway 90A within the city limits; and

(2) Highway 59 within the city limits.

Sec. 5-148. Parking prohibited when loaded or partially loaded. It is unlawful for any person to park or cause to be parked or to maintain any truck, trailer, motor vehicle or any other form of vehicle having thereon or attached thereto a tank or tanks or other receptacle filled or partially filled with explosives, flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gas, class A poisons, class B poisons, class C poisons or class D poisons on any street, alley, public place or private property within the corporate limits of the city.

Sec. 5-149. Parking on streets and alleys prohibited whether loaded or empty.

(a) It is unlawful for any person to park or cause to be parked on any highway, street or alley within the corporate limits of the city any truck, trailer, motor vehicle or other form of vehicle having thereon or attached thereto a tank or tanks or other receptacle used for the carrying of explosives, flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gas, class A poisons, class B poisons, class C poisons or class D poisons, whether loaded, partially loaded or empty of such products.

(b) This section does not apply to the stopping of any such vehicle at filling stations for service, or to stopping necessitated by the breakdown of such vehicle.

Sec. 5-150. Exemptions. In addition to exemptions specifically granted elsewhere in this division, the provisions of this division do not apply under the following conditions and circumstances:

(a) When any such truck, trailer, motor vehicle or any other form of vehicle is carrying explosives, flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gas, class A poisons, class B poisons, class C poisons or class D poisons to commercial consumers, domestic consumers, gasoline service stations or bulk stations located within the corporate limits of the city.

b) When any such truck, trailer, motor vehicle or any other form of vehicle is carrying any of the above products to be used exclusively for its own propulsion.

(c) When any such truck, trailer, motor vehicle or any other form of vehicle, loaded or partially loaded, has stopped on any street or highway designated in section 5-147 at a gasoline service station or garage for necessary repairs, with the further provision that such vehicle not

remain at such gasoline service station or garage longer than 30 minutes, unless the police department is notified that it is necessary to remain for a longer period than 30 minutes.

(d) When any such truck, trailer, motor vehicle or any other form of vehicle needs immediate repairs and is not loaded or partially loaded with any of the above-named products and is on a direct route to a garage or to its owner's private property or place of business exclusively controlled by such owner.

(e) When any such truck, trailer, motor vehicle or any other form of vehicle has broken down, has a flat tire or tires, or becomes out of repair or out of gasoline for its own propulsion to the extent that it cannot be propelled with its own power, then the necessary repairs can be made where such vehicle has been forced to stop, provided that such vehicle can be repaired within a period of two hours. In such case, the driver of the vehicle must immediately notify the police department of such forced stoppage, and during such period of repair, a police officer or someone designated by the police officer will remain at the place of stoppage to warn other persons using the street or highway of such danger.

(f) When any such truck, trailer, motor vehicle or any other form of vehicle is loaded or partially loaded and has broken down and is out of repair to the extent that it cannot be repaired within two hours and the police department has been notified and the same is being removed from such place of stoppage or breakdown to a garage or some other place within the corporate limits of the city, under the direction of the police department.

(g) When any person is engaged in the business of hauling explosives, flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gas, class A poisons, class B poisons, class C poisons or class D poisons and has his place of business within the corporate limits of the city, he has a right to convey such truck, trailer, motor vehicle or any other form of vehicle to such place of business without police protection, provided such vehicle (excluding its own tank or receptacle used for its own propulsion) is empty and free of all of the above-described products.

Secs. 5-151 – 5-155. Reserved.

ARTICLE V. TELECOMMUNICATIONS PROVIDERS

Sec. 5-156. Purpose and application.

(a) These regulations are intended to establish competitively neutral regulations for the use of the public right-of-way by persons providing telecommunications services to enable the city to:

(1) Manage access to the public right-of-way to minimize the congestion, inconvenience, visual impact, costs, and other effects resulting from the placement of telecommunications facilities within the public right-of-way; and

(2) Obtain fair and reasonable compensation for the private commercial use of the public right-of-way through the collection of non-discriminatory fees and charges.

(b) This article requiring the consent of the city to provide telecommunications services applies to any person or entity that owns, leases, operates, controls, maintains, or has an

ownership interest in a telecommunications network placed in the public right-of-way. This division does not apply to an entity that does not own, control, lease, operate, maintain, or have an ownership interest in any portion of the telecommunications network, but does (1) contract with an incumbent local service provider (LEC) to purchase for resell to the public telecommunications services; or (2) purchases access to functionalities of the incumbent LEC's network on an "unbundled basis" to create it own service, within the meaning of 47 U.S.C. sec. 251 (c) (3).

Sec. 5-157. Definitions. In this article:

Applicant means any person who files an application with the city under this article to obtain the necessary consent to use or place a telecommunications network within the public right-of-way, whether by means of the person's own facilities or by purchase or lease of equipment or facilities from another provider of telecommunications service.

Gross revenue means all revenues derived directly or indirectly by a provider from telecommunications services offered through a telecommunications network within the city, other than uncollectible from customers ("bad debt"). By way of example, but without limitation, "gross revenue" includes:

(a) Revenue derived from cash sales, customer credit account sales, and property of any kind from any service received or accruing to the provider directly or indirectly or attributable to the sale or exchange of telecommunications or network services by the provider within the city;

(b) All telecommunication services revenues charged on a flat rate basis;

(c) All telecommunication services revenues charged on a usage sensitive or mileage basis;

(d) All revenues from connection or disconnection fees;

(e) All revenues from local service;

(f) All revenues from authorized rental or lease of conduit space;

(g) All revenues from charges for access to or from local and long distance networks;

(h) All revenues from authorized rentals or leases of any portion of provider's telecommunications network, including, but not limited to, plant, facilities, antenna towers or capacity leased to others;

(i) All revenues from enhanced data service;

(j) All interconnect and access and landline charges or revenues from wireless telecommunication entities, interexchange carriers and other providers;

(k) All revenues derived from co-location connection fees;

(l) All revenues from any other person, subsidiary, affiliate, or entity renting or leasing conduit space or any other part of the provider's network;

(m) Any fees collected from the customer, other than state sales taxes, but including all fees and charges collected pursuant to this article;

(n) Revenues from the lease or re-sale of lines or circuit paths to any person, affiliate, entity, or third parties;

(o) All revenue from the sale, lease or access for or to the providers equipment in the public right-of-way (as contemplated by 47 C.F.R. Part 51, et seq.); and

(p) All revenues received by the provider from selling its telecommunications services at a wholesale rate to other telecommunications carriers, as those terms are defined in and as required by Sections 251 and 252 of the Federal Communications Act of 1934, as amended, the Federal Code of Regulations, 47 C.F.R. Section 51.601, et seq., and the PUC Substantive Rules, all as amended to January 1, 1997.

Public right-of-way use agreement or *PRWUA* means the agreement between the city and provider consenting to the provider's use of public right-of-way to place, maintain, or operate a telecommunications network within the city.

Public Utility Commission of Texas or *PUC* means the state agency having jurisdiction over telecommunications providers.

Telecommunications network or *network* means all facilities of any kind placed in, on or above the public right-of-way for the purpose of providing telecommunications services.

Telecommunications provider or *provider* means a person, and any affiliate, who is required by this article to obtain a PRWUA, or who have been granted the right by a PRWUA to place a telecommunications network within the city.

Telecommunications services means all transmissions between or among points specified by the user, of information of the user's choosing (whether voice, video or data), without change in the content of the information as sent and received, where such transmissions are accomplished by means of a telecommunications network. Telecommunications services also include any ancillary or adjunct services which may be rendered in conjunction with transmissions described in the preceding sentence. Telecommunications services are classified in the "Level" categories set forth below. For Levels 1, 2, and 3, these categories are intended to utilize existing state law classifications and will be interpreted to reflect any non-substantive modification of service categories implemented by the PUC or judicial decision. Telecommunications services does not include cable services as governed by the Cable Communications Policy Act of 1984, 47 U.S.C. § 532, et seq., amended to January 1, 1997.

Level 1: Basic Telecommunications Services:

(a) Residential and business local exchange telephone service, including primary directory listings and the receipt of a directory and any applicable mileage or zone charges;

(b) Tone dialing service;

(c) Lifeline and tel-assistance services;

(d) Service connection charges for basic services;

(e) Direct inward dialing service for basic services;

(f) Private pay telephone access service;

(g) Call trap and trace service;

(h) Access to 911 service where provided by a local authority and access to dual party relay service;

(i) Switched access service;

(j) Interconnection to competitive providers;

(k) Mandatory extended area service arrangements;

(l) Mandatory extended metropolitan service or other mandatory toll-free calling arrangements;

(m) Interconnection for commercial mobile service providers;

(n) Directory assistance; and

(o) 1+ intraLATA message toll service.

Level 2: Adjunct or Discretionary Telecommunications Services:

(a) 1+ intraLATA message toll services, where intraLATA equal access is available;

(b) 0+, 0- operator services;

(c) Call waiting, call forwarding, and custom calling features not listed in Level 3;

(d) Call return, caller ID, and call control options not listed in Level 3;

(e) Central office based PBX-type services;

(f) Integrated services digital network (ISDN) services; and

(g) New services.

Level 3: Competitive Telecommunications Services:

(a) Services described in the WATS tariff as of January 1, 1995;

(b) 800 and foreign exchange services;

(c) Private line service and dedicated circuits;

(d) Special access service;

(e) Services from public pay telephones;

(f) Paging services and mobile services (IMTS);

(g) Speed dialing; and

(h) Three-way calling.

Level 4: Capacity Leases and/or Network Use Arrangements:

Offering of transmission capacity through leases, licenses or other network use arrangements among telecommunications service providers governing use of network capacity whether switched or non-switched, including any arrangements mandated by regulatory agencies.

Level 5: Content Offerings:

All information (whether voice, data or video) offered in conjunction with Levels 1--4 transmissions and formatting of content from analog to digital and vice-versa when such formatting is offered in conjunction with Levels 3--4 transmissions.

Level 6: Telecommunications Broadband Common Carriage:

Offering of high capacity transmissions, whether switched or non-switched, on a common carrier basis, offered to the public or to such classes of users as to be available to a substantial portion of the public.

Sec. 5-158. Application for a public right-of-way use agreement.

(a) Any person proposing to place, operate, own, lease, maintain, or control a telecommunications network in the public right-of-way to provide telecommunications services must submit an application and the applicable fee to the city. The application must include:

(1) A description of the telecommunications services that are provided or will be provided by the applicant over the existing or proposed telecommunications network;

(2) A description of the facilities used or to be used to provide the telecommunications services;

(3) The location or proposed location and route requested for applicant's proposed telecommunications network;

(4) General information on the provider; and

(5) Any other and further information as may be reasonably requested by the director.

(b) To reimburse the city for its initial administrative costs in processing the application each applicant must submit a $1,000.00 non-refundable application fee.

Sec. 5-159. Approval of PRWUA. A PRWUA must be approved by city council before any person may install a telecommunications network. Any person who is denied a PRWUA or whose PRWUA is terminated must petition the city council for reconsideration before seeking judicial remedies.

Sec. 5-160. Compensation from local service providers.

(a) *Public right-of-way use fee*. Except as provided in this article, each provider must pay the city an annual rental fee equal to two percent of the provider's gross revenue obtained from providing telecommunications services using the telecommunications network, but the annual fee will never be less than $2,000.00 per annum.

(b) *Adjustments*. If after entering into a PRWUA with a provider, the city thereafter enters into another PRWUA with another provider that provides for an annual rental fee that is more or less than two percent of the provider's gross revenues obtained from the provision of telecommunications services using the telecommunications network, the annual rental fee of all other existing PRWUAs will, upon at least 60 days prior written notice from the city, be automatically be adjusted to equal the annual rental fee of the later PRWUA.

(c) *Quarterly payments and reports*. Providers must remit the right-of-way use fee to the city on a quarterly basis, pro rated as applicable. Each quarterly payment is due on the 45th day following the close of each calendar quarter for which the payment is calculated. Each payment must be accompanied by a report showing the source of revenues, by category of telecommunications services.

(d) *Late fees*. If a quarterly payment is made after the due date, the provider must pay a late payment fee of the greater of (i) $100.00; or (ii) simple interest at a ten percent annual percentage rate of the total amount past due.

Sec. 5-161. Compensation from other service providers. Any provider who has a telecommunications network within the city that serves no customers within the city, other than itself, must pay an annual charge of ten cents per linear foot for underground or aerial cable wire that is in the public right-of-way. This charge is due in advance and as a condition of receiving a PRWUA. Thereafter the annual charge must be paid on or before the lapse of 12 months from the initial payment. A report must be provided with each annual payment showing the calculation of the payment, including the length of the network and whether it is overhead or underground, as applicable, and number and name of each street crossing.

Sec. 5-162. Books and records.

(a) Providers must keep complete and accurate books in such a way that identification of all revenues by type of telecommunications service within the city is available. Providers must promptly make available to the city or a city designated representative, upon the city's reasonable written request, its books and records to examine, audit, review or obtain copies of the papers, books, accounts, documents, maps, plans and other records of providers pertaining to PRWUAs to ensure proper payments are made to the city. The city will maintain confidentiality of information provided by providers to the extent permitted by law when providers have notified the city in writing of the confidential nature of the information.

(b) Without any prior request, providers must promptly and timely furnish the city with written notice of all petitions, applications, communications and reports submitted by providers, to the FCC, Securities and Exchange Commission, or the PUC, or their successor agencies, relating to any matters affecting the use of city public right-of-way or the telecommunications services authorized pursuant to a PRWUA granted under this article.

(c) The city may review or audit the provider's books and records, if the city deems it necessary in order to determine if the appropriate amount has been paid to the city. If the review or audit discovers an underpayment due the city that exceeds five percent of the total amount paid for any quarterly or annual reporting period, as applicable, then the provider must promptly reimburse the city for the actual and reasonable cost of the audit and the amounts of the underpayments as determined by the audit, plus interest at a ten percent annual percentage rate, from the original due date.

Sec. 5-163. Transfers of PRWUAs. A PRWUA granted under this article, the assets held by providers for use under such PRWUA which are in the public right-of-way, any rights or privileges of providers under a PRWUA, either separately or collectively, may not be sold, resold, assigned, transferred or conveyed by providers to any other person, without the prior written consent of the city by ordinance or resolution.

Sec. 5-164. Term and termination of PRWUAs.

(a) *Term*. The term of each PRWUA is subject to specific negotiation with applicants consistent with this article, but the initial term for any agreement entered into before August 17, 2007, may not extend beyond August 17, 2010, unless the terms are for successive one-year terms.

(b) *Termination*. The city may terminate any PRWUA for a breach of the PRWUA or of this chapter, subject to a thirty-day written notice and the opportunity to cure the breach during that 30-day period. A termination may be declared only by a written decision of the city council after an appropriate public proceeding before the city council, which will accord the provider due process and full opportunity to be heard and to respond to any notice of grounds to terminate. All notice requirements will be met by giving the provider at least 15 days prior written notice of any public hearing concerning the proposed termination of its PRWUA. The notice must state the grounds for termination alleged by the city. If the provider fails to make any payment to the city for use of the right-of-way as required by this division in three successive quarters, the city may terminate the PRWUA notwithstanding that the provider cures the default within 30 days of the city's notice of the default.

Secs. 5-165-5-170. Reserved.

ARTICLE VI. CABLE SYSTEM PROVIDERS

Division 1. In General

Sec. 5-171. Short title. The following regulations are adopted and shall be known as the Cable TV Regulations for the city.

Sec. 5-172. Definitions. In this article:

Affiliated programmer means a programmer with an ownership interest of five percent or more including general partnership interests, direct ownership interests and stock interests in a corporation where such stockholders are officers or directors or who directly or indirectly own five percent or more of the outstanding stock, whether voting or nonvoting. Such interests include limited partnership interests of five percent or greater.

Basic service tier means and includes, at a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system); any public, educational and governmental programming required by the franchise to be carried on the basic tier; and any additional video programming signals or service added to the basic tier by the cable operator.

Cable operator means any person or group of persons who provide cable service over a cable system within the city under a franchise issued by the city and who directly or through one or more affiliates owns a significant interest in such cable system or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

Cable programming service includes any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming other than:

(1) Video programming carried on the basic service tier as defined in this section;
(2) Video programming offered on a pay-per-channel or pay-per-program basis; or
(3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:

a. Consists of commonly identified video programming; and
b. Is not bundled with any regulated tier of service.

Commission means the Federal Communications Commission or its successor agency.

Small system means a cable television system that serves 1,000 or fewer subscribers. The service area of a small system is determined by the number of subscribers that are served by a system's principal headend, including any other headends or microwave receipt sites that are technically integrated to the system's principal headend.

Sec. 5-173. **Information to be provided by cable operator on monthly subscriber bills.**

A cable operator must provide the following information to subscribers on monthly bills:

(1) A statement substantially the same as the following:"The basic service tier rates and related equipment and installation charges are regulated by the city. If you have any questions or comments regarding these rates, you may call the city at 275-2730 or write the city at 2700 Town Center Blvd. North, Sugar Land, Texas 77479";

(2) The name, mailing address and phone number of the Cable Services Bureau of the FCC; and

(3) The FCC community unit identifier for the cable system.

Sec. 5-174. Negative option billing. A cable operator must not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. This provision, however, shall not preclude the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing tier of service, or the restructuring or division of existing tiers of service that do not result in a fundamental change in the nature of an existing service or tier of service provided that such change is otherwise consistent with applicable regulations. A subscriber's failure to refuse a cable operator's proposal to provide such service or equipment. A subscriber's affirmative request for service or equipment may be made orally or in writing.

Sec. 5-175. Subscriber bill itemization.

(a) Cable operators may identify as a separate line item of each regular subscriber bill the following:

(1) The amount of the total bill assessed as a franchise fee.
(2) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise agreement to support public, educational or governmental channels or the use of such channels.
(3) The amount of any other fee, tax, assessment or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. In order for a governmental fee or assessment to be separately identified under this section, it must be directly imposed by a governmental body on a transaction between a subscriber and an operator.

(b) The charge identified on the subscriber bill as the total charge for cable service should include all fees and costs itemized pursuant to this section.

Secs. 5-176-5-180. Reserved.

Division 2. Rate Provisions

Sec. 5-181. Rates for the basic service tier.

(a) *Basic service tier rates.* Basic service tier rates are subject to regulation by the city in order to assure that they are in compliance with the requirements of 47 USC section 543. Rates that are demonstrated, in accordance with this article, not to exceed the "initial permitted per-channel charge" or the "subsequent permitted per-channel charge" as described below, or the equipment charges as specified in section 5-183, will be accepted as in compliance. The maximum monthly charge per subscriber for the basic service tier offered by a cable operator must consist of a permitted per-channel charge multiplied by the number of channels on the tier, plus a charge for franchise fees. The maximum monthly charges for the basic service tier must not include any charges for equipment or installations. Charges for equipment and installations are to be calculated separately pursuant to section 5-183.

(b) *Permitted charge on May 15, 1994:*

(1) *Initial date of regulation.* For purposes of this section, the initial date of regulation for the basic service tier is the date on which the city gives written notice to the cable operator

that the city has been certified by the commission to regulate rates for the basic service tier and this has been adopted by the city.

(2) *Rates in effect on initial date of regulation.* For purposes of this section, rates "in effect on the initial date of regulation" or "in effect on September 30, 1992," are the rates charged to subscribers for service received on that respective date.

(3) *Permitted charge for basic service tier.* The permitted charge for the basis service tier are, at the election of the cable operator, either:

a. A rate determined pursuant to a cost-of-service proceeding;

b. The full reduction rate;

c. The transition rate, if the system is eligible for transition relief; or

d. A rate based on a streamlined rate reduction, if the system is eligible to implement such a rate reduction. Except where noted, the term "rate" in this subsection means a rate measured on an average regulated revenue per subscriber basis.

(4) *Full reduction rate.* The "full reduction rate" on May 15, 1994, is the system's September 30, 1992 rate, measured on an average regulated revenue per subscriber basis, reduced by 17 %, and then adjusted for the following:

a. The establishment of permitted equipment rates as required by section 5-183;

b. Inflation measured by the GNP-PI between October 1, 1992 and September 30, 1993;

c. Changes in the number of program channels subject to regulation that are offered on the system's basic service tier between September 30, 1992 and the earlier of the initial date of regulation for basic service or February 28, 1994; and;

d. Changes in external costs that occurred between the earlier of the initial date of regulation for basic service tier or February 28, 1994, and March 31, 1994.

(5) *March 31, benchmark rate.* The "March 31, 1994 benchmark rate" is the rate so designated using the calculations in Form 1200.

(6) *Transition rates:*

a. A "system owned by a small operator" is a system owned by an operator that has a total subscriber base of 15,000 or fewer subscribers as of March 31, 1994. Such systems are eligible to establish a transition rate for the basic tier in accordance with 47 CFR section 76.922.

b. A "low-price system" is a system (i) whose March 31, 1994 rate is below its March 31, 1994 benchmark rate, or (ii) whose March 31, 1994 rate is above its March 31, 1994 benchmark rate, but whose March 31, 1994 full reduction rate is below its March 31, 1994 benchmark rate, as defined above. Such systems are eligible to establish a transition rate for the basic tier in accordance with 47 CFR section 76.922.

c. Notwithstanding paragraphs a. and b. above, the transition rate for the basic service tier will be adjusted to reflect any determination by the city that the rate in effect on March 31, 1994, was higher (or lower) than that permitted under applicable regulations. Refund liability for such rates shall be as set forth in 47 CFR section 76.922.

(7) *Streamlined rate reductions.* Small systems that are not owned by or affiliated with any other system ("independent systems") and small systems owned by small multiple system

operators ("MSO's ") that have not already restructured their rates to comply with this article may establish rates for the basic service tier and related equipment by making a streamlined rate reduction, in accordance with 47 CFR section 76.922. "Small MSO's" are those multiple system operators that:

a. Service 250,000 or fewer total subscribers;

b. Own only systems with less than 10,000 subscribers each; and

c. Have an average system size of 1,000 or fewer subscribers.

(8) *Establishment of initial regulated rates.* Cable systems, other than those eligible for streamlined rate reductions, must file FCC Forms 1200, 1205, and 1215 for the basic service tier by June 15, 1994, or thirty (30) days after the initial date of regulation. A system that becomes subject to regulation for the first time on or after July 1, 1994, shall also file Form 1210 at the time it files FCC Forms 1200, 1205 and 1215.

(c) *Subsequent permitted charge.* The permitted charge for the basic service tier after May 15, 1994, are, at the election of the cable operator, either:

(1) A rate determined pursuant to a cost-of-service showing; or

(2) A rate determined by application of the price cap requirements set forth below to a permitted rate determined in accordance with this section.

(d) *Price cap requirements.* After May 15, 1994, adjustments for changes in external costs will be calculated by subtracting external costs from the system's permitted charge and making changes to that "external cost component" as necessary. The remaining charge, referred to as the "residual component, " will be adjusted annually for inflation. Cable systems must use FCC Form 1210 (or Form 1211 where applicable) to justify changes in permitted rates made pursuant to the price cap requirements.

(1) *Calendar year quarters.* All systems must use a calendar year quarter when adjusting rates under the price cap requirements. The starting date of adjustments on account of external costs for the basic service tier is the earlier of the initial date of regulation or February 28, 1994.

(2) *Inflation adjustments.* The residual component of a system's permitted charges for the basic service tier may be adjusted annually on account of inflation. The annual inflation adjustment is based on inflation occurring from June 30 of the previous year to June 30 of the year in which the inflation adjustments is made, except that the first annual inflation adjustment will cover inflation from September 30, 1993, until June 30 of the year in which the inflation adjustment is made. The adjustment may be made after September30, but no later than August 31 of the next calendar year. Adjustments will be based on charges in the Gross National Product Price Index ("GNP-PI") published by the Bureau of Economic Analysis of the United States Department of Commerce. Cable systems that establish a transition rate pursuant to 47 CFR section 76.922, are not permitted to adjust rates on account of inflation until the transition rate adjusted for external costs and changes in numbers of regulated channels is less than, or equal to, the system's full reduction rate adjusted for inflation, external costs and changes in numbers of regulated channels.

(3) *External costs:*

a. Permitted charges for the basic service tier may be adjusted up to quarterly to reflect changes in external costs experienced by the cable system. In all events, a system must adjust its rates annually to reflect any decreases in external costs that have not previously

been accounted for in the system's rates. A system must also adjust its rates annually to reflect any changes in external costs, inflation and the number of channels on the basic tier that occurred during the year if the system wishes to have such changes reflected in its regulated rates. A system that does not adjust its permitted rates annually to account for these changes will not be permitted to increase its rates subsequently to reflect the changes.

b. A system must adjust its rates in the next calendar year quarter for any decrease in programming costs that results from the deletion of a channel or channels from the basic service tier.

c. Any rate increase made to reflect an increase in external costs must also fully account for all other changes in external costs, inflation and the number of channels on the basic service tier that occurred during the same period. Rate adjustments made to reflect changes in external costs shall be based on any changes in those external costs that occurred from the end of the last quarter for which an adjustment was previously made through the end of the quarter that has most recently closed preceding the filing of the FCC Form 1210 (or FCC Form 1211, where applicable). A system may adjust its rates after the close of a quarter to reflect changes in external costs that occurred during that quarter as soon as it has sufficient information to calculate the rate change.

d. External costs shall consist of costs in the following categories:

    1. State and local taxes applicable to provision of cable television service;

    2. Franchise fees, which shall be calculated separately as part of the maximum monthly charge per subscriber for the basic service tier;

    3. Costs of complying with franchise requirements, including costs of providing public, educational, and governmental access channels as required by the city;

    4. Copyright fees incurred for the carriage of broadcast signals offered on the basic service tier;

    5. Retransmission consent fees incurred after October 6, 1994, for the program channels or broadcast signals offered on the basic service tier; and

    6. Other programming costs for the program channels or broadcast signals offered on the basic service tier. Adjustments to permitted charges to reflect changes in the costs of programming purchased from affiliated programmers, as defined in section 5-172, will be permitted as long as the price charged to the affiliated system reflects either prevailing company prices offered in the marketplace to third parties (where the affiliated program supplier has established such prices) or the fair market value of the programming. Adjustments to permitted charges on account of increases in costs of programming will be further adjusted to reflect any revenues received by the operator from the programmer. In calculating programming expense, operators may add a mark-up of seven and one-half (7 1/2) percent for new programming added after May 15, 1994, and must reduce rates by decreases in programming expense plus an additional seven and one-half (7 1/2) percent for decreases occurring after May 15, 1994.

    7. Commission cable television system regulatory fees imposed pursuant to 47 USC section 159.

(e) *Changes in the number of channels on regulated tiers.* A system may adjust the residual component of its permitted rate for the basis service tier to reflect change in the number of channels offered on the tier on a quarterly basis, in accordance with 47 CFR section 76.922.

(f) *Costs of service charge.* A monthly cost-of-service charge for the basic service tier is an amount that is calculated in accordance with 47 CFR section 76.922(g).

(g) *Network upgrade rate increase:*

(1) Cable operators that undertake significant network upgrades requiring added capital investment may justify an increase in rates for the basic service tier by demonstrating that the capital investment will benefit subscribers.

(2) A rate increase on account of upgrades shall not be assessed on customers until the upgrade is complete and providing benefits to customers of the basic service tier.

(3) Cable operators seeking an upgrade rate increase have the burden of demonstrating the amount of the net increase in costs, taking into account current depreciation expense, likely changes in maintenance and other costs, changes in regulated revenues, and expected economies of scale.

(4) Cable operators seeking a rate increase for network upgrades shall allocate net cost increases in conformance with the cost allocation rules as set forth in 47 CFR section 76.924.

(5) Cable operators that undertake significant upgrades shall be permitted to increase rates by adding the benchmark/price cap rate to the rate increment necessary to recover the net increase in cost attributable to the upgrade.

(h) *Hardship rate relief.* A cable operator may adjust charges by an amount specified by the city for the basic service tier if it is determined that:

(1) Total revenues from cable operations, measured at the highest level of the cable operator's cable service organization, will not be sufficient to enable the operator to attract capital or maintain credit necessary to enable the operator to continue to provide cable service;

(2) The cable operator has prudent and efficient management; and

(3) Adjusted charges on account of hardship will not result in total charges for regulated cable services that are excessive in comparison to charges of similarly situated systems.

(i) *Cost of service showing.* A cable operator that elects to establish a charge, or to justify an existing or changed charge for the basic service tier, based on a cost-of-service showing must submit data to the city in accordance with forms established by the FCC. The cable operator must also submit any additional information requested by the city to resolve questions in cost-of-service proceedings.

(j) *Subsequent cost of service charges.* No cable operator may use a cost-of-service showing to justify an increase in any charge established on a cost-of-service basis for a period of two years after that rate takes effect, except that the city may waive this prohibition upon a showing of unusual circumstances that would create undue hardship for a cable operator.

Sec. 5-182. "A la carte" offerings.

(a) Cumulative offerings of unregulated per-channel or per-program ("a la carte") video programming is not regulated if:

(1) The price for the combined package does not exceed the sum of the individual charges for each component of service; and

(2) The cable operator continues to provide the component parts of the package to subscribers separately in addition to the collective offering. The second condition will be met only when the per-channel offering provides consumers with a realistic service choice. Collective offerings available on April 1, 1993, shall not be regulated if subsequently offered on the same terms and conditions as were in effect on that date.

(b) In reviewing a basic service rate filing, the city will make an initial decision addressing whether a collective offering of "a la carte" channels will be treated as an unregulated service or a regulated tier. The city will make this initial decision within the thirty-day period established for review of basic cable rates and equipment costs in section 5-193, or within the first 60 days of an extended 120-day period (if the city has requested an additional 90 days) pursuant to section 5-193. The city will provide notice of its decision to the cable operator and shall provide public notice of its initial decision within seven days. Operators or consumers may make an interlocutory appeal of the initial decision to the FCC. Operators shall provide notice to the city of their decision whether or not to appeal to the FCC within this period. Consumers will provide notice to the city of their decision to appeal to the FCC within this period.

(c) A limited initial decision under paragraph (b) shall toll the time periods under section 5-193 within which the city must decide a rate case. The time period shall resume running seven days after the FCC decides the interlocutory appeal or seven days following the expiration of the period in which an interlocutory appeal pursuant to paragraph (b) may be filed.

(d) The city may alternatively decide whether a collective offering of "a la cartel" channels will be treated as an unregulated service or a cable programming services tier as part of its final decision setting rates for the basic service tier. That decision may then be appealed to the FCC as provided in the FCC's rules.

Sec. 5-183. Rates for equipment and installation used to receive the basic service tier.

(a) *Scope.* The equipment regulated under this section consists of all equipment in a subscriber's location that is used to receive the basic service tier, regardless of whether such equipment is additionally used to receive other tiers of regulated programming service and/or unregulated service. Such equipment shall include, but is not limited to:

(1) Converter boxes;

(2) Remote control units;

(3) Connections for additional television receivers; and

(4) Other cable home wiring.

Subscriber charges for such equipment must not exceed charges based on actual costs in accordance with the requirements set forth below.

(b) *Unbundling.* A cable operator must establish rates for remote control units, converter boxes, other customer equipment, installation and additional connections separate from rates for basic service tier. In addition, the rates for such equipment and installations shall be unbundled one from the other.

(c) *Equipment basket.* A cable operator must establish an equipment basket, which will include all costs associated with providing customer equipment and installation under this

section. Equipment basket costs must be limited to the direct and indirect material and labor costs of providing, leasing, installing, repairing and servicing customer equipment, as determined in accordance with the cost accounting and cost allocation requirements of section 5-184. The equipment basket must not include general administrative overhead including general marketing expenses. The equipment basket may include a reasonable profit.

(d) *Hourly service charge.* A cable operator must establish charges for equipment and installation using the hourly service charge ("HSC") methodology. The HSC will equal the operator's annual equipment basket costs, excluding the purchase cost of customer equipment, divided by the total person hours involved in installing, repairing and servicing customer equipment during the same period. The purchase cost of customer equipment will include the cable operator's invoice price plus all other costs incurred with respect to the equipment until the time it is provided to the customer. The HSC is calculated according to the following formula:

$$HSC = EB - CE/H$$

Where,

TABLE INSET:

EB	=	annual equipment basket cost;
CE	=	annual purchase cost of all customer equipment; and
H	=	person hours involved in installing and repairing equipment per year.

(e) *Installation charges.* Installation charges shall be either:

(1) The HSC multiplied by the actual time spent on each individual installation; or

(2) The HSC multiplied by the average time spent on a specific type of installation.

(f) *Remote charges.* Monthly charges for rental of a remote control unit will consist of the average annual unit purchase cost of the type of remote leased, including acquisition price and incidental costs such as sales tax, financing and storage up to the time it is provided to the customer, added to the product of the HSC times the average number of hours annually repairing or servicing a remote, divided by 12 to determine the monthly lease rate for a remote according to the following formula:

$$\text{Monthly Charges} = UCE+(HSC \times HR)/12$$

Where,

TABLE INSET:

HR	=	average hours repair per year; and
UCE	=	average annual unit cost of remote.

Separate charges shall be established for each significantly different type of remote control unit.

(g) *Other equipment charges.* The monthly charges for rental of converter boxes and other customer equipment must be calculated in the same manner as for remote control units. Separate

charges must be established for each significantly different type of converter box and each significantly different type of other customer equipment.

(h) *Additional connection charges.* The costs of installation and monthly use of additional connections will be recovered as charges associated with the installation and equipment cost categories, and at rate levels determined by the actual cost methodology presented in the foregoing paragraphs (e), (f) and (g) of this section. An operator may recover additional programming costs and the costs of signal boosters on the customer's premises, if any, associated with the additional connection as a separate monthly unbundled charge for additional connections.

(i) *Charges for equipment sold.* A cable operator may sell customer premises equipment to a subscriber. The equipment price will recover the operator's cost of the equipment, including costs associated with storing and preparing the equipment for sale up to the time it is sold to the customer, plus a reasonable profit. An operator may sell service contracts for the maintenance and repair of equipment sold to subscribers. The charge for a service contract shall be the HSC times the estimated average number of hours for maintenance and repair over the life of the equipment.

(j) *Promotions.* A cable operator may offer equipment or installation at charges below those determined under paragraphs (e) through (g) of this section, as long as those offerings are reasonable in scope in relation to the operator's overall offerings in the equipment basket and not unreasonably discriminatory. Operators may not recover the cost of a promotional offering by increasing charges for other equipment basket elements or by increasing programming service rates above the maximum monthly charge per subscriber prescribed by this article. As part of a general cost-of-service showing, an operator may include the cost of promotions in its general system overhead costs.

(k) *Franchise fees.* Equipment charges may include a properly allocated portion of franchise fees paid to the city.

(l) *Company-wide averaging of equipment costs.* For the purpose of developing unbundled equipment charges as required by paragraph (b), a cable operator may average the equipment costs of its small systems at any level, or several levels, within its operations. This company-wide averaging applies only to an operator's small systems as defined in section 5-172 above; is permitted only for equipment charges, not installation charges; and may be established only for similar types of equipment. When submitting its equipment costs based on average charges to the city, an operator that elects company-wide averaging of equipment costs must provide a general description of the averaging methodology employed and a justification that its averaging methodology produces reasonable equipment rates. The city may require the operator to set equipment rates based on the operator's level of averaging in effect on April 3, 1993, as required by paragraph (c).

(m) Cable operators must maintain adequate documentation to demonstrate that charges for the sale and lease of equipment and for installations have been developed in accordance with the rules set forth in this section.

Sec. 5-184. Cost accounting and cost allocation requirements.

(a) *Applicability.* The requirements of this section are applicable for purposes of rate adjustments on account of external costs and for cost-of-service showings.

(b) *Accounting requirements.* Cable operators electing cost-of-service regulation or seeking rate adjustments due to changes in external costs must maintain their accounts:

(1) In accordance with generally accepted accounting principles; and

(2) In a manner that will enable identification of appropriate investments, revenues, and expenses.

(c) *Accounting level*. Except to the extent indicated below, cable operators electing cost-of-service regulation or seeking adjustments due to changes in external costs must identify investments, expenses, and revenues at the franchise, system, regional, and/or company level(s) in a manner consistent with the accounting practices of the operator on April 3, 1993. However, in all events, cable operators must identify at the franchise level their costs of franchise requirements, franchise fees, local taxes and local programming.

(d) *Summary accounts:*

(1) Cable operators filing for cost-of-service regulation must report all investments, expenses, and revenue and income adjustments accounted for at the franchise, system, regional and/or company level(s) to the summary accounts listed in 47 CFR section 76.924(d).

(2) Cable operators are not required to report their investments, expenses and revenues to the summary accounts listed in 47 CFR section 76.924(d) for the purposes of adjusting rates based on changes in their external costs.

(e) *Allocation to service cost categories:*

(1) For cable operators electing cost-of-service regulation, investments, expenses, and revenues contained in the summary accounts identified in 47 CFR section 76.924 (d) must be allocated among the equipment basket, as specified in paragraph (c), and the service cost categories specified in 47 CFR section 76.924(e)

(2) Cable operators seeking an adjustment due to changes in external costs identified in FCC Form 1210 mustallocate such costs among the equipment basket and the service cost categories specified in 47 CFR section 76.924(e)(2).

(f) *Cost allocation requirements:*

(1) Allocations of investments, expenses and revenues among the service cost categories and the equipment basket must be made at the organizational level in which costs and revenues have been identified for accounting purposes pursuant to paragraph (c).

(2) Costs of programming and retransmission consent fees must be directly assigned or allocated only to the service cost category in which the programming or broadcast signal at issue is offered.

(3) Costs of franchise fees must be allocated among equipment basket and the service cost categories in manner that is most consistent with the methodology of assessment of franchise fees by the city.

(4) Costs of public, educational, and governmental access channels carried on the basic tier must be directly assigned to the basic tier where possible.

(5) All other costs that are incurred exclusively to support the equipment basket or a specific service cost category must be directly assigned to that service cost category or the equipment basket where possible.

(6) Costs that are not directly assigned must be allocated to the service cost categories in accordance with the following allocation procedures:

a. Wherever possible, common costs for which no allocator has been specified are to be allocated among the service cost categories and the equipment basket based on direct analysis of the origin of the costs.

b. Where allocation based on direct analysis is not possible, common costs for which no allocator has been specified must, if possible, be allocated among the service cost categories and the equipment basket based on indirect, cost-causative linkage to other costs directly assigned or allocated to the service cost categories and the equipment basket.

c. Where neither direct nor indirect measures of cost allocation can be found, common costs must be allocated to each service cost category based on the ratio of all costs directly assigned and attributed to a service cost category over total costs directly or indirectly assigned and directly or indirectly attributable.

(7) Commission cable television system regulatory fees imposed pursuant to 47 USC section 159 must be directly assigned to the basic service tier.

(g) *Cost identification at the franchise level.* After costs have been directly assigned to and allocated among the service cost categories and the equipment basket, cable operators that have aggregated costs at a higher level than the franchise level must identify all applicable costs at the franchise level in the following manner:

(1) Recoverable costs that have been identified at the highest organizational level at which costs have been identified will be allocated to the next (lower) organizational level at which recoverable costs have been identified on the basis of the ratio of the total number of subscribers served at the lower level to the total number of subscribers served at the highest level.

(2) Cable operators must repeat the procedure specified in subsection (1) above at every organizational level at which recoverable costs have been identified until such costs have been allocated to the franchise level.

(h) *Part-time channels.* In situations where a single channel is divided on a part-time basis and is used to deliver service associated with different tiers or with pay per-channel or pay per-view service, a reasonable and documented allocation of that channel between services shall be required along with the associated revenues and costs.

(i) *Transactions with affiliates.* Adjustments on account of transactions with affiliates shall be determined as set forth in 47 CFR section 76.924(i).

(j) *Unrelated expenses and revenues.* Cable operators must exclude from cost categories used to develop rates for the provision of basic service tier and equipment, any direct or indirect expenses and revenues not related to the provision of such services. Common costs of providing basic service tier and equipment, and unrelated activities shall be allocated between them in accordance with paragraph (f) of this section.

Sec. 5-185. Costs of franchise requirements.

(a) The costs of satisfying franchise requirements to support public, educational and governmental channels consists of the sum of:

(1) All per-channel costs for the number of channels used to meet franchise requirements for public, educational and governmental channels;

(2) Any direct costs of meeting such franchise requirements; and

(3) A reasonable allocation of general and administrative overhead.

(b) The costs of satisfying any other requirement under the franchise consists of the direct and indirect costs, including a reasonable allocation of general and administrative overhead.

Sec. 5-186. Charges for customer changes.

(a) *Changes in service tiers or equipment.* This section governs charges for any changes in service tiers or equipment provided to the subscriber that are initiated at the request of a subscriber after initial service installation.

(b) *Charges for simple-method changes.* The charge for customer changes in service tiers effected solely by coded entry on a computer terminal or by other similarly simple methods is a nominal amount, not exceeding actual costs, as defined in paragraph (c) of this section.

(c) *Charges for more complicated method changes.* The charge for customer changes in service tiers or equipment that involve more than coded entry on a computer or other similarly simple method is based on actual cost. The actual cost charge shall be either the HSC, as defined in section 5-183, multiplied by the number of person-hours needed to implement the change or the HSC multiplied by the average number of person-hours involved in implementing customer changes.

(d) *Higher charges for multiple changes.* A cable operator may establish a higher charge for changes effected solely by coded entry on a computer terminal or by other similarly simple methods, subject to approval by the city, for a subscriber changing service tiers more than two times in a twelve-month period, except for such changes ordered in response to a change in price or channel line-up. If a cable system adopts such an increased charge, the cable system must notify all subscribers in writing that they may be subject to such a charge forchanging service tiers more than the specified number of times in any twelve-month period.

(e) *Downgrade charges.* Downgrade charges that are the same as, or lower than, upgrade charges are evidence of the reasonableness of such downgrade charges.

(f) *Changes in service tiers.* For 30 days after notice of retiering or rate increases, a customer may obtain changes in service tiers at no additional charge.

Secs. 5-187-5-190. **Reserved**.

Division 3. Regulatory Provisions

Sec. 5-191. Notification of proposed rate increase.

(a) A cable operator must provide written notice to a subscriber and the city of any increase in the price to be charged for the basic service tier or associated equipment at least 30 days before any proposed increase is effective. The notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, changes in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified.

(b) The notice to subscribers must include a provision stating that protests to such prices for the basic service tier and related equipment may be filed with the city at 2700 Town Center Blvd. N., Sugar Land, Texas 77479. The notice must also include a statement that such protests

must be filed with the city no later than 30 days after the notice is received by the subscriber. Notices to subscribers must also inform them of their right to file complaints about changes in cable programming service tier rates and services with the FCC within 45 days of the rate of service change being reflected in their bill, and must provide the address and phone number of the Cable Services Bureau of the FCC.

Sec. 5-192. Initiation of review of basic cable service and equipment rates. A cable operator must file its schedule of rates for the basic service tier and associated equipment with the city within 30 days of receiving written notification from the city that the city has been certified by the commission to regulate rates for the basic service tier. Basic service and equipment rate schedule filings for existing rates or proposed rate increases (including increases in the baseline channel change that results from reductions in the numbers of channels in a tier) must use the appropriate official FCC form, a copy thereof, or a copy generated by FCC software. Failure to file on the official FCC form, a copy thereof, or a copy generated by FCC software, may result in the imposition of sanctions specified in section 5-195(d). A cable operator must include rate cards and channel line-ups with its filing and include an explanation of any discrepancy in the figures provided in these documents and its rate filing.

Sec. 5-193. City review of basic cable rates and equipment costs.

(a) *When rates become effective; extra time allotment; additional information.* After a cable operator has submitted to the city for review its existing rates for the basic service tier and associated equipment costs, or a proposed increase in these rates (including increases in the baseline channel charge that results from reductions in the number of channels in a tier), the existing rates will remain in effect or the proposed rates will become effective after 30 days from the date of submission to the city. Provided, however, that the city may toll this 30-day deadline for an additional time by issuing a brief written order as described in paragraph (d) within 30 days of the rate submission explaining that it needs additional time to review the rates. The city may, at any time, require the cable operator to produce additional information, including proprietary information, that the city deems necessary in order to make a rate determination. The city will state a justification for each item of information requested and, where related to a specific FCC form, indicate the question or section of the form to which the request specifically relates. If proprietary information is provided, the provisions of section 5-194 will apply to the information.

(b) *Public inspection and copying of submittals.* Upon receipt by the city, the cable operator's submittal will be available for public inspection and copying. Comments on the submittal by interested persons may be submitted in writing or orally at a city council meeting held at any time during the initial 30-day review period. Written comments will be addressed to the city secretary and must be received prior to the end of the 30-day period.

(c) *Justification of rates exceeding reasonable levels.* If a cable operator submits a proposed rate increase for review that appears to exceed the presumptively reasonable level and does not include a cost-of-service showing to justify the rate, the city will permit the cable operator to cure this deficiency and submit a cost-of-service showing.

(d) *Tolling deadline to request and consider additional information and comments.* If the city is unable to determine, based upon the material submitted by the cable operator, that the existing or proposed rates are within the permitted basic service tier charge or actual cost of equipment as defined in sections 5-181 and 5-183 hereof, or if a cable operator has submitted a

cost-of-service showing pursuant to sections 5-184 and 5-195 seeking to justify a rate above the basic service tier charge as defined in sections 5-181 and 5-183, the city may toll the thirty-day deadline in paragraph (a) of this section to request or consider additional information or to consider the comments from interested parties as follows:

(1) For an additional 90 days in cases not involving cost-of-service showings; or

(2) For an additional 150 days in cases involving cost-of-service showings.

The order tolling the effective date of the proposed rate will explain why the city could not make the necessary determination and it will also provide the cable operator an opportunity to cure any deficiencies in its original filing. During the additional time periods provided in this paragraph, comments from interested persons may be submitted in writing, as provided in paragraph (b) of this section, or orally during at least one city council meeting during the period of abatement.

(e) *Rates to take effect after additional period; refunds.* If the city has availed itself of the additional 90 or 150 days permitted in paragraph (c) of this section and has taken no action within these additional time periods, then the proposed rates will go into effect at the end of the 90- or 150-day periods or existing rates will remain in effect at such times, subject to refunds if the city subsequently issues a written decision disapproving any portion of such rates. Provided, however, that in order to order refunds, the city must have issued a brief written order to the cable operator by the end of the 90- or 150-day period permitted in paragraph (c) of this section directing the operator to keep an accurate account of all amounts received by reason of the rate in issue and on whose behalf such amounts were paid.

(f) The city reserves the right to request that the FCC examine a cable operator's cost-of-service showing, in accordance with 47 CFR section 76.933(d).

(g) Cable operators must comply with the city's requests for information, orders, and decisions. No cable operator will, in any information submitted to the city in making a rate determination pursuant to a Form 393 or Form 1200 filing, or a cost-of-service showing, make any misrepresentation or willful material omission bearing on any matter within the city's jurisdiction.

(h) Notwithstanding the foregoing, a cable operator may increase its rates for basic service to reflect the imposition of, or increase in, franchise fees or commission cable television system regulatory fees imposed pursuant to 47 USC section 159, upon 30 days' notice to subscribers and the city. For the purpose of paragraphs (a) through (e) of this section, the increased rate attributable to commission regulatory fees for franchise fees will be treated as an "existing rate," subject to subsequent review and refund if the city determines that the increase in basic tier rates exceeds the increase in regulatory fees or in franchise fees allocable to the basic tier. A cable operator must adjust its rates to reflect decreases in franchise fees or commission regulatory fees within the periods set forth in section 5-181(d)(3) a. and c.

(i) Cable television system regulatory fees assessed by the commission pursuant to 47 USC section 159 will be recovered in monthly installments during the fiscal year following the fiscal year for which the payment was imposed. Payments shall be collected in equal monthly installments, except that for so many months as may be necessary to avoid fractional payments, an additional $0.01 payment per month may be collected. All such additional payments will be

collected in the last month or months of the fiscal year, so that once collections of such payments begin there will be no month remaining in the year in which the operator is not entitled to such an additional payment. Operators may not assess interest. Operators may provide notice of the entire fiscal year's regulatory fee pass-through in a single notice.

Sec. 5-194. Proprietary information.

(a) *Withholding information from public inspection.* If the city has required the cable operator to produce proprietary information under this chapter, the cable operator may submit therewith a request that such information not be made routinely available for public inspection. A copy of the request must be attached to and shall cover all of the materials to which it applies and all copies of those materials. If feasible, the materials to which the request applies must be physically separated from any materials to which the request does not apply. If this is not feasible, the portion of the materials to which the request applies must be identified.

(b) *Statement of reasons.* Each such request must contain a statement of the reasons for withholding the materials from inspection and of the facts upon which those reasons are based. If the request is that the materials be withheld from inspection for a limited period of time, that period must be specified.

(c) *Casual requests.* Casual requests which do not comply with the requirements of paragraphs (a) and (b) of this section will not be considered.

(d) *Grant of request.* Upon receipt of a request in compliance with paragraphs (a) and (b), the city will not grant routine public access to the materials. A letter to that effect will be placed in a public file in lieu of the materials withheld from public inspection.

(e) *Public Information Act.* Provided, however, if a written request for the materials is received by the city pursuant to the Public Information Act, chapter 552, Texas Government Code, the city will notify the person providing the materials of the request for the materials. If the person providing the materials requests the city to do so, the city will request an opinion from the Attorney General, pursuant to the Public Information Act, regarding the public availability of the materials. If the person providing the materials does not request the city to request an opinion from the Attorney General, the city may, at its option, either request such an opinion or provide the materials to the public.

(f) *Availability of materials upon Attorney General's opinion.* If the Attorney General issues an opinion or letter ruling requiring the city to make the materials available to the public, the materials will be made available for public inspection.

(g) *No request, no obligation.* If no request for confidentiality is submitted, the city assumes no obligation to consider the need for nondisclosure.

Sec. 5-195. Burden of proof.

(a) A cable operator has the burden of proving that its existing or proposed rates for basic service and associated equipment comply with 47 USC section 543, and sections 5-181 and 5-183.

(b) For an existing or a proposed rate for basic service tier or associated equipment that is within the permitted tier charge and actual cost of equipment as set forth in section 5-181 and 5-183, the cable operator must submit the appropriate FCC form to the city.

(c) For an existing or a proposed rate for basic service tier that exceeds the permitted tier charge as set forth in sections 5-181 and 5-183, the cable operator must submit to the city a cost-of-service showing to justify the proposed rates. The cost-of-service showing must be in conformance with accounting and cost allocation requirements as adopted and amended by the commission for cable system operators.

(d) The city may find a cable operator that does not attempt to demonstrate the reasonableness of its rates in default and, using the best information available, enter an order finding the cable operator's rates unreasonable and mandating appropriate relief, as specified in sections 5-198 and 5-199 hereof.

(e) The city may order a cable operator that has filed a facially incomplete form to file supplemental information, and the city's deadline to rule on the reasonableness of the proposed rates will be tolled pending receipt of such information. The city may set reasonable deadlines for the filing of such information, and may find the cable operator in default and mandate appropriate relief, pursuant to paragraph (d) of this section, for the cable operator's failure to comply with the deadline or otherwise provide complete information in good faith.

Sec. 5-196. Small systems.

(a) A small system, as defined in section 5-172, may certify that the small system's rates for basic service and associated equipment, and subsequent rate increases, comply with section 5-181. A certification by a small system under this section for its initial rates must be filed with the city within 30 days of receiving written notification from the city that the city has been certified by the commission to regulate rates for the basic service tier. Certifications for subsequent rate increases must be filed with the city at the same time that notice is given to the small system's subscribers of the proposed rate increase, in conformance with section 5-191. All certifications must be in writing, shall be signed by the general manager of the system and shall be verified.

(b) Such certification shall be subject to verification by the city on its own motion or upon complaint by a subscriber. The city may request additional information from the operator in order to verify the certification. In the event proprietary information is requested by the city, the provisions of section 5-194 will control the availability of such information to the public.

(c) If the city determines that the small system's certification is in error, it will so notify the small system operator and will require the small system to comply with all filing requirements for non-small systems in this article.

Sec. 5-197. Written decision.

(a) The city will issue a written decision in a ratemaking proceeding when it disapproves an initial rate for the basic service tier or associated equipment in whole or in part, disapproves a request for a rate increase in whole or in part, or approves a request for an increase in whole or in part over the objections of interested parties. The city is not required to issue a written decision

that approves an unopposed existing or proposed rate for the basic service tier or associated equipment.

(b) Public notice will be given of any written decision required in paragraph (a) of this section by making the text of any written decision available to the public and by publication of the decision one time in the official newspaper of the city.

Sec. 5-198. Reduction of rates; prescription of rates.

(a) The city may order a cable operator to implement a prospective reduction in basic service tier or associated equipment rates where necessary to bring rates into compliance with the standards set forth in sections 5-181 and 5-183.

(b) The city may prescribe a reasonable rate for the basic service tier or associated equipment after it determines that a proposed rate is unreasonable.

Sec. 5-199. Refunds.

(a) *Notice and opportunity to comment before refund.* The city may order a cable operator to refund to subscribers that portion of previously paid rates determined by the city to be in excess of the permitted tier charge or above the actual cost of equipment, unless the operator has submitted a cost-of-service showing which justifies the rate charged as reasonable. An operator's liability for refunds will be based on the difference between the old bundled rates and the sum of the new unbundled program service charge(s) and the new unbundled equipment charge(s). Where an operator was charging separately for program services and equipment but the rates were not in compliance with the city's rules, the operator's refund liability will be based on the difference between the sum of the old charges and the sum of the new, unbundled program service and equipment charges. Before ordering a cable operator to refund previously paid rates to subscribers, the city will give the operator notice and opportunity to comment. The operator's opportunity to comment upon the proposed refunds may be at any meeting of the city council during the city's period of review of the operator's rates. If the city has extended its review period under section 5-193 and has issued an accounting order under section 5-193(e), then the operator, prior to refunds being ordered, may request an opportunity to appear before the city council to comment upon the proposed refunds.

(b) *Limitation of liability.* An operator's liability for refunds is limited to a one-year period, except that an operator that fails to comply with a valid rate order issued by the city will be liable for refunds commencing from the effective date of such order until such time as it complies with such order.

(c) *Refund period.* The refund period will run as follows:

(1) From the date the operator implements a prospective rate reduction back in time to September 1, 1993, or one year, whichever is shorter.

(2) From the date the city issues an accounting order pursuant to section 5-193(d) hereof, to the date a prospective rate reduction is issued, then back in time from the date of the accounting order to the effective date of the rules; however, the total refund period will not exceed one year from the date of the accounting order.

(3) Refund liability will be calculated on the reasonableness of the rates as determined by the rules in effect during the period under review by the city.

(d) *Implementation of refunds.* The cable operator, in its discretion, may implement a refund in the following manner:

(1) By returning overcharges to those subscribers who actually paid the overcharges, either through direct payment or as a specifically identified credit to those subscribers' bills; or

(2) By means of a prospective percentage reduction in the rates for the basic service tier or associated equipment to cover the cumulative overcharge. This will be reflected as a specifically identified, onetime credit on prospective bills to the class of subscribers that currently subscribe to the cable system.

(e) *Interest on refunds.* Refunds shall include interest computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments.

(f) At the time the city orders a cable operator to pay refunds to subscribers, the city will return to the cable operator an amount equal to that portion of the franchise fee that was paid on the total amount of the refund to subscribers. The city will promptly return the franchise fee overcharge either in an immediate lump sum payment, or the cable operator may deduct it from the cable system's future franchise fee payments.

Secs. 5-200 – 5-205. Reserved.

ARTICLE VII. TOWN SQUARE

Division 1. In General

Sec. 5-206. Purpose. Town Square was developed through public and private investment to serve as a center for community, governmental, entertainment, and commercial activities in the City. This article is enacted to ensure that the public space within Town Square provides a safe, healthy, and aesthetically pleasing environment for public and private events, entertainment, and shopping.

Sec. 5-207. Definitions. In this article:

Newspaper rack means any self-service or coin-operated container designed, used, or maintained for the sale, display, or distribution, with or without charge, of newspapers or other printed news material.

Public space means any sidewalk or improved area located in Town Square, including Town Plaza, which is owned by the city or Sugar Land Town Square Development Authority and is intended or designed for pedestrian use.

Town Square Plaza or *plaza* means the real property consisting of approximately 1.0897 acres of land and described as Reserve C2 in the Sugar Land Town Square Second Amended Plat recorded in the Real Property Records of Fort Bend County. Plaza includes that northernmost portion of Reserve C1 adjacent to Reserve C2 up to the foundation of the City Hall building located on Reserve C1, but does not include any portion of the plaza that is leased to a third party for more than one year.

Town Square means the approximately 32 acres of real property included in the planned development zoning district as established by City Ordinance Number 1116, located at the intersection of U.S. Highway 59 and State Highway 6.

Sec. 5-208. Scooters, skateboards and skates. It is unlawful for any person to knowingly ride on a scooter, skateboard, or skates on any public space.

Sec. 5-209. Camping. It is unlawful for any person to camp on any public space, except as authorized in conjunction with a special events permit. For purposes of this provision, "camping" means to make use of a public space for living accommodations. There is a rebuttable presumption that a person is using a public space for living accommodations in violation of this section if the person uses a public space for:

(a) The storage of clothing, food, beverages, or other personal belongings;

(b) Sleeping or lying in or on a cot, blanket, sleeping bag, or similar sleeping equipment; or

(c) Using a tent or other items to make an enclosure for the person's shelter.

Secs. 5-210 - 5-214. Reserved.

Division 2. Plaza Regulations

Sec. 5-215. Purpose. The plaza is a public space that is intended to be used for various purposes, including a gathering place for citizens, a place to hold public and private festivals, activities, events and celebrations, and a place to provide access to shopping, dining, and entertainment venues. This article is enacted to allocate the space in the plaza among potential competing users to ensure that there will be sufficient access to the plaza for police, fire, and medical personnel in emergency situations, to provide for the orderly flow of pedestrian traffic in the plaza, to protect and preserve property dedicated for public use, and to protect the public health, safety, and welfare of persons using the plaza.

Sec. 5-216. Definitions. In this division:

Administrator means the person designated to administer and supervise operations, use, and maintenance of the plaza as provided in this division.

Association means the Sugar Land Town Square Property Owners Association, or its successor by whatever name.

City sponsored event means an event in which the city is an active participant in organizing, planning, implementing, or providing funds for the activity or event.

Commercial purposes means an activity intended to promote or that results in a commercial transaction, other than a solicitation.

Special event means any temporary gathering, rally, parade, festival, exhibit, display, entertainment, performance, or presentation held in the plaza that is open to the public with or without charge:

(1) In which more than 100 persons are expected to attend or participate or;

(2) That requires the placement or erection of one or more stages, booths, kiosks, tables, tents, barricades, or similar temporary structures or facilities to support or serve the special event.

Solicitation means to:

(1) Request a donation of money or other thing of value from another person by the spoken, written, or printed word, or by other means of communication and includes providing a nominal or token gift in return for the donation; or

(2) Sell any item to another person for money or other thing of value if the proceeds from the sale are intended to provide support for non-commercial protected speech.

Street performer means a person who engages in acting, singing, playing musical instruments, pantomime, mime, magic, dancing, artistry, or similar presentation.

Sec. 5-217. Plaza boards. The city council may by written policy establish or appoint one or more boards to perform duties regarding the planning, programming, funding, and presentation of entertainment, events, or activities in the plaza.

Sec. 5-218. Adoption of plaza rules. In addition to the regulations contained in this article governing the use of the plaza, the council may adopt written rules governing the operations of the plaza for the use and guidance of the administrator and the public as proposed by the administrator or as deemed necessary by the council. The administrator will keep copies of the adopted rules on file and post a notice of where the rules may be inspected in a conspicuous place in Town Plaza.

Sec. 5-219. Administrator.

(a) *Designation of administrator.* The city may designate a city employee or contract with the association or another person to serve as the administrator.

(b) *Authority and duties.* The administrator has general management and operational duties relating to the use of the plaza. The administrator will exercise the following specific duties:

(1) *Propose rules for city manager adoption.* The administrator will propose rules for city manager adoption as required by this article and as the administrator deems appropriate or necessary to regulate the operation and use of the plaza.

(2) *Permits.* The administrator will receive and process applications and issue permits for special events or other activity that requires a permit under rules adopted under this division.

(3) *Reserving and scheduling.* The administrator will propose and administer rules adopted for reserving and scheduling the dates and times for using all or part of the plaza for special events, city sponsored events, and other planned activities in the plaza regulated under this division. The rules may provide for city sponsored events and special events that

are open to the public without charge to be given preference over special events for which there is a charge and events for which plaza space is leased for private events not open to the public.

(4) *Lease for private events.* The administrator will propose and administer rules adopted for the lease of plaza space for private events to which the public is not admitted and the adopted rates to be charged under the lease agreement.

(5) *Structures and displays.* The administrator will propose and administer rules adopted for the placement of tables, chairs, booths, easels, or any other movable structures or items that are supported in whole or in part by the pavement or other permanent improvements located in the plaza.

(6) *Commercial vendors.* The administrator will propose and administer the rules adopted regulating the use of the plaza for commercial purposes.

(7) *Solicitation.* The administrator will propose and administer rules adopted regulating solicitation when necessary to provide for the free flow of pedestrian traffic, provide access by emergency personnel or vehicles, or provide for the public health, safety and welfare of users of the plaza.

(8) *Street performers.* The administrator will propose and administer rules adopted to regulate street performers in the plaza if necessary.

(9) *Closing the plaza.* The administrator may temporarily close or limit access to all or part of the plaza based on weather, repairs, construction, safety concerns, malfunctions, maintenance or similar natural or manmade conditions that could endanger plaza users by posting written notice of the closing at the location of the closing.

(10) *Sound amplification equipment.* The administrator will propose and administer rules adopted regarding the use of sound amplification equipment in the plaza.

(11) *Additional rules and administrative actions.* The administrator may propose any other rules deemed necessary for the proper management of the plaza and take any administrative action as necessary to manage and maintain the plaza if the administrative action does not conflict with this article, any rules adopted under this article, city ordinances, or federal or state laws.

(c) *Violation of rules.* It is unlawful for any person to knowingly violate any written rule adopted by the city manager under this division.

(d) *Restrictions on administrator*. In exercising the powers and duties granted to the administrator under this division the administrator may not impose any condition or take any administrative action, including the issuance of a permit:

(1) That takes into account the message, speech or viewpoint of an applicant, person, or group using or wishing to use the plaza for the exercise of constitutionally protected speech. However, the administrator may impose conditions on activities, including the time, manner, and place that protected speech may be expressed, if the conditions are: (a) content neutral (b) narrowly tailored to serve a significant governmental interest; and (c) leave open ample

alternative channels of communication for the information sought to be disseminated. (Example: The administrator cannot prohibit messages that may be "unpopular", but may restrict all "speakers" to part of the plaza that will not significantly impede pedestrian traffic).

(2) That the administrator determines, based on the advice of legal counsel, would violate the establishment clause of the United States Constitution or the comparable provision of the Texas Constitution.

(3) That favors the exercise of activity for purely commercial purposes over the exercise of constitutionally protected free speech that is not for purely commercial purposes. (Example: Administrator allows a company to temporarily set up a table in the plaza to sell cell phones, but refuses to allow a person to temporarily set up a table to distribute or sell religious materials).

Sec. 5-220. Special events.

(a) *Permit required.* It is unlawful for any person to knowingly conduct a special event, other than a city sponsored event, in the plaza without first receiving a permit from the administrator.

(b) *Application process.* A person seeking a permit for a special event in the plaza must file an application with the administrator on the form provided for that purpose. The application must be signed by the person or persons responsible for the special event and must include the following information:

(1) A description of the special event and the number and types of activities planned;

(2) The date and time of the special event;

(3) The number and types of vendors that will be present;

(4) The number of people expected to attend;

(5) Whether a sound system will be used, and if so, the period of time and maximum volume at which it will be operated;

(6) Whether any portion of the City Hall steps will be used as a stage, or whether a separate stage will be erected in the plaza;

(7) The arrangements that will be made for traffic control, security, restroom facilities, medical care and other services or facilities to support the special event;

(8) Whether there will be a charge for the special event and the basis upon which persons may or may not be admitted to the special event if other than a charge;

(9) Any other information the administrator determines will be necessary to evaluate the application and determine whether it meets the requirements of this article.

(c) *Fees and deposits.* The administrator may establish and collect fees, deposits, and bonds to pay for or ensure the payment of the actual costs incurred by the city relating to the use

of the plaza for special events, including costs incurred for trash cleanup and removal, providing security, protection, or medical care, for the administration of this division and for any other necessary or related services that arise directly from the use of the plaza. However, the administrator may not impose an additional fee on any applicant because of any constitutionally protected speech to be expressed during the special event which may create the need for additional security for persons opposing the speech expressed.

(d) *Permit decision.* The administrator will make a decision on the permit application as promptly as possible after the applicant has provided all the information required by the application in the form and manner required, but in no case later than ten business days after the date a complete application is submitted. The administrator will grant a permit unless the administrator finds one or more of the following exists:

(1) The application submitted is not sufficient or complete, provides false information, does not comply with this division or a rule adopted thereunder, or was not submitted with any required documents, fees or deposits.

(2) The applicant has failed to arrange or provide for adequate parking, trash cleanup, security, or other arrangements to ensure that the special event will be safe, secure and healthful for the participants thereof.

(3) The administrator previously received a fully completed application for a special event or lease for a private event at the plaza for the same date for which a permit or lease has been or will be granted and there is insufficient plaza space to accommodate both events.

(4) The applicant's request will conflict with the previously scheduled city sponsored event or activity and there is insufficient plaza space to accommodate both activities.

(5) The applicant has held a prior special event for which the applicant failed to comply with a requirement of this division, failed to pay any required fees, charges, or deposits, failed to comply with all the conditions of the permit, failed to pay for or remedy damage incurred to public property, created a dangerous condition or situation, failed to comply with reasonable requests of the administrator or his agents, or otherwise violated the purpose or intent of this article.

(6) The special event will not comply with this article, rules adopted hereunder, state or federal laws or regulations, or a reasonable condition imposed by the administrator for issuance of a permit.

(7) There is insufficient space within the plaza to accommodate the special event. (Example: A rock concert or political rally that could be expected to attract more people than the plaza could safely accommodate.)

(8) The proposed use would present an unreasonable danger to the health or safety of the applicant, special event attendees, or other users of the plaza. (Example: An applicant wants to hold go-cart races in the plaza).

(9) The special event is being held for purely commercial purposes. (Example: Applicant wants to use the plaza under a special events permit to display and sell sailboats for an admission price).

(e) *Conditions.* The administrator may impose reasonable conditions on a special events permit to ensure compliance with this article and the safety of attendees and the public. The permit issued must contain in writing all the conditions and requirements that apply to the special event.

(f) *Sale of alcoholic beverages.* The administrator may authorize the sale of alcoholic beverages at an authorized special event if the administrator is satisfied that the necessary security and other services arranged for the special event are sufficient to protect the public and comply with state law.

(g) *Notice of denial or revocation of permit.* If the administrator refuses to issue a permit for a special event or revokes a permit for a special event after it is issued, the administrator will give written notice of the denial to the applicant or notice of revocation to the permit holder as soon as is reasonably possible after the decision is made to deny or revoke the permit. The notice will specify the reasons for the denial or revocation and what steps must be taken, if applicable, to receive a permit or reinstate the revoked permit.

(h) *Other permit actions.* Any other procedures relating to any permit not specifically provided for under this article will be as provided for in the uniform procedures of the Code of Ordinances applicable to other city permits.

Sec. 5-221. Plaza regulations.

(a) *Sound amplification equipment.* It is unlawful for any person to make use of an electronically amplified voice or sound equipment, device, or instrument in the plaza except in conjunction with a permit for a special event or in compliance with rules adopted hereunder.

(b) *Operation of motor vehicles.* It is unlawful for any person to knowingly drive or operate a motor vehicle in the plaza unless it is a city vehicle, emergency vehicle, repair or maintenance vehicle, or other vehicle authorized by the administrator.

(c) *Food and beverage vendors.* It is unlawful for any person to sell food or beverages in the plaza except as allowed under a special events permit or as allowed by rules adopted hereunder.

(d) *Newspaper racks.* It is unlawful for any person to place or maintain a newspaper rack in the plaza.

(e) *Unattended displays.* It is unlawful for any person to place or maintain an unattended display in the plaza. For purposes of this provision, an unattended display means any item, including a picture, statue, symbol, or similar item, that is intended to serve or be seen as a visual depiction or expression of an idea where the person responsible for the placement or maintenance of the display is not in attendance or in close proximity to the item displayed. The administrator may remove any display that violates this provision. The prohibition of this paragraph does not apply to an unattended display that is required by or placed by the city or other governmental entity for a governmental purpose.

Secs. 5-222 -5-230. Reserved.

ARTICLE VIII. WATER AND WASTEWATER

Division 1. In General

Sec. 5-231. Definitions. In this article:

City service district means a district that proposes to contract with the city for the city to provide water or wastewater services, or both, to serve the district.

Commercial user means that water passing through the meter is used for industrial companies, businesses, master metered multi-units and master metered multi-family units.

Director means the utilities director or other person designated by the city manager who is responsible for the operation of the city's water and wastewater systems.

District means a municipal utility district, water control and improvement district, or other special district or authority created under the Texas Constitution or the Texas Water Code to provide water, wastewater, stormwater drainage, or flood control service to real property.

Equivalent single-family service connection means the standardized measure of the water consumption and wastewater consumption attributable to a particular land use, stated in single-family service units, as established by the city.

Landscape user means that water passing through the meter is used exclusively for the purpose of lawn and landscape watering.

Oversized facility means a water or wastewater line or facility which has been increased in size or capacity above the minimum size required to provide service to the real property requesting the service extension. Fire flow requirements will be considered in determining the minimum standard size.

Residential user means that water passing through the meter is used for a single-family residential home.

Retail wastewater service means the city's wastewater collection, treatment, and disposal services provided directly to the ultimate retail consumer at a premises.

Retail water service means the city's delivery of treated potable directly to the ultimate retail consumer at a premises.

Service extension means the water or wastewater line, associated facilities, and off-site improvements required to extend service from the existing utility system to a real property for which utility service is requested.

Single-family service units means the standardized measure of the water consumption and wastewater discharge attributable to one single-family residential home.

Single-family residential home means a building designed to be used and occupied by one family.

Utility system means the city's water supply or wastewater facilities.

Secs. 5-232-235. Reserved.

Division 2. Creation of Water or Sewer Districts Within City's Extraterritorial Jurisdiction

Sec. 5-236. Proponents to agree to certain rules, regulations and standards. The city council finds, determines and declares that it is to the best interests of the city and of the territory within its extraterritorial jurisdiction, that the proponents of any municipal utility district or any other political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial uses, or the furnishing of sanitary sewer service, when such district is sought to be created within the area of the extraterritorial jurisdiction of the city, agree and covenant in writing to adhere to the following rules, regulations and standards:

(a) Bonds may be issued by the district only for the purpose of purchasing and constructing, or purchasing or constructing, or under contract with the city, or otherwise acquiring waterworks systems, sanitary sewer systems, sewage treatment facilities, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, construction, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary lands, right-of-way easements, sites, equipment, buildings, plants, structures and facilities therefor, and to operate and maintain same, and to sell water, sanitary sewer, and other services within or without the boundaries of the district. All district bonds will expressly provide that the district reserves the right to redeem such bonds on any interest payment date subsequent to the tenth anniversary of the date of issuance at a premium not to exceed two and one-half percent of par value reducing one-half of one percent of par value each year thereafter to par value. Bonds (other than refunding bonds and bonds sold to a federal or state agency) may be sold only after the taking of public bids therefor, and no bonds will be sold for less than 95 percent of par, provided the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, does not exceed two percent above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the 30-day period next preceding the date of sale of the bonds. Bids for the bonds will be received not more than 45 days after notice of sale of the bonds is given. The order or resolution of the district authorizing the issuance of all refunding bonds of the district will be approved by the mayor of the city. The district's resolution authorizing the issuance of its bonds will contain a provision that the pledge of the revenues from the operation of the district's water and sewer and/or drainage system to the payment of the district's bonds will terminate when and if the city, or some other city, annexes the district, takes over the assets of the district and assumes all of the obligations of the district. No land will be added or annexed to the district until the city has given its written consent by resolution of the city council to such addition or annexation.

(b) Before the commencement of any construction within the district, the district, its directors, officers or the developers and landowners must submit to the city or its designated representative all plans and specifications for the construction of water, sanitary sewer and drainage facilities to serve such district and obtain the approval of such plans and specifications by the city. All water wells, water meters, flush valves, valves, pipes and appurtenances installed or used within the district must conform exactly to the specifications of the city. All water service lines and sewer service lines, lift stations, sewage treatment facilities and appurtenances thereto, installed or used within the district must comply with the city's standard plans and

specifications. Prior to the construction of such facilities within the district, the district, or its engineer, must give written notice to the city stating the date that such construction will be commenced. The construction of the district's water, sanitary sewer and drainage facilities must be in accordance with the approved plans and specifications and with applicable standards and specifications of the city, and during the progress of the construction and installation of such facilities, the city or an employee, or a designated agent thereof, may make periodic on-the-ground inspections. As a further definition of the terms used in this paragraph, specific mention of the fact is made that "plans and specifications," "standard plans and specifications," "approved plans and specifications," or "applicable standards and specifications" are defined to mean and to require city approval only of the method of construction and types of materials to be employed therein by the district and are not meant to limit the discretion of the board of directors of the district to determine what facilities may be constructed, paid for and maintained by the district.

(c) The owner or the developer of the land within the district must covenant and agree that he will, prior to the sale of any residential lot, obtain the approval of the planning and zoning commission and the city council, if normally required, of a plat thereof and properly record it in the deed records.

(d) The district must not provide water and sewer service to a residential lot unless the plat covering such lot has been approved by the planning and zoning commission and the city council, if normally required.

(e) Full-time resident inspection must be provided during the construction period by district inspectors approved by the mayor of the city, which inspectors will be removed upon request by the mayor, if found not to be satisfactory. In addition, an additional inspector or inspectors will be furnished, if deemed necessary by the city engineer. Daily inspection reports will be kept on file by the district's engineer. Monthly inspection reports must be furnished to the city. All construction contracts must be let on a competitive bidding basis with the contract to be awarded on the basis of the lowest and best bid by a responsible competent contractor, unless otherwise approved by the city, which bid must include evidence of the financial condition of the bidders. Bid bonds, payment bonds, performance bonds and affidavits of payment are required in all cases. Upon completion of construction, submission of a complete set of "as built" plans to the city by the engineer for the district is required.

(f) At least one of the members of the initial board of directors must be a person selected by the city council.

(g) The district is not permitted to escrow any funds in excess of two years' interest on the bonds which the district issues and must levy a tax simultaneously with the first installment of such bonds and will continue a tax levy until such bonds are paid in full, unless the revenues of the system are adequate to discharge such bonds.

(h) Prior to the sale of any series of district bonds, the district must secure a letter of the mayor to the effect that the district is in compliance with this article, and a letter of the mayor addressed to the attorney general of Texas approving the form of the resolution or order of the board of directors authorizing the issuance of any bonds of the district absent the interest rates on and sales price of the bonds.

(i) The district must use its best efforts to structure its rates for water and sewer service in the same manner as the city even though level of rates may vary.

(j) The city will make recommendations to the board of the district and its financial advisor as to the amount of bonds that should be authorized, the installment sale of such authorization, the maturity schedule of each installment, the optional provisions to be contained in such bonds, and the sale and delivery of the district bonds.

(k) The district will have its water and sewer system operated and maintained by the city, if both the city and the district can agree upon mutually satisfactory terms and conditions.

Sec. 5-237. Reimbursement for costs and expenses.

(a) Within six months after consent to the creation of a district is given by the city or within six months after consent to annex or acquire additional real property is given to a district by the city, or within three months after the district is created by the Texas Commission on Environmental Quality or its successor agency, whichever is later, the owner or the developer of the land within the district must pay $20,000.00 to reimburse the city for all of its fiscal, legal and engineering fees and expenses relating to:

(1) Necessity and feasibility of the creation of this district;

(2) The financial advisory services described in subsection (j) of section 5-236;

(3) The city's review of plans and specifications of the district's facilities; and

(4) Supervision of inspection of district's facilities.

(b) The owner or the developer of the land within the district is also obligated to pay additional expenses incurred by the city for the foregoing not to exceed the additional sum of $10,000.00. Such sum will be used by the city for the purpose of paying such costs incurred for that purpose. If any part of the deposit is not needed for the purpose of paying such fees and expenses, it will be returned forthwith to the owner or the developer of the land within the district. No interest will be allowed on any deposit. It is understood that the fees and expenses paid will be those actually incurred by the city and the city will make an accounting to the parties paying such expenses. The persons requesting city's consent to the creation of a district are obligated to guarantee the payments imposed upon the owner or the developer of the land within the district as set forth in this section.

(c) If the district paid the $20,000.00 fee when the district was created, then the district would not be liable for an additional $20,000.00 payment when the district annexed or acquired additional property. However, the district may be liable for the $10,000.00 payment described above.

Sec. 5-238. Written agreement to comply with article prerequisite to granting of council's consent. Upon application by the proponents of any proposed political subdivision mentioned in section 5-236 to the city council for its written consent for the creation of such political subdivision, and if, upon the basis of its consideration and deliberations, it determines that such consent should be given, the written agreement of the proponents of such political subdivision to adhere to the rules, regulations and standards contained in this article are a prerequisite to the granting of such written consent.

Secs. 5-239--5-245. Reserved.

Division 3. Rates and Charges

Sec. 5-246. Monthly retail water rates.

(a) Regular service. Each customer receiving city retail water service through a meter must pay a monthly charge based on the following quantity and service charges by user class:

(1) Residential users must pay consumption charges based on an increasing block volume rate for each 1,000 gallons of water, or portion thereof, as follows:

Volume Block (in gallons)	Rate per 1,000 gallons or part thereof
0 – 3,000	$1.25
3,001 to 10,000	$1.37
10,001 to 20,000	$1.57
Over 20,000	$1.71

(2) Commercial users must pay consumption charges based on a uniform volume rate of $1.44 for each 1,000 gallons of water, or portion thereof.

(3) Landscape users must pay consumption charges based on a uniform seasonal volume rate for each 1,000 gallons of water, or portion thereof, as follows:

Season	Rate per 1,000 gallons or part thereof
Winter (Oct – Apr)	$1.31
Summer (May – Sept)	$1.66

(4) In addition to other charges, each residential, commercial and landscape user must pay a service charged based on water meter size as follows:

Meter Size (inches)	Service Charge
5/8	$4.71
¾	$4.71
1	$7.35
1 ½	$19.54
2	$30.42
3	$65.67
4	$181.65
6	$355.61
8	$444.24

(b) Fire lines. Any property served by a fire line must pay a monthly service charge of $6.00 and the monthly quantity charge, if any, applicable to regular service.

(c) Transient meters. Any person making use of a transient meter must pay a monthly service charge of $25.00 and the monthly quantity charge applicable to regular service.

Sec. 5-247. Monthly retail wastewater charges. Each residential and commercial user receiving city retail wastewater service pays a monthly charge based on the following volume and service charges:

(1) A uniform volume charge of $2.66 for each 1,000 gallons of water, or portion thereof, provided through the meter; and

(2) A service charge based on the customer's water meter size as follows:

Meter Size (inches)	Service Charge
5/8	$5.65
¾	$5.65
1	$9.16
1 ½	$25.40
2	$39.63
3	$85.91
4	$239.41
6	$471.04
8	$588.60

(3) For a residential customer who has received water service during either or both of the periods described in paragraphs 3 (a) or (b) below, the maximum wastewater volume charge for the billing periods from March 1, through November 30, 2006, is calculated using the customer's lowest average water usage for the following billing periods:

(a) From December 1, 2004 through February 28, 2005, or

(b) From December 1, 2005 through February 28, 2006.

(4) Wastewater charges will not be imposed in conjunction with water service for a new meter installed on property for new residential construction until the expiration of 90 days of service, or the date of permanent occupancy, whichever first occurs.

(5) Wastewater charges will not be imposed in conjunction with water service for a new meter installed on property for new non-residential construction until the expiration of 180 days of service, or the date of permanent occupancy, whichever first occurs.

Sec. 5-248. Out of city retail customers. Retail water and wastewater customers located outside of the city's corporate limits will be charged double the rate for water and wastewater service that applies to retail customers located within the city.

Sec. 5-249. Water and wastewater charges for districts served by the utility system.

(a) *Application*. The provisions of this section providing for monthly usage charges and connection charges apply to any district located in the city's extraterritorial jurisdiction that contract with the city for water or wastewater services provided to the district by the utility system.

(b) *Quantity charges*. The city will bill and the district must pay monthly water and wastewater quantity charges, in the same manner as provided for in this chapter for retail customers, in the following amounts:

(1) Water: $0.83 per 1,000 gallons of metered water.

(2) Wastewater: $1.37 per 1,000 gallons of metered water.

(c) Connection charges.

(1) *Amount*. The district must pay the city a connection charge in the following amounts for each equivalent single-family connection made to the district's water and wastewater system:

Water Production and Storage	$875
Water Distribution and Wastewater Collection	$2100
Wastewater Treatment	$1335
Total Connection Fee	$4310

(2) *Calculation of connection charge*. The connection charge is imposed to pay for the capital costs of providing water and wastewater services to a district that contracts with the city for water and wastewater services provided by the utility system. The connection charge is based on the city's projected capital cost of providing the required capital facilities for the utility system that will be necessary to serve the utility system service area as determined by the city from time to time. The basis on which the city calculates the connection charge and from time to time adjusts the connection charge must be reduced to writing and filed as a city record, which must show:

a. The estimated capital costs of providing future utility system facilities for the service area for which connection charges have not been previously paid; and

b. The estimated number of connections that will be served by the system in the future for which connection charges have not been paid.

(3) *Time of payment*. The district must pay the connection charge imposed in this section to the city before water or wastewater service is provided by the district to any premises for which a connection charge has not been paid. For residential subdivisions, the district will pay the connection charge to the city for the estimated number of equivalent single-family service connections that will be needed to serve the subdivision, or portion thereof, being platted before the plat is recorded in the county real property records. For non-residential properties, the district will pay the connection charge to the city for the estimated number of equivalent single-family service connections to serve the property before the city issues a slab permit for the property.

(4) *Credit for facilities.* The city may choose to accept a transfer of facilities from the district that are to be owned by the city as part of the utility system as payment for connection charges.

(5) *Deposit of funds.* All connection charges collected by the city under this section must be deposited in a construction fund and used solely to pay the capital costs of the utility system.

Sec. 5-250. Schedule of service fees and charges. The following fees and charges apply to the water and wastewater services provided under this article:

Delinquent Process Fee (Sec. 5-279)

To continue service if payment not received by 9:00 a.m. on termination date: . . . $25.00

Deposits. (Sec. 5-269)

Single-family . . . $50.00

Multi-Family Two months average usage based on prior tenant's usage. For first time occupancy, usage will be based on usage tables.

Commercial: Two months' average usage based on standard projected usage tables.

Sprinkler . . . 100.00

Additional deposit if termination for nonpayment . . . 25.00
beginning with the 2nd termination, up to a maximum of $100.00 additional deposit.

Transient Meters:
1" . . . 230.00
2" . . . 850.00

Meter Tampering (Sec. 5-280)

Administrative fee . . . 50.00

Reinstallation fee . . . 50.00

Meter Test Fees (Sec 5-311) . . . 40.00

Return Check Fee –see section 2-136(g)

Service Initiation Fee

24 hours notice or more . . . 0.00

Less than 24 hours notice . . . 25.00

Additional service call (If meter shows water running and new service cannot be initiated per request) . . . 10.00

Sewer Tap Fees:

4" Residential . . . 200.00

6" Commercial Tap . . . 300.00

8" Commercial Tap . . . 400.00

Temporary Water Service Charge (30 days or less) . . . 10.00

Water Connections (Sec. 5-310)

Meter Size	Set
¾”	$615
1”	$965
1 ½”	$1,270
2”	$1,370

Meter Downsizing (Sec. 5-310) . . . 125.00

Secs. 5-256--5-265. Reserved.

Division 4. Application for Service

Sec. 5-266. Submission of application.

(a) Anyone requesting utility service provided by the city must apply to the city for service.

(b) As a condition to receiving service, applicants may be required to provide a valid Texas driver's license with photograph, a valid identification card with photograph issued by the Texas Department of Public Safety, a social security card, or two valid verifiable forms of identification.

(c) Applicants for service may be required to show proof of their right to occupy a specific service address as of a specific date of occupancy. Applicants for nonresidential service may be required to show proof of their right to contract for the entity requesting the service.

(d) A charge for new service will be made for initiating service, upon the applicant's request, with less than 24 hours notice.

Sec. 5-267. Service contracts.

(a) The city may require that persons requesting service execute service contracts on forms provided by the city. A service contract exists between the city and parties who properly execute an application for service or service contract, or accept or use utility service supplied by the city under the conditions set forth in this chapter or under other conditions that would give rise to an obligation to pay for the service regardless of whether an express agreement, written or oral, exists between the city and any party.

(b) Unless provided otherwise in the service contract, a service contract continues in effect until canceled by the customer or by the city.

(c) If a customer breaches a service contract or violates a condition of service as contained in this chapter or the city's ordinances, the city may terminate service, cancel the service contract, or resort to any other legal remedy provided by law.

Sec. 5-268. Denial of service. The city may decline to initiate utility service to any applicant if:

(a) The applicant is not in compliance with the state, federal or municipal regulations governing the service applied for;

(b) The applicant has an installation or equipment that is hazardous or in a condition so that satisfactory service cannot be given;

(c) The applicant is indebted to the city for utility service;

(d) The applicant does not comply with the service requirements or the credit security requirements;

(e) The applicant applies for service for a premises that does not comply with the city's building codes, including the plumbing, building, mechanical, or fire code;

(f) The applicant is not in compliance with any law that provides for refusal or termination of service as a penalty;

(g) The premises to be served is not connected with the city's distribution or collection facilities; or

(h) The premises to be served is not on a tract of land that complies with the subdivision regulations of the city.

Sec. 5-269. Credit security.

(a) To protect the city from the risk of providing service on credit, the city may require applicants or customers to give, maintain, or re-establish credit security for any utility service address and establish utility customer payment standards.

(b) The following forms of credit security may be accepted from residential customers and applicants for service:

(1) An established customer with no outstanding utility bills due to the city;

(2) A letter of reference from another utility showing no outstanding balance and no disconnections for non-payment during the last 12 consecutive billing cycles; or

(3) A cash deposit.

(c) The following forms of credit security may be accepted from nonresidential customers and applicants for service:

(1) A record of satisfactory compliance with customer payment standards for service at a comparable nonresidential service address served by the city;

(2) A letter of reference from another utility showing no outstanding balance, and no disconnections for non-payment during the last 12 consecutive billing cycles;

(3) A refundable cash deposit equal to two months' average usage based on standard projected usage tables; or

(4) A refundable cash deposit sufficient to reasonably protect the city against the assumed risk of providing temporary service through a meter for construction purposes only.

(d) The credit security will be returned to the customer, voided, or if in the form of cash, credited to the customer's account, or refunded in full, if the customer:

(1) Had at least 24 consecutive billing cycles of residential service, or 24 consecutive billing cycles of nonresidential service, accumulated at city utility service addresses;

(2) Had no disconnection for nonpayment during the last 24 consecutive billing cycles of residential service or 24 consecutive billing cycles of nonresidential service; and

(3) Had no past due utility bills.

(e) Cash deposits will be returned to customers upon termination of service if there are no unpaid utility bills for the account for which the deposit was given. If there is an unpaid utility account, the deposit may be applied to the unpaid account. Deposits may not be used to pay an account other than the account for which the deposit was given, except on consent of the customer. Unclaimed deposits will be disposed of in accordance with state escheat laws.

(f) Failure to comply with credit security requirements is cause for termination of service.

(g) Deposits are not required for public schools, counties, and other governmental entities.

Sec. 5-270. Transfer of service.

(a) If a customer does not give the city notice prior to vacating a service address, the customer is liable for service supplied to the vacated premises until notice is given and the city has had reasonable time (no more than three business days after the date of notice or requested turn-off date, whichever is later) to discontinue service.

(b) Customers wishing to transfer service from one city service address to another are subject to the requirements of this article for the type of service to be supplied at the new location.

(c) If the credit security requirement at the new service address is higher than at the customer's previous service address, an additional cash deposit or new credit security instrument may be required before service will be transferred.

(d) If the credit security requirement at the new service address is lower than at the customer's previous service address, then the city may, at its option, apply any cash deposit on hand to the balance due for the previous account and refund the difference, if any, to the customer, and require new credit security for the new account.

Secs. 5-271--5-275. Reserved.

Division 5. Billing and Payment

Sec. 5-276. In general.

(a) Bills are ordinarily rendered by the city at regular monthly intervals, but may be rendered more or less frequently at the city's option.

(b) All bills for service are due when rendered. If payment in full is not received by the city by the due date printed on the bill, a ten percent late charge up to maximum $100.00 will be added to the bill. The due date for addition of the penalty may vary from 21 to 23 days. Upon a customer's request and for good cause shown, the city may waive the late charge one time in a 24-month period.

(c) If a customer does not receive a bill for service, the customer's obligation to make payment for service rendered is not released or diminished.

Sec. 5-277. Billing for solid waste services. All single and two-family dwellings receiving water service are required by ordinance to receive solid waste services supplied by the city and to pay a monthly fee for the service in the amount established by ordinance. The monthly fee for solid waste services is billed by the city to any customer receiving water and sewer service for a single or two-family dwelling, regardless of the nonuse or amount of use of the solid waste services provided. The requirements of this article regarding billing and payment also apply to the charge for solid waste services, which are not considered a separate charge for purposes of determining delinquency. Should the customer fail to timely pay the total combined monthly bill for water, wastewater, and solid waste services, the city may discontinue water service to the residential premise in accordance with this article for delinquent payments. The city will not impose a charge for solid waste services for a new building which is required to receive city solid waste services until the building is permanently occupied or for the first 90 days from the date the original meter is installed, whichever first occurs.

Sec. 5-278. Billing adjustments.

(a) If the city determines an account is over billed, the city will refund the total amount due or credit the account.

(b) If any meter is found to be on the wrong rate, the account will be adjusted back to the date when the account was set up with the wrong rate, up to a maximum of three years.

(c) If the city determines any account is undercharged, the city will back bill the customer for the amount that was undercharged. The back billing will not exceed three years, unless the undercharge is the result of meter tampering, bypassing, or an unmetered connection, or diversion by the customer.

(d) If the amount of the back billing is $25.00 or more, the city will offer the customer a deferred payment plan for the same length of time as that of the under billing. If the back billing is a result of utility service diversion, unlawful use of service, or damage to city equipment, the city may, but is not required to, offer the customer a deferred payment agreement.

(e) Wastewater charges will be adjusted in the same manner and for the same time period as water.

(f) All reimbursements or collections will be made at the rates in effect at the time of each over billing or under billing. No refund is required from the city except to the customer last served by the meter.

Sec. 5-279. Delinquency. An active account becomes delinquent when full payment is not received by the city's revenue department by the due date printed on the bill. Delinquent accounts are subject to termination of service pursuant to this article.

Sec. 5-280. Utility service diversion. In any case of utility service diversion, unlawful use of service, or customer damage to city equipment, the city will bill the customer for previously unbilled utility costs for all water not recorded on the meter, and any wastewater service based thereon, the amount of which may be estimated by the city from the best available data, and billed at the proper rate schedule. The city may also bill the customer for all other city costs, including personnel costs, incurred in investigating and correcting the diversion.

Sec. 5-281. Returned checks.

(a) Accounts for which payment is made using checks which are returned by a bank for any reason may be charged a returned check fee. The amount of the check and returned check charge will be charged to the account, and must be paid in full seven days from the date certified notice was delivered or was attempted to be delivered.

(b) If two or more checks are returned unpaid within a 12-month period, payments must thereafter be made in cash, cashier's check, or money order until the customer establishes a 12-month payment history with no more than two late payments and no interruptions of service for non-payment.

Sec. 5-282. Deferred payment agreements.

(a) Any current customer with a previous balance owed the city for utility service may apply for a deferred payment agreement, except for a backbilling resulting from diversion of service, unlawful use of service, or customer damage to city equipment. Under other circumstances the city determines are reasonable, the city may, but is not required to, enter into a deferred payment agreement with a customer.

(b) The city will determine whether to enter into a deferred payment agreement based on factors related to the purpose of providing for deferred payments, including the following:

(1) The size of the previous balance owed the city;

(2) The customer's ability to pay;

(3) The customer's payment history;

(4) The time that the debt has been outstanding; and

(5) The reasons the debt has been outstanding.

(c) If a customer fails to meet the terms of a deferred payment agreement, the city may terminate service and is not required to offer another deferred payment agreement prior to termination.

Sec. 5-283. Appeals.

(a) Customers objecting to any action, policy, billing, or decision relating to utility service to an applicant or customer may appeal the action, policy, billing, or decision to the city. The city may require that the person reduce the appeal to writing. The city need not consider an appeal from any action or decision that occurred more than 60 days prior to the date the person requests an appeal.

(b) The city will designate one or more employees to hear appeals. The person requesting an appeal has the right to appear in person to present or explain information relating to the appeal at any reasonable time during city business hours, as agreed upon between the customer and the city.

(c) The city will consider all information submitted by the person requesting the appeal, whether submitted in writing or orally. The city employee hearing the appeal may request additional information, including additional documents or sworn statements from relevant witnesses, if reasonably necessary to resolve the issue.

(d) The city must make any decision on the appeal in writing and provide a copy thereof to the person filing the appeal by mailing to the service customer address. The decision rendered is final.

(e) The city will not terminate service if the termination is based on an issue over which the customer has filed an appeal, until after the appeal is resolved. The customer must, however, pay any undisputed charges for service before delinquency to avoid termination of service.

Secs. 5-284--5-290. Reserved.

Division 6. Termination of Service

Sec. 5-291. Termination of service.

(a) The city may terminate a customer's utility service:

(1) At the request of the customer;

(2) For the customer's failure to pay a delinquent account, comply with the terms of a deferred payment agreement, or comply with credit security requirements;

(3) Because of utility service diversion or unlawful use of service;

(4) Because of a known dangerous condition of the premises; or

(5) For a violation of any city ordinance, statute or rule regulating the submetering of utility service or any law or regulation which provides for termination or refusal of service as a remedy.

(b) Written notice of the proposed termination of service will be given by the city by mail or delivery to the service address prior to termination. The notice will include the following:

(1) The reason or reasons for termination;

(2) That the customer has a right to appeal the termination if the customer disputes the reason for termination; and

(3) The address and telephone number of the city department that may be contacted regarding the proposed termination.

(c) Prior notice is not required when termination is requested by the customer, where a known dangerous condition exists or where a condition threatens the public health, safety, or resources, or where there is a utility service diversion or unlawful use of service.

(d) If the customer does not take action by the date required by the termination notice to correct the reasons for termination, service will be terminated without further notice.

Sec. 5-292. Re-initiation of service.

(a) Terminated service will be re-initiated if the customer pays the past due balance, or the city accepts a deferred payment agreement for the amount due.

(b) The city will charge the customer a delinquency processing fee to reinstate service after service has been terminated or to continue service after a work order to terminate service has been issued and regardless of whether service has been terminated. In addition, the customer may be required to supply or maintain credit security on the account, as provided in this article.

(c) For a utility service diversion, unlawful use of service, or damage to city equipment, the utility services that were provided in the probable time of the violation to the time of correction, damage, or utility diversion, will be billed to the customer or other responsible persons as determined by the city, and payment required prior to restoring utility services.

Secs. 5-293--5-300. Reserved.

Division 7. General Conditions of Service

Sec. 5-301. Supply of service.

(a) Utility service is supplied only as follows:

(1) In accordance with the provisions of this article or other applicable ordinances as now or hereafter amended, including the rates adopted by the city council;

(2) At such points of delivery as are adjacent to lines and facilities of the city that are adequate and suitable as to capacity and the character of the service desired;

(3) To points of delivery using the most direct route from lines and facilities of the city that are adequate and suitable to the customer's capacity and the character of service as determined by the city; and

(4) To installations within the city that conform to applicable city codes and to tracts beyond the corporate limits that comply with the city's subdivision regulations and other city regulations.

(b) If a customer wishes to change the point of delivery or capacity of the service or require another service the customer must pay the cost of necessary changes.

(c) Service will not be supplied to any premises if, at the time of application for service, the applicant is indebted to the city for service previously supplied at the same or other address, until payment has been made or an acceptable payment agreement has been made for the indebtedness.

Sec. 5-302. Continuity of service. The city will use reasonable diligence to supply steady and continuous service but does not guarantee the service against irregularities or interruptions. The city may interrupt service when necessary to repair, change, or relocate the city's production equipment, transmission system, distribution system, wastewater lines or other property without incurring any liability, for periods of time as may be reasonably necessary to make the repairs or changes.

Sec. 5-303. Remetering and resale of service.

(a) City service will only be supplied directly to the customer through the city's own meter.

(b) Utility service must not be metered for resale, or otherwise resold by a customer who receives retail service for a price higher than the price charged to the customer by the city. The city may, after notice and opportunity for hearing, discontinue the supplying of utility service to a customer to prevent a violation of this provision.

Sec. 5-304. Connection to city utility system required.

(a) Any real property owner who constructs a building to be used for human habitation or occupancy after the effective date of this section on property that is contiguous to an easement containing city water and wastewater lines must connect the building to the city's water and wastewater system. If the building is not contiguous to an easement containing a city water and wastewater line, the owner may make use of an alternate water supply and wastewater system if approved in accordance with city ordinance and other applicable laws.

(b) The owner of a building used for human habitation or occupancy served by a water well and septic system must connect the building to the city's water and wastewater system within 180 days of the date a city water or wastewater line is extended within an easement that is contiguous to the property that contains the building.

(c) Any property owner required to connect to the city's water and wastewater system under this section, must pay to the city all charges and fees applicable to property owners connecting to the city's water and wastewater systems.

Sec. 5-305. Service to adjacent premises. A customer may not, without the prior consent of the city, extend or connect the customer's installation to utility lines across or under a public street, alley right-of-way space, or other private space, including property lines, in order to obtain service for adjacent property through one meter even though the adjacent property is owned, controlled, or occupied by the customer.

Sec. 5-306. Water conservation plan. Ordinance No. 910, adopted October 24, 1994, adopted a water conservation plan for the City. The plan consisted of, among others, a utility evaluation, a system audit, a water conservation element, a drought contingency plan and various appendices containing maps, conservation tips and the water rate structure. The water conservation plan is on file with the city and available for public inspection through the city secretary's office.

Sec. 5-307. Water emergency periods.

(a) The mayor may declare a "water emergency period" by filing a declaration with the city secretary, designating the time when the emergency period begins. The water emergency period ends when the mayor files a declaration with the city secretary designating the time when the water emergency period ends.

(b) During a water emergency period, it is unlawful for any owner, lessee, occupant or other person to intentionally discharge water from a residential connection within the city water distribution system between the hours of 5:00 a.m. and 11:00 p.m.:

(1) On lawns, grass, trees, or plants; or

(2) For washing motor vehicles.

(c) During a water emergency period the mayor may take the following additional actions if, in his opinion, the actions are warranted by the degree of emergency then existing:

(1) Institute an "even or odd" system under which discharge of water regulated by subsection (a) above would be further limited so that residences with even-numbered street addresses would only be permitted to use water on even-numbered days and residences with odd-numbered street addresses would only be permitted to use water on odd-numbered calendar days. The thirty-first day of any month would be considered both even and odd for the purpose of this subsection.

(2) During any severe water emergency, curtail commercial and industrial water consumption.

Sec. 5-308. Customer's installation.

(a) The customer is responsible for installing, providing, repairing, and maintaining all water and wastewater service facilities located on the customer's side of the meter.

(b) To receive city service, the customer must convey to the city any property rights necessary to extend the city's lines or extensions thereof or other equipment necessary or incidental to the supplying of service to the customer, without reimbursement from the city.

(c) The customer must maintain the premises so that city's agents have safe and unobstructed access to all portions thereof for the purpose of maintaining, removing, or replacing the city's property, reading meters, inspecting plumbing systems, and backflow methods and assemblies and other apparatus on new and remodeled installation, and all other purposes incident to the supplying of service to the customer, including sampling points for wastewater discharges.

(d) The customer's service connections are to be located at a point readily accessible to the city's service facilities. The service connection point is to be determined by the city, using the most direct route to city facilities, and the point may be relocated if deemed necessary by the city.

(e) All installations must conform with city plumbing, building, mechanical, energy conservation, fire, and electric codes, and with any other city ordinance governing the customer's installation.

(f) Where and as required by the city's ordinance, backflow prevention assemblies, devices and methods must be installed, maintained and operationally tested by the customer, provided water service is directly or indirectly connected, or interconnected to the city's potable water distribution system.

(g) The customer will install and maintain operable a city-approved water cut off valve at the point of delivery.

(h) If the customer's plumbing fixtures are lower than the castings onto the city's mains, the customer must install the necessary backflow protection equipment.

Sec. 5-309. City's installation and maintenance.

(a) The city will install and maintain its lines and equipment on its side of the meter, but the city is not required to install or maintain any lines or equipment on the customer's side of the meter, except when specifically provided for in this chapter or in a service contract. If loss or damage to the property of the city is caused by the negligence or misuse of the customer, the customer is liable for the costs of repairs.

(b) The customer must protect the city's potable water supply by installing, operationally testing and maintaining backflow assemblies and methods as required, approved and accepted by the city.

Sec. 5-310. Meter installation.

(a) Any person requesting or proposing to make use of a sewer tap must first pay the applicable fee to the city.

(b) The city will furnish and install any necessary meter if the meter is two inches or smaller after the property owner has paid the appropriate fees. The customer is responsible for installing any required meter that is more than a two-inch meter, in accordance with city specifications. Upon connection to the city system, the meter becomes the property of the city.

(c) Upon a customer's request and the payment of the appropriate fee, the city will replace a one-inch water meter with a 3/4 inch by 3/4 inch water meter.

(d) The customer must provide and maintain a location, including any necessary easements, free of expense and satisfactory to the city for installation, reading, and maintenance of its installation.

(e) Following discovery of utility service diversion, unlawful use of service, or damage to city equipment, the city may remove metering or other equipment where necessary to protect the city's interests, where unsafe or hazardous conditions have occurred, or where the violations are repetitive. The responsible person or the property owner will be required to satisfy all fees and permits required by the city as a condition of restoring utility services to the property.

Sec. 5-311. Meter tests.

(a) The city will test its meters and maintain their accuracy of registration in accordance with established industry standards.

(b) On request of a customer, the city will make a meter test. If the special test shows the average registration of a meter to be within AWWA standards, and the meter has been tested by the city within the preceding 12 months, the customer must pay the cost of the test, the minimum charge for which is established by ordinance.

Sec. 5-312. Transient meters.

(a) A person renting a transient meter to take water temporarily from a fire hydrant must file a written application along with required deposit. The deposit will be returned to the applicant when the transient meter is returned to the city except that the city may deduct from the deposit any unpaid usage charges, penalties for late payment, or the cost to repair a damaged meter or fire hydrant or replace a lost or destroyed transient meter.

(b) The applicant will be billed and must pay for water in accordance with the regulations applicable to billing and payment for water service.

Secs. 5-313--5-320. Reserved.

Division 8. Extensions of Service

Sec. 5-321. Application. This division governs the city in the review, approval, and installation of extensions of water or wastewater utility lines for retail water or wastewater

service where the utility lines are not extended through capital improvement programs or other city-initiated projects.

Sec. 5-322. Request for service extension. Any person requesting a service extension must make a written request to the city containing a general description of the location, size, and capacity of the service extension. When either water or wastewater service is to be provided by an entity other than the city, the applicant must provide evidence of a commitment for service from the entity providing the service.

Sec. 5-323. Approval of service extension.

(a) The director may approve a service extension to provide retail water or wastewater services to a premises, whether located inside or outside the city, if:

(1) The city has the capacity to serve the premises;

(2) The applicant has or will at applicant's cost install all required lines and facilities to provide the services; and

(3) The applicant is within an area that may be lawfully served by the city.

(b) If the premises to be served is located outside the city's corporate limits, the applicant must agree in writing to comply with all building codes and city ordinances relating to receiving water or wastewater services, including wastewater discharges.

Sec. 5-324. Cost participation in oversized facilities. The city may require that any service extension be constructed with oversized facilities. Prior to beginning construction of any oversized facility required by the city, the city and person responsible for the service extension must enter into a written cost participation agreement in a form approved by the city setting forth the cost to be paid by each party.

Secs. 5-325-5-330. Reserved.

Division 9. Cross Connection Control

Sec. 5-331. Purpose. The purpose of these regulations is to protect the city's public potable water supply from contamination or pollution by isolating within the customer's internal water system contaminants or pollutants which could backflow into the public water system.

Sec. 5-332. Definitions. In this division:

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the city's water system.

Backflow prevention assembly means an assembly or means designed to prevent backflow.

Health hazard means an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.

Sec. 5-333. General requirements.

(a) City water service will not be connected, provided to, or maintained for any premises unless the city water system is protected from possible contamination as required by this division. If the city determines that a backflow prevention assembly is necessary at the customer's water service connection or within the consumer's water system for the safety of the city's water system, the city will send written notice to the consumer requesting that the customer install an approved backflow prevention assembly as a condition or receiving or continuing to receive city water service. Within the time specified in the city's notice, the consumer must install and thereafter maintain a backflow prevention assembly for the customer's water system at the customer's expense.

(b) City water service to any premises may be discontinued in accordance with the regulations for discontinuance of service to a city customer if a backflow prevention assembly is not installed, tested, or maintained as required by these regulations, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premises.

(c) As a condition to providing or continuing city water service to any customer, the customer must make available for city inspection the customer's water system at all reasonable times to determine whether unprotected cross-connections or other structural or health hazards, including violations of these regulations, exist.

(d) Any backflow prevention assembly required to be installed or maintained under this division must be of a type approved by the city and must be installed as specified by the city. Any customer required to install or maintain a backflow prevention assembly must have a field test performed upon installation. If a potential health hazard exists, the backflow prevention assembly must be tested at least once per year after installation. If the city determines that the circumstances of the customer premises create unusual hazards, the city may require field tests at more frequent intervals. These tests will be performed at the customer’s expense and performed by a certified tester approved by the city. The customer must retain the original copy of the test for the city's review and documentation.

(e) The city department or division responsible for the administration and enforcement of the regulations of this division may implement and enforce necessary and reasonable written rules and policies to implement the provisions of this division.

Secs. 5-334--5-340. Reserved.

Division 10. Sewer Service Lines and Sewer Connections

Sec. 5-341. Sewer service lines and sewer connections. The following regulations are to govern the installation of all sanitary service lines and sewer connections within the City.

(a) Service Lines:

(1) "Service line" means the sewer from the foundation of the house or commercial building to the sewer line owned by the city.

(2) Only one service line connection to the city's sanitary sewage collection system is permitted for each residence or commercial building.

(3) Only the following types of pipe and fitting materials are approved for constructing service lines. Pipe and fittings in each individual service line will be of identical material.

a. Schedule 40 conforming to ASTM, F-477 and installed as per subsection (b)(3) of these specifications.

b. Six-inch lines and over; polyvinylchloride (PVC) pressure rated pipe SDR 26 or SDR 21 conforming to ASTM D 1784 with rubber gasket joints conforming to ASTM, F-477 and installed as per subsection (II)(C) of these specifications.

c. Ductile-iron pipe conforming to ANSI A21.51 with rubber gasket joints ANSI A21.11, and installed according to manufacturer's recommendations.

(4) Minimum sizes of service lines are as follows:

a. Residential..... 4 inches in diameter

b. Commercial..... 6 inches in diameter

(5) Minimum grades for service lines are as follows:

a. Four-inch pipe--One foot drop per hundred feet (1%).

b. Six-inch pipe--Six inches drop per hundred feet (0.5%).

c. Eight-inch pipe--Four inches drop per hundred feet (0.33%).

(6) Maximum grades for service line are as follows:

a. Four-inch pipe--Two and one-half feet drop per hundred feet (2.5%).

b. Six-inch pipe--One and one-half feet drop per hundred feet (1.5%).

c. Eight-inch pipe--One foot drop per hundred feet (1%).

(b) Connection of Building Sewer Outlet to Service Lines:

(1) Building tie-on connection will be made directly to the stub-out from the building plumbing at the foundation on all waste outlets.

(2) Watertight adapters of a type compatible with the materials being joined will be used at the point of connection of the service line to the building plumbing. No cement grout materials are permitted.

(3) To construct service lines to true alignment and grade, four inches minimum of sand bedding must be provided in the bottom of the trench prior to laying the pipe. After inspection and approval, sand backfill must be placed around the pipe and connection to a

minimum depth of 12 inches over the top of the pipe. Warped and sagging lines will not be permitted.

(4) Existing "wye" and stack connections must be utilized for connection of the service line to the sewer main unless an exception is permitted by the city.

(5) The physical connection to the city's sewer main must be made by use of an adapter of a type compatible with materials being joined. The connection must be watertight. Portion to be cut out from sewer main must be circular and available for inspection.

(6) Connections will not be made into a manhole without approval from the city.

(7) Sewer lines will not be laid within nine feet of a water line unless the sewer pipe and its couplings have a pressure rating of not less than 150 pounds per square inch (psi).

(c) Fittings and Cleanouts:

(1) No bends or turns at any point will be greater than 45 degrees.

(2) Each horizontal service line will be provided with a cleanout at its upper terminal, and each run of piping which is more than 90 feet in length will be provided with a cleanout for each 90 feet or fraction thereof, in the length of such piping.

(3) Each cleanout will be installed so that it opens in a direction opposite to the flow of the waste and, except the case of "wye" branch and end-of-the-line cleanouts, will be installed vertically above the flow line of the pipe.

(4) Cleanout will be made with airtight mechanical plug.

(d) Connection Permit:

(1) An application for sanitary sewer service must be filed and a city permit issued prior to beginning construction or installation of a service line and prior to connecting to a city-owned sewage line. The connection fee must accompany the application. Application forms are available from the city.

(2) When the service line is complete, and prior to backfilling the pipe trench, the applicant for sewer service will request an inspection of the installation. Request for inspections must be made to the city's inspector 24 hours in advance of the inspection. Should reinspection be required the charge will be ten dollars per reinspection.

(3) Backfilling of service line trenches must be accomplished within 24 hours of inspection and approval. No debris will be permitted in the trench.

(4) A connection permit will be granted after inspection confirms that all requirements of these rules and regulations have been met.

(5) All commercial connections must submit a site plumbing plan and a recorded plat to be approved by the city prior to connecting the city's sanitary sewer, drainage or water system.

(e) Grease and Lint Traps:

(1) Grease traps are required for dining establishments where food is prepared and served to customers on premises.

(2) Washateria operations require a lint trap.

(3) Air space above the water line must be vented with four-inch soil pipe if the trap is located inside a building.

(4) Plans and specs for grease and lint traps can be obtained from the city.

(5) All shopping centers must provide a grease trap and a sampling well.

(6) All health care facilities must provide an acid dilution basin and a sampling well.

(f) Sand Traps:

(1) Sand traps are required for all car-washing establishments.

(2) Plans and specs for sand traps may be provided by the owner or the city.

(g) Excluded Flow and Waste:

(1) Only biologically degradable wastes which may be considered as ordinary domestic sewage may be discharged into the city's sewage facilities. Any waste that is determined to be hazardous or toxic under this article must not be discharged into the city's sanitary sewage system. Any person, corporation or entity discharging such prohibited waste is subject to prosecution and termination of service until the city is satisfied that proper measures have been taken to ensure no further violations.

(2) Industrial discharge will require a permit from public works department.

(3) It is unlawful for a person to discharge mud, sand or debris during service line installation.

(4) Downspouts, swimming pool drains, yard drains, street drains or gutter drains must not be connected to the city's sanitary sewer facilities.

Secs. 5-342--5-345. Reserved.

Division 11. Sewer Use Standards

Sec. 5-346. Definitions. In this division:

Act or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC section 1251 et seq.

Approval authority means the director in an NPDES state with an approved state pretreatment program and the appropriate regional administrator in a non-NPDES state or WPDES state without an approved state pretreatment program.

Authorized representative of industrial user means an authorized representative of an industrial user. It may be a principal executive officer of at least the level of vice-president if the industrial user is a corporation, a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively, or a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

Biochemical oxygen demand (BOD) means the quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees centigrade.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five feet outside the inner face of the building wall.

Building sewer means the extension from the building drain to the sewer or other place of disposal (also called house lateral and house connection).

Bypass means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

Categorical standards means national categorical pretreatment standards or pretreatment standard.

Chemical oxygen demand (COD) means a measure of the oxygen-consuming capacity, expressed in mg/l, of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand.

Composite sample means the sample resulting from the combination of individual samples taken at selected intervals based on an increment of either flow or time.

Control authority means the city manager or designated appointee for the purpose of implementation and enforcement of this division.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Direct discharge means the discharge of treated or untreated wastewater directly into state waters.

Domestic wastewater means the waterborne wastewater normally discharging into the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, which may or may not contain stormwater and industrial wastes.

End of pipe means the location where the user's private wastewater line terminates into the city's wastewater conveyance system.

Environmental Protection Agency (EPA) means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

Garbage: means the animal and vegetable wastes and residue from the preparation, cooking and dispensing of food, and from the handling, processing, storage and sale of food products and produce.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC section 1317) into the POTW (including holding tank waste discharged into the system).

Industrial user means a source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act (33 USC section 1342).

Industrial waste means the waterborne solids, liquids or gaseous wastes resulting from and discharged, permitted to flow, or escaping from industrial, manufacturing or food processing operations or processes, or from the development of any natural resource, or any mixture of these with water or domestic wastewater, or distinct from normal domestic wastewater.

Industrial waste charge means the charge made on those persons who discharge industrial wastes into the city's sewage system.

Interference means the inhibition or disruption of the POTW treatment processes or operations which contribute to a violation of any requirement of the authority's NPDES permit. This includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 USC section 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Acts (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Milligrams per liter (MG/L): The same as parts per million and is a weight-to-volume ratio. The milligrams-per-liter value multiplied by the factor 8.34 is equivalent to pounds per million gallons of water.

National categorical pretreatment standard or *pretreatment standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b)

and (c) of the Act (33 USC section 1347) which applies to a specific category of industrial users. This term includes prohibitive discharge limits established pursuant to section 403.5 of the Act.

National pollution discharge elimination system or *NPDES permit* means a permit issued pursuant to section 402 of the Act (33 USC section 1342).

National prohibitive discharge standard or *prohibitive discharge standard* means any regulation developed under the authority of section 307(b) of the Act and 40 CFR section 403.5.

Natural outlet means any outlet into a watercourse, ditch, lake or other body of surface or groundwater.

New source means any source the construction of which is commenced after the publication of proposed regulations prescribing a section 307(b) (33 USC section 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source the construction of which is commenced after the date of promulgation of the standard.

Non-contact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

Normal domestic wastewater means normal wastewater for the city where the average concentration does not exceed four hundred (400) mg/l of suspended solids and five-day BOD of 300 mg/l.

Pass-through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Brazos River Authority's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender includes the feminine, and the singular includes the plural where indicated by the context.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Pretreatment or *treatment* means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or other process change means, except as prohibited by 40 CFR section 403.6(d).

Pretreatment requirements means any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles are carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights and the use of which is controlled by public authority.

Publicly owned treatment works (POTW) means a treatment works, as defined by section 212 of the Act (33 USC section 1292). This includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. "POTW" also includes any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the POTW.

Sanitary sewer means a sewer in which all owners of abutting properties have equal rights and the use of which is controlled by a public authority.

Sewer means a pipe or conduit that carries wastewater or drainage water.

Shall denotes a mandate.

Significant industrial user means all dischargers subject to categorical pretreatment standards under section 503.6 and 40 CFR chapter I, subchapter N; and all noncategorical discharges that, in the opinion of the control authority, have a reasonable potential to adversely affect the POTW's operation or that contribute a process wastestream which makes up five percent or more of the average dry-weather hydraulic or organic capacity of the POTW treatment plant, or that discharge an average of 25,000 gallons per day or more of process wastewater to the POTW. However, the control authority need not designate as significant any noncategorical industrial user that, in the opinion of the control authority and with the agreement of the approval authority, has no potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement. The agreement of the approval authority is not necessary in cases where the noncategorical discharger would have been designated as significant only because of an average discharge of 25,000 gallons per day or more of process wastewater. However, any noncategorical industrial use designated as significant may petition the control authority to be deleted from the list of significant industrial users on the grounds that it has no potential for adversely affecting the POTW's operation or violating any pretreatment standard or requirement.

Slug load means any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

State means the State of Texas.

Stormwater means rainfall or any other form of precipitation.

Superintendent means the wastewater superintendent of the city or his duly authorized deputy, agent or representative.

Suspended solids means the solids that either float on the surface of or are in suspension in water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency.

Unpolluted water or *waste* means water or waste containing none of the following: emulsified grease or oil; acids or alkalis; phenols or other substances producing taste or odor in receiving water; toxic or poisonous substances in suspension, colloidal state or solution; and noxious or otherwise obnoxious odorous gases. It must contain not more than ten mg/l each of suspended solids and BOD. The color must not exceed 50 color units as measured by the Platinum-Cobalt method of determination.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

User means any person who contributes, causes or permits the contribution of wastewater into the authority's POTW.

Wastewater means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwater that may be present.

Wastewater contribution permit means that set forth as such in this division.

Wastewater facilities means all facilities for the collection, pumping, treating and disposing of wastewater and industrial wastes.

Wastewater service charge means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Wastewater treatment plant means any facility, device and structure used for receiving and treating wastewater, industrial waste and sludge from the city wastewater facilities.

Watercourse means a natural or man-made channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

Sec. 5-347. Abbreviations. The following abbreviations have the designated meanings:

BOD--Biochemical oxygen demand.

CFR--Code of Federal Regulations.

COD--Chemical oxygen demand.

EPA--Environmental Protection Agency.

l--Liter.

mg--Milligrams.

mg/l--Milligrams per liter.

NPDES--National Pollutant Discharge Elimination System.

POTW--Publicly owned treatment works.

SIC--Standard Industrial Classification.

SWDA--Solid Waste Disposal Act, 42 USC 6901 et seq.

TSS--Total Suspended Solids.

USC--United States Code.

Sec. 5-348. General discharge prohibitions. It is unlawful for a user to contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause pass-through or interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas or pollutants which create a fire or explosion hazard in the POTW, including but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees fahrenheit or 60 degrees centigrade using test methods specified in 40 CFR 261.21.

(b) Any uncontaminated stormwater and all groundwater, roof runoff, subsurface drainage, yard drains or water from fountains, ponds or swimming pools.

(c) Any liquid or vapor having a temperature greater than 135 degrees Fahrenheit (57 degrees centigrade), or any discharge which causes either the temperature of the treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour or the total combined treatment plant influent to rise to a temperature of 104 degrees Fahrenheit or more.

(d) Wastewater in volume or concentration which will alone or in conjunction with other wastewaters cause the treatment plant influent to exceed 24 mg/l of grease, fats, waxes, oils, plastics or other substances which will solidify or become discernibly viscous at any temperature between 32 degrees Fahrenheit and 90 degrees Fahrenheit.

(e) Any garbage that has not been properly shredded or any other solid or viscous substances in quantities capable of causing obstruction to the flow in sewers or interfering with the proper operation of the treatment plant, including such materials as ashes, cinders, sand, mud, straw, wood shavings, sawdust, metal shavings and filings, glass, rags, tar, lime slurry or residues, paint and chemical residues, bulk solids, glue or paper other than hygiene tissue.

(f) Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment influent.

(g) Any substance which singly or by interaction with other wastes can form a gas which, by itself or in combination with other substances, can be a hazard to life or interfere with the treatment process.

(h) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharge with a pH value lower than 5.5 or higher than 10.5, or any wastes containing strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not.

(i) Any of the following pollutants in solution or suspension, at a concentration to be determined by the Uniform Concentration method of calculation of Technically-Based Local Limits from the pollutant allocation to the City as contained in section II-E of the EPA-approved Pretreatment Program Modification for the Sugar Land Regional Sewerage System:

TABLE INSET:

Arsenic	Cadmium
Chromium	Copper
Cyanide	Fluoride
Lead	Mercury
Molybdenum	Nickel
Selenium	Silver

And, any of the following pollutants, in solution or suspension, at a concentration, measured at the user's end of pipe, greater than as shown below, without prior written approval from the city:

TABLE INSET:

Oil and Grease	91.7 mg/L

Total Phenols	20.2 mg/L
Total Toxic Organics	6.8 mg/L
Zinc	3.9 mg/L

(j) Any and all other toxic pollutants in concentrations or loadings that would pose a threat to human or aquatic life or cause interference with the wastewater treatment plant or cause toxic residue to be generated in the sludge from the wastewater treatment plant are prohibited.

(k) Chlorides in concentrations exceeding 250 parts per million (ppm), unless the discharge or chlorides in concentrations higher than 250 ppm is limited to rates and volumes that will not cause the concentration of chlorides in the treated effluent from the sewage treatment plant to exceed the applicable stream standard.

(l) Any radioactive wastes of greater concentration or amount than the allowable releases specified by regulatory agencies which control the possession and release of radioactive materials.

(m) Any active or inert materials in concentrations which interfere with the proper operation of the treatment process to the degree that the normal treatment process used will not produce an effluent meeting the criteria of regulatory agencies or which impose unusual costs for treatment or for maintenance.

(n) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate or pollutant concentration which will cause interference with the POTW.

(o) Any substances or mixtures which may contain any amount of polychlorinated biphenyls (PCBs).

(p) Concentrations exceeding 1100 mg/l of chemical oxygen demand (COD).

(q) Wastewater which contains more than 0.5 mg/l of dissolved hydrogen sulfide measured as H2S.

(r) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludge or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case may a substance cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; or state criteria applicable to the sludge management method being used.

(s) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(t) Any substance which will cause the POTW to violate its NPDES or state disposal system permit or the receiving water quality standards.

(u) Any wastewater which causes a hazard to human life or creates a public nuisance.

When the superintendent determines that a user is contributing to the POTW any of the substances listed above in such amounts as to interfere with the operation of the POTW, the superintendent will advise the user of the impact of the contribution on the POTW and develop effluent limitation(s) for such user to correct the Interference with the POTW.

Sec. 5-349. Review and approval; preliminary treatment.

(a) The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand greater than 300 ppm by weight, containing more than 400 ppm by weight of total suspended solids or having an average daily flow greater than five percent of the average daily sewage flow of the city may be subject to the review and approval of the city and may be subject to surcharge.

(b) Where necessary, in the sole opinion of the superintendent, the owner will provide, at its expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 300 ppm by weight, reduce objectionable characteristics or constituents to within the maximum limits provided for herein or control the quantities and rates of discharge of such waters or wastes.

(c) Plans, specifications and any pertinent information relating to proposed preliminary treatment facilities must be submitted for the approval of the superintendent, and construction of such facilities will not commence until said approvals are obtained in writing.

(d) Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this division for sources in that subcategory, will immediately supersede the limitations imposed under this division. The superintendent will notify all affected users of the applicable reporting requirements under 40 CFR section 403.12. Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" means reduction of the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system 95 percent of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, part 403) "General Pretreatment Regulations for Existing and New Sources of Pollution," promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR, part 403, section 403.7 are fulfilled and prior approval from the approval authority is obtained.

Sec. 5-350. Right of revision. The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives in this division.

Sec. 5-351. Excessive discharge. Except where expressly authorized to do so by an applicable pretreatment standard or requirement, industrial users must not increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The control authority (as defined in section 403.12(a)) may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

Sec. 5-352. Accidental discharges. Each user required to obtain a sewer use permit as determined by the city must provide protection from accidental discharge of prohibited materials or substances. Facilities to prevent accidental discharge of prohibited materials must be provided and maintained at the permittees' own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection must be submitted by all significant industrial users to the city for review and approval prior to issuance of a permit. Review and approval of such plans and operating procedures does not relieve the industrial user from the responsibility to modify their facility as necessary to meet the requirements of this division. In the case of an accidental discharge it is the responsibility of the user to immediately notify the city of the incident. The notification must include the location of discharge, type of waste, concentration and volume, and corrective actions. A written report concerning the accidental discharge must be submitted within five working days to the city.

Sec. 5-353. Notice of slug loading. All categorical and noncategorical industrial users must notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings as defined, by the industrial user.

Sec. 5-354. Upset provisions.

(a) *Effect of an upset*. An upset constitutes an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b) are met.

(b) *Conditions necessary for a demonstration of upset*. An industrial user who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the industrial user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

(3) The industrial user has submitted the following to the city within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(c) *Burden of proof*. In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset has the burden of proof.

(d) *Review of claims of upset*. The city will review all claims that noncompliance was caused by an upset. The final action based on the findings will be subject to judicial review.

Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) *User responsibility in case of upset*. The industrial user must control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

Sec. 5-355. Bypass of pretreatment facilities.

(a) Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or no feasible alternative exists.

(b) The user may allow bypass to occur which does not cause effluent limitations to be exceeded, but only if it is also for essential maintenance to assure efficient operations.

(c) Notification of bypass:

(1) Anticipated bypass. If the user knows in advance of the need for a bypass, it must submit prior written notice, at least ten days before the date of the bypass, to the city.

(2) Unanticipated bypass. The user must immediately notify the city of an unanticipated bypass and submit a written notice to the POTW within five days. This report must specify.

a. A description of the bypass and its cause, including its duration (including the time, volume, and location of the bypass, and the type and concentration of waste in the bypass);

b. Whether the bypass has been corrected; and

c. The steps being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.

Sec. 5-356. Charges and fees. The city may adopt charges and fees which may include:

(a) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;

(b) Fees for monitoring, inspections and surveillance procedures;

(c) Fees for reviewing accidental discharge procedures and construction;

(d) Fees for permit applications;

(e) Fees for filing appeals;

(f) Fees for consistent removal (by the city) of pollutants otherwise subject to federal pretreatment standards; and

(g) Other fees as the city may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this division and are separate and apart from all other fees chargeable by the city.

Sec. 5-357. Permit application/baseline monitoring report. All significant industrial users proposing to connect to or to contribute to the city's wastewater system must obtain a sewer use permit before connecting or contributing to the wastewater system. Users required to obtain a wastewater contribution permit must complete and file with the city an application in the form prescribed by the city. Existing users must apply for a wastewater contribution permit within 30 days after the effective date of the ordinance from which this division derived, and proposed new users must apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user must submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address and location (if different from the address).

(b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.

(c) Wastewater constituents and characteristics including, but not limited to, those mentioned in this division, as determined by a reliable analytical laboratory. Sampling and analysis must be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR part 136, as amended.

(d) Time and duration of contribution.

(e) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any.

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;

(g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged.

(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M), additional pretreatment, or both is required for the user to meet applicable pretreatment standards.

(i) If additional pretreatment or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule will not be later than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(1) The schedule must contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of

additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(2) No increment referred to in subparagraph (i)(1) above will exceed nine months.

(3) No later than 14 days following each date in the schedule and the final date for compliance, the user must submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event will more than nine months elapse between such progress reports to the superintendent.

(j) Each product produced by type, amount, process or processes and rate of production.

(k) Type and amount of raw materials processed (average and maximum per day).

(l) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system.

(m) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(n) The user must submit a list of any environmental control permits held by or for the facility.

The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a sewer use permit subject to terms and conditions provided herein. If the user applying for a permit is located beyond the city limits of the city, that user may be required to enter into a contract with the city prior to the issuance of the permit which requires the user to subject itself to, and abide by this ordinance, including all permitting, compliance monitoring, reporting and enforcement provisions herein.

Sec. 5-358. Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards will be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit, it must do so within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit must submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by subparagraphs (h) and (i) of section 5-357 above.

Sec. 5-359. Permit conditions. Wastewater discharge permits are expressly subject to all provisions of this division and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(b) Limits on the average and maximum wastewater constituents and characteristics;

(c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(d) Requirements for installation and maintenance of inspection and sampling facilities;

(e) Specifications for monitoring programs which may include sampling locations; frequency of sampling; number, types and standards for tests and reporting schedule;

(f) Compliance schedules;

(g) Requirements for submission of technical reports or discharge reports;

(h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording city access thereto;

(i) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(j) Requirements for notification of slug discharges; and

(k) Requirements for an authorized representative to meet the signatory and certification requirements for all applications and industrial user reports that all pretreatment standards are being met on a consistent basis.

(l) Other conditions as deemed appropriate by the city to ensure compliance with this division.

Sec. 5-360. Permits duration. Permits will be issued for a specified time period not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user must apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements are modified or other just cause exists. The user will be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit will include a reasonable time schedule for compliance.

Sec. 5-361. Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any succeeding owner or user must also comply with the terms and conditions of the existing permit.

Sec. 5-362. Reporting requirements for permittee.

(a) Compliance date report. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements must submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report must state whether the applicable pretreatment standards or requirements are being met on a consistent basis and if not, what additional O & M or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement must be signed by an authorized representative of the industrial user and certified by a qualified professional.

(b) Periodic compliance reports:

(1) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW must submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent that are limited by such pretreatment standards. In addition, this report must include a record of all daily flows that during the reporting period exceeded the average daily flow reported. At the discretion of the superintendent, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

(2) The city requires appropriate reporting from those significant industrial users with discharges that are not subject to categorical pretreatment standards. Significant noncategorical industrial users must submit to the city at least once every six months (on dates specified by the city) a description of the nature, concentration and flow of the pollutants required to be reported by the city. These reports must be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR part 136 and amendments thereto.

(3) The superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (1) above must indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports must contain the results of sampling and analysis of the discharge including the flow and the nature and concentration or production and mass where requested by the superintendent of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring must be prescribed in the applicable pretreatment standards. All analyses must be performed in accordance with procedures established by the authority pursuant to section 304(g) of the Act and contained in 40 CFR part 136 and amendments thereto or with any other test procedures approved by the authority. Sampling must be performed in accordance with the techniques approved by the authority. (Where 40 CFR part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis must be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and

amendments thereto, or with any other sampling and analytical procedures approved by the authority.

Sec. 5-363. Monitoring facilities.

(a) The city requires monitoring facilities be provided and operated at the user's own expense to allow inspection, sampling and flow measurement of the building sewer or internal drainage systems. A monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) There must be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment must be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities must be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction must be completed within 90 days following written notification by the city.

Sec. 5-364. Inspection and sampling. The city will inspect and monitor not less than once annually the facilities of all significant industrial users to ascertain whether the purpose of this division is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged must allow the city or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of its duties. The city and the EPA have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring or metering operations. Where a user has security measures in force that would require proper identification and clearance before entry into its premises, the user must make necessary arrangements with its security guards so that upon presentation of suitable identification personnel from the city and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

Sec. 5-365. Pretreatment.

(a) Users must provide necessary wastewater treatment as required to comply with this division and must achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city will be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures must be submitted to the city for review and be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation must be reported to and be acceptable to the city prior to the user's initiation of the changes. The city will annually publish in the city's official newspaper a list of the users determined to be in significant noncompliance with pretreatment requirements during the 12 previous months as specified in 40 CFR section 403.8(f)(2)(vii). The notification will also

summarize any enforcement actions taken against the user(s) during the same twelve-month period.

(b) All records relating to compliance with pretreatment standards must be made available to officials of the EPA or approval authority upon request.

(c) Any industrial user subject to the reporting requirements in this ordinance must maintain records of all information resulting from any monitoring activities. Such records must include for all samples:

(1) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

(2) The dates on which analyses were performed;

(3) Who performed the analyses;

(4) The analytical techniques/methods used; and

(5) The results of such analyses.

(d) Any industrial user subject to the reporting requirements established in this section will be required to retain for a minimum of three years any records of monitoring activities and results.

Sec. 5-366. Confidential information.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections must be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods or production entitled to protection as trade secrets of the user.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes will not be made available for inspection by the public but will be made available upon written request to governmental agencies for users related to this division, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report are available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(c) Information accepted by the city as confidential will not be transmitted to the general public by the city until and unless a ten-day notification is given to the user.

Sec. 5-367. Enforcement.

(a) *Harmful contributions*. The city may suspend the wastewater treatment service or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in

order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the authority to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service or the wastewater contribution permit must immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city will take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city will reinstate the wastewater contribution permit or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence must be submitted to the city within 15 days of the date of occurrence.

(b) *Revocation of permit*. Any user who violates the following conditions of this division, or applicable state and federal regulations, may be subject to having his permit revoked in accordance with the procedures of this division:

(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics; without first notifying the city;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,

(4) Violation of conditions of the permit.

(c) *Notification of violation*. Whenever the city finds that any user has violated or is violating this division, wastewater contribution permit or any prohibition, limitation of requirements contained herein, the city may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof must be submitted to the city by the user.

If sampling performed by an industrial user indicates a violation, the user must notify the control authority within 24 hours of becoming aware of the violation. The user must also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation, except the industrial user is not required to resample if:

(1) The control authority performs sampling at the industrial users at a frequency of at least once per month; or

(2) The control authority performs sampling at the industrial user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(d) *Show cause hearing*. The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the city council why the

proposed enforcement action should not be taken. A notice will be served on the user specifying the time and place of a hearing to be held by the city council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the city council why the proposed enforcement action should not be taken. The notice of the hearing will be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

The city council may conduct the hearing and take the evidence or may designate any of its members or any officer or employee of the city to:

(1) Issue in the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence; and

(3) Transmit a report of the evidence including transcripts and other evidence, together with recommendations to the city council for action thereon.

The transcript will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

After the city council or authorized officer has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service will be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(e) *Legal action.* If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this division, federal or state pretreatment requirements, or any order of the city, the city may commence an action for appropriate legal or equitable relief in any of competent jurisdiction.

Sec. 5-368. Penalty; costs.

(a) *Civil penalties*. Any user who is found to have violated an order of the city council or who willfully or negligently failed to comply with any provision of this division, and the orders, rules, regulations and permits issued hereunder, will be fined not less than $100.00 nor more than $2,000.00 for each offense. Each day on which a violation occurs or continues is deemed a separate and distinct offense. In addition to the penalties provided herein the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation at law against the person found to have violated this division or the orders, rules, regulations and permits issued under this article.

(b) *Falsifying information.* Any person who knowingly makes any false statement, representation or certification in any application, record or report or plan or other document filed or required to be maintained pursuant to this division, or wastewater contribution permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method

required under this division, will, upon conviction, be punished by a fine of not more than $2,000.00. In accordance with 40 CFR 403.12(n), the reports and other documents required to be submitted or maintained under this article will be subject to:

(1) The provisions of 18 U.S.C. section 1001 relating to fraud and false statements;

(2) The provisions of section 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and

(3) The provisions of section 309(c)(6) of the Act regarding responsible corporate officers.

Section 20. That except as repealed or amended herein, all other provisions of the Code of Ordinances, City of Sugar Land, Texas remain in effect.

Section 21. That with the exceptions of the amendments in Sections 2-41, 3-64, 3-111 of the Code, the amendments in this ordinance are not substantive and do not change the meaning or effect of the Code of Ordinances, City of Sugar Land, Texas as it existed on the date of this ordinance.

Section 22. That the provisions of the foregoing chapters, articles and sections enumerated in Section 19 of this ordinance that are the same as those of ordinances existing at the time of adoption of this ordinance are a continuation of existing ordinances and not new enactments.

Section 23. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance does not affect the validity of the remainder of the ordinance.

APPROVED on first consideration on July 18, 2006.

ADOPTED upon second consideration on August 01, 2006.

/s/
David G. Wallace, Mayor

ATTEST:

Glenda Gundermann, City Secretary

Reviewed for Legal Compliance:

Eugenia A. Carr

CITY COUNCIL

AGENDA REQUEST

AGENDA OF:	08/01/06	AGENDA REQUEST NO:	III A
INITIATED BY:	EUGENIA CANO ASSISTANT CITY ATTORNEY	RESPONSIBLE DEPARTMENT:	CITY ATTORNEY'S OFFICE
PRESENTED BY:	EUGENIA CANO	DEPARTMENT HEAD:	JOE MORRIS, CITY ATTORNEY
		ADDITIONAL DEPARTMENT. HEAD (S):	N/A
SUBJECT / PROCEEDING:	CODE OF ORDINANCES REORGANIZATION SECOND READING ORDINANCE 1577		
EXHIBITS:	MEMO DATED JULY 6, 2006 ORDINANCE 1577 (AVAILABLE IN CITY SECRETARY'S OFFICE AND COUNCIL OFFICE)		

CLEARANCES		APPROVAL	
LEGAL:	N/A	EXECUTIVE DIRECTOR:	N/A
PURCHASING:	N/A	ASST. CITY MANAGER:	N/A
BUDGET:	N/A	CITY MANAGER:	ALLEN BOGARD

BUDGET

EXPENDITURE REQUIRED: $	$10,000 - $15,000
AMOUNT BUDGETED/REALLOCATION: $	$15,000
ADDITIONAL APPROPRIATION: $	N/A

RECOMMENDED ACTION

Second Reading Ordinance No. 1577

EXECUTIVE SUMMARY

The Code of Ordinances is being reorganized and updated by Ordinance No. 1577. The Code reorganization updates and eliminates incorrect statutory references, establishes several broad subject matter areas (5 new chapters), removes obsolete, redundant or unnecessary provisions, revises language to improve readability, and amends sections to conform to state or local requirements. Ordinance No. 1577 also repeals sections that are covered by state law or existing City ordinances or policies. Because of the number of pages, Ordinance No. 1577 is available for viewing in the City Secretary's Office.

EXHIBITS

MEMORANDUM

TO: Mayor and Members of City Council

FROM: Eugenia A. Cano, Assistant City Attorney

DATE: July 6, 2006

SUBJECT: Proposed Reorganization and Update of the Code of Ordinances

---

This proposed ordinance reflects a reorganization of and certain updates to the entire Code of Ordinances (the Code). The attached table of contents shows the new chapters, articles, divisions and sections. This reorganization and update:

(1) renumbers the chapters to eliminate unused or reserved chapters, articles and sections;

(2) updates and eliminates incorrect statutory references;
(3) establishes several broad subject matter areas (5 new chapters);
(4) removes obsolete, redundant or unnecessary provisions;
(5) revises language to improve readability; and
(6) amends two sections to conform to state or local requirements.

Sections 1 through 18 of the amending ordinance will repeal certain Code sections that are covered by state law or existing City ordinances or policies. The repealed sections include the following:

(1) Code sections that have penalties that mirror the general penalty in Section 1-9, which now will be covered by the general penalty.

(2) The conflicts of interest provision for boards and commissions, which will be governed by the new ethics provisions in the Code.
(3) Certain provisions that duplicate state law, i.e. arrests without a warrant, obedience to police and fire department officials, weaving in, cutting in and obstructing traffic, municipal court and presiding judge authority, penalties and interest on delinquent ad valorem taxes, and the local sales and use tax for residential use of gas and electricity.
(4) Two sections governed by existing policies -- the compensation of officers and employees and records management requirements.

The repealed sections are lined through in the amending ordinance.

Section 19 of the amending ordinance contains a new framework for the entire Code. Five new chapters are being created:

(1) Chapter 1- General Provisions,
(2) Chapter 2- Administration,
(3) Chapter 3-Health and Safety,
(4) Chapter 4-Licenses, Permits and Business Regulations, and
(5) Chapter 5-Public Property and Services.

The existing provisions of the Code have been placed into these 5 chapters and renumbered accordingly. The attached table of contents shows the new framework with chapters, articles, divisions and sections.

Four ***substantive*** changes were made as part of this process: new section 2-41, 2-143, 3-64, and section 3-111. The changes are shown below:

(1) **Section 2-41** applies to advisory and administrative boards. It was amended to comply with the newly-enacted ethics provisions regarding conflicts of interest.

Sec. 2-41. Voting and conflicts of interest.

(a) Each member in attendance must vote on every matter that comes before the board, ~~except that a member may, after stating the reason therefor, abstain from discussing and voting on a matter if the member has a conflict of interest in the matter as provided in this article.~~ **unless the member must abstain from discussing and voting on a matter under the provisions of state law or article IV of this chapter. Each member must comply with the voting and conflicts of interest provisions of state law and article IV of this chapter.**

(2) **Section 2-143** was amended to allow citations to be issued for any code violation, such as a development code or CUP ordinance provision. This

section is currently limited to citations for violations of the Code of Ordinances. To avoid arguments that the City Manager has not specifically designated an employee to write a citation (in a written document), it was amended to authorize citations to be written by employees whose duties include enforcement or administration of an ordinance. These changes will improve enforcement in Municipal Court.

Sec. 2-143. Citation to appear in court.

(a) Any police officer or other employee ~~designated by the city manager~~ **whose duties include enforcement or administration of an ordinance** may issue a notice to appear in municipal court to any person violating a ~~provision of this code~~ **city ordinance provision** for which a penalty is provided if the person gives his written promise to appear by signing the notice. The notice shall identify the offense and contain the date, which shall not be less than ten days after issuance of the citation, for the person to appear.

(3) Section 3-64 was amended to conform the penalty to the Municipal Court's jurisdiction. The Muncipal Court has exclusive jurisdiction over ordinance violations and its jurisdiction is limited to offenses **that do not include confinement in jail (generally fine-only offenses).**

Sec. 3-64. Penalty for violation. Any person found guilty of violating an ordinance, rule, or order adopted under the city's emergency management plan or as authorized by state law shall be fined not more than ~~one thousand dollars (~~$1,000.00~~), by confinement in jail for a term of not more than one hundred eighty (180) days, or both.~~ Notice of the enactment of this ordinance shall be given by publishing the ordinance or its descriptive caption and penalty in the city's official newspaper one ~~(1)~~ time within ~~thirty (~~30~~)~~ days of passage.

(4) Section 3-111 was amended to conform to state law.

Division 2. Junked Motor Vehicles

Sec. 3-111. 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:~~ **In this division**:

Antique auto means a passenger car or truck that is at least 25 years old.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

Junked vehicle means ~~a motor vehicle as defined by the State law authorizing the City to regulate junked vehicles]:~~ **a vehicle that is self-propelled:**

(1) ~~That is inoperative; and~~ **That does not have lawfully affixed to it:**

(A) an unexpired license plate; or

(B) a valid motor vehicle inspection certificate; and

(2) ~~That does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate; that is wrecked, dismantled, partially dismantled or discarded; or that remains inoperative for a continuous period of more than 4 5 **consecutive** days.~~ **That is:**

(A) wrecked, dismantled or partially dismantled or discarded; or

(B) inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if the vehicle is on public property; or

(ii) 30 consecutive days, if the vehicle is on private property.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

Section 2-41 conforms to state law and the new ethics provisions enacted by Council. Section 3-64 conforms to the municipal court jurisdiction and Section 3-111 reflects state law amendments.

The remaining amendments are **nonsubstantive.** Examples of these changes are shown below:

(1) "It shall be unlawful to…" **became** "It is unlawful to…."
(2) "This provision shall not apply to"….. **became** "This provision does not apply to…."
(3) " The city shall have authority to…" **became** "The city may…"
(4) "City of Sugar Land" **became** "city".

(5) "Two (2)" **became** "two". The numbers 1-10 were spelled instead of using a numerical reference; i.e. three instead of 3. The numbers 11 and above were identified by numbers, i.e. 30 instead of thirty (30).
(6) "Thirty dollars ($30)" **became** "$30.00".
(7) "No person shall…." **became** "It is unlawful for a person to…."
(8) The term "shall' **became** "must" or "will" depending on the circumstance.
(9) Provisions that identified a specific representative of the city as the enforcement authority were changed to "city" unless the context indicated a need to leave the language as is.
(10) Statutory references were updated to reflect the current citation in state law, i.e. article 6701d, Texas Revised Civil Statutes is now codified in Title 7, Subtitle C, Transportation Code.
(11) Road designations were changed to "boulevard" or "drive", as applicable. Examples include "Julie Rivers Road" changed to "Julie Rivers Drive" and "Industrial Road" changed to "Industrial Boulevard".

References to the Brazos River Authority in the NPDES permit sections were changed to the City. The Texas Commission on Environmental Quality authorized this minor change.

If you have questions on the matters discussed in this memo, please call me. I will be available at the workshop to present these changes and to answer any questions or concerns.

Attachments: Table of Contents

TABLE OF CONTENTS
CITY OF SUGAR LAND CODE OF ORDINANCES

Part 1
Charter
- Art. I General Provisions
- Art. II The Council
- Art. III Initiative, Referendum and Recall
- Art. IV Administrative Offices and Departments
- Art. V Municipal Planning and Zoning
- Art. VI Municipal Finance

Part II
Chapter 1 General Provisions

Chapter 2 Administration
- Art. I In General
- Art. II Employees
  - Div. 1 City Manager
  - Div. 2 Texas Municipal Retirement System
- Art. III Boards and Commissions
  - Div. 1 Generally
  - Div. 2 Administrative Boards
  - Div. 3 Advisory Boards
- Art. IV Rules of Ethical Conduct
  - Div. 1 Statement of Purpose and Principles
  - Div. 2 Rules of Ethical Conduct
  - Div. 3 Complaint Procedures
- Art. V Finance
  - Div. 1 Taxation – In General
  - Div. 2 Taxation – Homestead Exemptions
  - Div. 3 Municipal Hotel Occupancy Tax
  - Div. 4 Fees for Various City Services
- Art. VI Municipal Court

Chapter 3 Health and Safety
- Art. I Alarm Systems
- Art. II Animal Control
  - Div. 1 In General
  - Div. 2 Impound, Adoption, Quarantine
  - Div. 3 Regulations Generally
  - Div. 4 Enforcement
- Art. III Emergency Management
- Art. IV Food and Food Services
- Art. V Alcoholic Beverages
- Art. VI Nuisances

Div. 1 In General
Div. 2 Junked Motor Vehicles
Art. VII Restrictions on Open Parties
Art. VIII Smoking in Public Places
Art. IX Solid Waste and Vegetation
Div. 1 In General
Div. 2 Residential Solid Waste
Div. 3 Vegetation
Art. X Miscellaneous Offenses

Chapter 4 Licenses, Permits & Business Regulations
Art. I Uniform Permit Procedures
Art. II Electrical Work
Art. III Parades and Processions
Art. IV Peddlers and Solicitors
Div. 1 In General
Div. 2 License
Art. V Solid Waste Operators
Art VI Vehicles for Hire
Art VII Heliports and Helistops

Chapter 5 Public Property & Services
Art. I Parks and Recreation
Art. II Street Name Changes
Art. III Use of Public Right-of-Way
Div. 1 In General
Div. 2 Construction in Right-of-Way
Art. IV Traffic
Div. 1 In General
Div. 2 Enforcement and Obedience to Traffic Regulations
Div. 3 Traffic Control Signs, Signals, Devices, Etc.
Div. 4 Operation of Vehicles Generally
Div. 5 Speed Regulations
Div. 6 Stopping, Standing and Parking
Div. 7 Vehicles Used for Transportation of Explosives, Flammables, Poisons, Etc.
Art. V Telecommunications Providers
Art. VI Cable System Providers
Div. 1 In General
Div. 2 Rate Provisions
Div. 3 Regulatory Provisions
Art. VII Town Square
Div. 1 In General
Div. 2 Plaza Regulations
Art. VIII Water and Wastewater
Div. 1 In General

Div. 2 Creation of Water or Sewer District Within City's Extraterritorial Jurisdiction
Div. 3 Rates and Charges
Div. 4 Application for Service
Div. 5 Billing and Payment
Div. 6 Termination of Service
Div. 7 General Conditions of Service
Div. 8 Extensions of Service
Div. 9 Cross Connection Control
Div. 10 Sewer Service Lines and Sewer Connections
Div. 11 Sewer Use Standards