

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

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

ANIMAL. Every nonhuman species of animal, both domestic and wild.

ANIMAL SHELTER. Any premises designated by the city for the purpose of impounding and caring for animals under authority of this chapter.

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AT LARGE. Off the premises of the owner or not under control of the owner or any member of his immediate family, either by fence of suitable repair, by leash, chain, cord, or other suitable material attached to a collar or harness.

CITY HEALTH OFFICER. The person appointed by the City Council under TEX. HEALTH & SAFETY CODE, § 122.005.

HARBORING. The keeping of an animal.

NORMAL WORK DAY. Includes any day other than weekends or holidays.

NORMAL WORKING HOURS. Includes all time from 8:00 a.m. to 5:00 a.m. during a normal work day.

OWNER. Any person, corporation, or any other entity keeping or harboring an animal.

PUBLIC NUISANCE. Any animal that unreasonably annoys humans, or endangers the life or health of another animal or a person, or substantially interferes with the rights of citizens to enjoy of life or property. The term **PUBLIC NUISANCE ANIMAL** shall mean and include, but is not limited to, any animal that:

- (1) Is repeatedly found at large.
- (2) Damages the property of anyone other than its owners.
- (3) Molests or intimidates pedestrians or passersby.
- (4) Chases vehicles.
- (5) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (6) Causes fowling of the air by odor and thereby creates unreasonable annoyance or discomfort

to neighbors or others in close proximity to the premises where the animal is kept or harbored.

(7) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.

(8) Is offensive or dangerous to the public health, safety, welfare by virtue of the number and/or type of animals maintained.

(9) Attacks other domestic animals or people.

RESIDENCE. A place or the house where one resides.

RESTRAINT. An animal is under **RESTRAINT** when securely caged or secured by a leash or lead and under the effective control of a responsible person and obedient to that person's commands, or within the confines of its owner's yard or home which is fully enclosed by a good, secure, and substantial fence.

VACCINATION. Rabies vaccination for an animal.

(Ord. 0001, passed 9-22-94)

§ 90.02 VACCINATION OF DOGS AND CATS REQUIRED.

It shall be unlawful for the owner of any dog or cat to keep a dog or cat unless it shall have been vaccinated for rabies. This chapter shall not apply to dogs or cats under the age of three months.
(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.03 KEEPING LIVESTOCK.

It shall be unlawful for any person to keep or permit the keeping of horses, mules, jacks, jennys, cattle, sheep, goats or similar animals on premises owned, occupied or under his or her control, on less than one acre.
(Ord. 0001, passed 9-22-94; Am. Ord. 219, passed 1-27-05) Penalty, see § 90.99

§ 90.031 KEEPING POULTRY.

It shall be unlawful for any person to keep or permit the keeping of chickens, turkeys, ducks, guineas, other fowl, or poultry on premises in the city provided that: no more than 25 may be kept on a single lot of 3,200 square feet or less, a maximum of 50 on any lot, confined within a fenced area which is not less than 50 feet from any business, building or dwelling owned or occupied by a person other than the owner.

(Ord. 219, passed 1-27-05)

§ 90.04 PENS MAINTAINED IN SANITARY CONDITION.

Every stable or place where any animal is or may be kept shall be kept in a sanitary condition and shall be free and clear from decaying food and filth of any kind. All barns, pens, stables, and other areas shall be cleaned and disinfected on a regular schedule. The Animal Control Officer shall have the right to inspect said premises from time to time.

(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.05 INHUMANE TREATMENT; ENDANGERING ANIMALS PROHIBITED.

(A) Animals in the city will not be treated cruelly in any way. Any person who inhumanely beats, underfeeds, overloads or abandons any animal shall be deemed guilty of a violation of this section.

(B) All owners must provide their animals with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shelter space and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(C) It is unlawful to crop a dog's ear or dock a dog's tail, except when a licensed veterinarian issues a signed certificate that the operation is necessary for the dog's health and comfort. In no event shall any person except a licensed veterinarian perform such an operation.

(D) It is unlawful to expose any known poisonous substance, whether mixed with food or not, so that the poisonous substance could be eaten by any animal, with the exception that a person may expose common rat poison mixed only with vegetable substance on his own property.

(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.06 STRIKING ANIMAL WITH VEHICLE; RESPONSIBILITY OF MOTORIST.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or animal control facility.

(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.07 DOG FIGHTING PROHIBITED.

(A) A person commits an offense if he intentionally or knowingly;

(1) Causes a dog to fight with another dog.

(2) For a pecuniary benefit causes a dog to fight with another dog.

(3) Participates in the earnings of or operates a facility used for dog fighting.

(4) Uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting.

(5) Owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting.

(6) Attends as a spectator of an exhibition of dog fighting.

(B) *Definition.*

DOG FIGHTING. For the purposes of this means any situation in which one dog attacks or fights with another dog.

(C) Party to an offense under subsections (2), (3), or (4) of division (A) of this section may be required to furnish evidence or testify about the offense but may not be prosecuted for the offense about which he is required to furnish evidence or testify.

(D) A conviction under subsection (2), (3), or (4) of division (A) of this section may be had upon the un-corroborated testimony of a party to the offense.

(E) It is a defense to prosecution under subsection (1) or (2) of division (A) of this section that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.

(F) An offense under subsection (1) or (5) of division (A) of this section is a Class A misdemeanor. An offense under subsection (2), (3), or (4) of division (A) of this section is a felony on the third degree. An offense under subsection (6) of division (A) of this section is a Class C Misdemeanor. (Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.08 CERTAIN ANIMALS NOT TO BE KEPT WITHIN CITY; EXCEPTION.

Any person enrolled as a member of a highschool agricultural science program under the supervision of a highschool vocational agricultural teacher, or a 4H member under the supervision of the Wilson County Agricultural Agent, or designated as a breeder for said organizations may apply to the City Manager for a permit to be exempted from the limitations of this section which exemption shall not be unreasonably withheld and any individual denied the issuance of a permit may appeal said decision to the City Council. A request for a permit must include type, sex, number or animals and time period of program. (Ord. 0001, passed 9-22-94; Am. Ord. 219, passed 1-27-05) Penalty, see § 90.99

§ 90.09 LIMITATION ON NUMBER OF DOGS PERMITTED.

It is unlawful for any person to keep on any one premises, owned or occupied by him or her, more than four dogs, if said dogs are more than six months old, unless said dogs are properly housed in kennels approved by the Public Health Department. (Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.10 NUISANCE ANIMALS.

All owners shall exercise proper care and control of their animals to prevent them from becoming a public nuisance to include but not limited to preventing excessive, continuous or untimely noises, molesting passersby, chasing vehicles, habitually attacking other animals, trespassing upon school grounds, trespassing upon public property, or trespassing upon private property. (Ord. 0001, passed 9-22-94)

§ 90.11 RESTRAINT OF ANIMALS REQUIRED.

All animals must be kept under restraint. Unrestrained animals may be taken by police, or any Animal Control Officer designated by the City Health Officer, or any humane officer and impounded in an animal shelter, and there confined in a humane manner. (Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.12 CONFINEMENT OF FEMALE DOGS AND CATS IN HEAT.

Every female dog or cat in heat shall be confined in a building or a secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding. (Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.13 STAKING ANIMALS ALONG STREET FOR GRAZING PURPOSES PROHIBITED.

It shall be unlawful to picket or tie any animals in or along any of the streets or alleyways of the city for the purpose of grazing or feeding.
(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.14 PROPER DISPOSAL OF ANIMAL WASTE.

(A) The owner of every animal shall be responsible for the removal of any excreta (feces) deposited by his animals on public walks, recreation areas, or private property.

(B) Collection and removal of animal feces shall be in a container of such type that, when closed, is rat proof and fly tight. Such container shall be kept closed after each collection. At least once a week, each such animal owner shall cause all feces so collected to be disposed of in such a way as not to permit fly breeding.
(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

LICENSING/PERMIT PROVISIONS**§ 90.25 PERMIT REQUIRED; EXCEPTION; FEE.**

(A) Any person owning, keeping, harboring, or having custody of any dog or cat over six months of age within this municipality must obtain a permit as herein provided.

(B) Permits shall be issued by the city, following payment of the applicable fee of \$5 for each dog or cat plus a record of current vaccination.

(C) Licensing fees shall not be required for certified Seeing Eye Dogs, Hearing Dogs, or other certified dogs that are trained to assist the physically handicapped.
(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.26 DURATION OF PERMIT; TRANSFERRAL.

(A) A permit, if not revoked, shall be valid for a period of one calendar year starting on the date of issue. All permits must be reissued at the end of the license period. If there is a change in ownership of the dogs or cats, the new owner may have the current license transferred to his name upon payment of \$1 transfer fee per permit.

(B) No person may use any license for any animal other than the animal for which it was issued.
(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.27 ISSUANCE OF TAGS; TAGS TO BE WORN WHEN ANIMAL OFF OWNER'S PREMISES.

Upon issuing a permit to keep any dog or cat, the city shall issue to the owner a durable tag, stamped with an identifying number. The tags are designed so that they may be conveniently fastened to the dog's or cat's collar or harness. Dogs or cats must wear identification tags at all times when the animal is off the premises of the owner. The city shall maintain a record of the identifying numbers and shall make this record available to the public.
(Ord. 0001, passed 9-22-94)

§ 90.28 REVOCATION OF PERMIT FOR NONCOMPLIANCE.

The city may revoke any permit if the person holding the permit refuses or fails to comply with this chapter, or any state law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within ten days thereafter, humanely dispose of animals, kept or harbored by such person, and no part of the permit fee be refunded.
(Ord. 0001, passed 9-22-94)

§ 90.29 PROVISIONS NOT APPLICABLE TO NONRESIDENTS.

The sections of this chapter requiring a permit shall not apply to nonresidents of the city who are keeping only domestic pets, provided such animals shall not be kept in the city longer than 30 days, and such animals are to be kept under restraint.
(Ord. 0001, passed 9-22-94)

VICIOUS OR DISEASED ANIMALS

§ 90.40 DEFINITIONS.

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

UNPROVOKED. With respect to an attack by a dog means that the dog was not hit, kicked, or struck by a person with any object or part of a person's body nor was any part of the dog's body pulled, pinched, or squeezed by a person.

VICIOUS CONDUCT. With respect to a dog means an attack by the dog on a person in which the dog initiated physical contact with the person and:

(1) The attack was unprovoked.

(2) The attack did not occur in a pen or other enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the pen or enclosure on its own.

(3) The attack resulted in bodily injury to the person.
(Ord. 0001, passed 9-22-94)

§ 90.41 RESTRAINT OF ANIMAL; INSURANCE REQUIREMENTS.

(A) A person who owns or keeps in his custody a dog that he knows has engaged in vicious conduct

must immediately and continuously restrain the dog on a leash or similar device in the immediate control of the owner or other person at the direction of the owner or in a pen or other enclosure reasonably certain to prevent the dog from leaving the pen or enclosure on its own; and as soon as possible but not later than 30 days after the vicious conduct, have insurance coverage in an amount of at least \$100,000 insuring against liability of the person for damages resulting from bodily injury to an individual caused by any dog belonging to or in the custody or control of the person.

(B) Every vicious animal shall be confined by the owner within a building or secure enclosure and be securely muzzled or caged whenever off the premises of its owners.
(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.42 AUTHORITY TO TAKE POSSESSION OF OR DISPOSE OF VICIOUS ANIMAL.

The Animal Control Officer is authorized to take possession of and dispose of any animal with a record of vicious conduct if the owner fails to fulfill any of his responsibilities and obligations under this subchapter.
(Ord. 0001, passed 9-22-94)

§ 90.43 QUARANTINE; DIAGNOSIS OF RABIES.

Any animal which bites or scratches a person shall be quarantined for ten days. During quarantine such animal shall be securely confined and kept from contact with any other animal. At the discretion of the City Health Officer or Animal Control Officer, the quarantine may be on the premises of the owner. If such officer requires other confinement, the owner shall surrender such animal for the quarantine period to an animal shelter, or shall, at his own expense, place it in the veterinary hospital. It shall be the discretion of the City Health Officer as to whether or not to kill, or cause to be killed, an animal suspected of being rabid. If a veterinarian diagnoses rabies in an animal in quarantine, then the animal shall be

humanely killed and the head of such animal sent to the laboratory for pathological examination and confirmation of such diagnosis.

(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.44 DISEASED ANIMALS RUNNING-AT-LARGE PROHIBITED.

It is unlawful to allow any animal afflicted with a contagious or infectious disease to run-at-large, or to be exposed in any public place whereby the health of man or beast may be affected. The City Health Officer or the Animal Control Officer will seize and arrange treatment of the diseased animal and any affected premises so as to prevent spread of the contagion or infection.

(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.45 REPORT OF RABIES.

It shall be the duty of the owner, the harborer or the practicing veterinarian to report to the City Health Officer or City Secretary all cases of rabies with which he or she comes in contact or to which his or her attention has been directed. This report shall be made immediately upon either diagnosis or suspicion of rabies.

(Ord. 0001, passed 9-22-94)

§ 90.46 OFFENSE.

An offense under this subchapter is a Class B Misdemeanor.

(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

IMPOUNDMENT

§ 90.55 AUTHORITY FOR ENFORCEMENT; INTERFERENCE PROHIBITED.

(A) Any officer acting in behalf of the city shall have police powers in the enforcement of this chapter,

and no person shall interfere with, hinder, molest, or abuse such officer in exercise of such powers.

(B) It is unlawful to refuse to deliver any animal to an officer acting in behalf of the city upon grounds for impounding.

(Ord. 0001, passed 9-22-94) Penalty, see § 90.99

§ 90.56 IMPOUNDMENT BY PRIVATE PERSONS; COMPLAINTS.

Any person may seize and deliver to the city, or such officer acting in its behalf, any animal which should be impounded, and the city shall thereupon hold and dispose of such animal, as though such animal had been found running at large and impounded by the city. Any person who observes an animal in violation of any of the terms of this chapter shall have the right to file a written complaint against the owner of such animal with the Municipal Court or the City Secretary.

(Ord. 0001, passed 9-22-94)

§ 90.57 DUTY OF OFFICERS TO IMPOUND.

It shall be the duty of the City Health Officer or the Animal Control Officer to apprehend and impound any animal not under control or in violation of this chapter. In the event any such animal cannot be safely seized and the animal is deemed to be a threat to any person or property, any City Officer is hereby empowered to eliminate the animal. An impounded animal shall not be released until all expenses of apprehension, notification and impounding have been paid by the owner or harborer.

(Ord. 0001, passed 9-22-94)

§ 90.58 NOTIFICATION TO OWNERS; TIME PERIOD FOR CLAIM OF ANIMAL.

(A) Owners of animals which have a valid permit will be notified if their animals are impounded. The known owner or harborer of the impounded animal wearing valid permit identification tag shall have five working days from the time of notification in which to

claim the animal. Failure by the known owner or harbinger to obtain release of the impounded animal within this time period shall be deemed an act of disclaiming and the City Health Officer or his agent shall consign said animal to a recognized animal humane society or licensed animal shelter, or otherwise dispose of the animal in accordance with state law.

(B) Owners of impounded animals which do not have a valid permit identification tag shall have two working days from the day of impoundment in which to claim the animal. The Animal Control Officer is authorized to humanely dispose of any dog or cat not wearing a tag after one complete working day following the expiration of the claim period.
(Ord. 0001, passed 9-22-94)

§ 90.59 RECLAIM OF ANIMALS; FEES; VACCINATION AND PERMIT REQUIRED.

An owner reclaiming an impounded animal shall pay a fee of \$15 plus \$5 for each day that the animal has been impounded. Repeat offenders within a period of six months will pay a fee of \$30. All fees shall be paid at City Hall prior to the release of the impounded animal. All dogs and cats shall be vaccinated by a Licensed Veterinarian and have a current city permit.
(Ord. 0001, passed 9-22-94; Am. Ord. 129, passed 9-22-94; Am. Ord. 238, passed 1-11-07)

§ 90.60 DISCLAIM OF OWNERSHIP.

If, for any reason, the owner or harbinger of an animal chooses to disclaim ownership of same or voluntarily delivers the animal to be disclaimed to the City Health Officer or his representative, and executes formal acknowledgment of such an act, the City Health Officer or his representatives shall humanely dispose of the animal in accordance with state law.
(Ord. 0001, passed 9-22-94)

§ 90.99 PENALTY.

(A) As set forth in TEX. LOC. GOV'T CODE, §§ 51.001 and 54.001, any person found guilty of violating any section of this chapter shall be fined:

(1) Not less than \$58 nor more than \$233 for the first offense.

(2) Not less than \$75 nor more than \$250 for the second offense.

(3) Not less than \$100 nor more than \$1,000 for the third offense within a consecutive 12 month period.

(B) If any violation be continuing, each day's violation shall be deemed a separate violation. If a person be found guilty by a court of violating any provision of this chapter, his permit to own, keep, harbor or have custody of dogs or cats shall be deemed automatically revoked, and no new permit may be issued for a period of one year.
(Ord. 0001, passed 9-22-94)

CHAPTER 91: FIRE PREVENTION

Section

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GENERAL PROVISIONS

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§ 91.01 UNIFORM FIRE CODE ADOPTED BY REFERENCE.

(A) There is hereby adopted that certain code known as the Uniform Fire Code, most current edition, and the whole thereof. (Ord. 0082, passed 4-23-87)

(B) A copy of such adopted code shall be placed in an official file in the City Secretary's office. (Ord. 0013, passed 11-29-84)

Cross-reference:

Standard Codes adopted by reference, see §§ 150.15 through 150.18

Fire Marshal

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- 91.31 Investigation of fires
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- 91.33 Power to summon witnesses; failure of witness to comply
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- 91.36 Maintenance of buildings or conditions which constitute fire hazard

§ 91.02 REWARD FOR INFORMATION RESULTING IN ARREST FOR ARSON.

A reward of \$250 is offered to anyone who furnishes information which results in arrest and conviction of any person or persons who commits the crime of arson within the city. This reward is a standing offer and shall be paid out of the general fund of the city. (Ord. 121, passed 5-13-93)

BURNING RESTRICTIONS**§ 91.10 DEFINITIONS.**

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

AIR CONTAMINANT. Any solid, liquid, or gas or any combination thereof which if discharged into the atmosphere for sufficient duration and in sufficient quantity would injure or present a substantial danger of injuring human health, plant or animal life or health, or property, or would injure or endanger property values or enjoyment of property.

CITY HEALTH OFFICER. The person appointed by the City Council under TEX. HEALTH & SAFETY CODE, § 122.005 representing the city in health matters.

HOUSEHOLD OR KITCHEN GARBAGE. Waste parts of food, products, or items that may arise from a room or place for the preparation and cooking of food or waste parts of products or items used by those living in a house, home or living premises.

OFFENSIVE. Nauseous, obnoxious, causing displeasure, discomfort to neighbors or surrounding residences that causes possible substantial or obvious offense to said persons, public or private property, or belongings.

OPEN BURNING. The burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

PERSON. An individual or partnership, corporation, association, firm, company, organization, local or state governmental agency, or any other legal entity.

REFUSE. The inclusive term for solid, liquid, or gaseous waste products which are composed wholly or partly of such materials as sweepings, cleanings, rubbish, litter, trade waste, agricultural waste, industrial, commercial and domestic solid,

liquid or gaseous waste; trees or shrubs; tree or shrub trimmings; grass clippings; brick, plaster, lumber or other waste resulting from the demolition, alteration, or construction of buildings or structures; accumulated waste material, cans, containers, junk, or other such substances.

RESIDENCE. A place where one actually lives, a unit or structure of dwelling.

SMOKE. Any gas-borne or airborne particles resulting from combustion operations and consisting of carbon, ash, and other products of combustion any or all of which is present in sufficient quantity to be observable.
(Ord. 33, passed 4-28-88)

§ 91.11 OUTDOOR BURNING; EMISSIONS TO BE CONTROLLED; DECLARATION OF NUISANCE.

(A) No person shall cause or allow the discharge, emission, or release into the atmosphere from any refuse burning source whatsoever of such quantities of smoke, air contaminant, or other material as may cause injury, endanger health, damage property, or affect public health, well being, or safety. Any and all emissions will be kept under control as to not be offensive or contaminant to surrounding neighbors, residences or persons, public or private properties or belongings. Such quantities shall be deemed a public nuisance and subject to penalty as hereinafter provided.

(B) Inclusive of said burning with the same application of restrictions will be:

(1) Outdoor burning in connection with the preparation of food.

(2) Campfires and fires used solely for recreational purposes for ceremonial occasions.

(3) Fires set for purpose of training public or private fire-fighting personnel, with the approval of the Fire Marshal.

(4) Outdoor burning in the preparation or cooking of food by use of natural wood will only be

allowed until no later than 8:00 p.m. or no earlier than 6:00 a.m. except in the case of the preparation or cooking of food for commercial business purposes. Outdoor burning after said hours will be restricted to the use of charcoal or similar cooking products as not to be offensive or give off dense smoke as to become a public nuisance.

(Ord. 33, passed 4-28-88) Penalty, see § 91.99

§ 91.12 BURNING OF HOUSEHOLD OR KITCHEN GARBAGE PROHIBITED.

The burning of household or kitchen garbage is prohibited and unlawful within the corporate limits of the city and shall be disposed of by regulated and established methods of normal garbage pickup as provided by the city.

(Ord. 33, passed 4-28-88) Penalty, see § 91.99

§ 91.13 OPEN BURNING OF EMPTY PESTICIDE CONTAINERS, RUBBER, OR TAR.

(A) No person shall dispose of or permit the disposal of surplus pesticides and empty pesticide containers by open burning.

(B) It shall be unlawful for any person to burn or use rubber tires, rubber products, tar, pitch, tar paper, or other refuse for fuel, or otherwise, in any form giving off or producing dense smoke or offensive odors.

(Ord. 33, passed 4-28-88) Penalty, see § 91.99

§ 91.14 EXCEPTIONS.

This chapter shall not be construed to prohibit wood fires in fireplaces, stoves, heaters, or furnaces safely designed, constructed, and installed for such purposes and complying with all applicable laws and ordinances.

(Ord. 33, passed 4-28-88)

§ 91.15 ENFORCEMENT; RIGHT OF ENTRY FOR INSPECTION.

It shall be the duty of the officer, official, or employee representing the city, City Health Officer, or their deputies to have police powers in the enforcement of this chapter, and no person shall interfere with, hinder, molest, or abuse such officer in the exercise of such powers. The City Health Officer or officers, official or employee of the city after proper identification shall not be denied access at reasonable times in or upon any private or public property except private residences for the purpose of inspecting and investigating any condition which the city shall have reasonable cause to believe to be a nuisance or air contaminant source. If entry is refused, the authorized official shall have recourse to every remedy under law to secure entry or obtain such court orders as are necessary to obtain access.

(Ord. 33, passed 4-28-88)

§ 91.16 ESTABLISHMENT OF RULES AND REGULATIONS.

The City Council may prepare standards, rules, and regulations which they deem necessary to protect the public health and safety and to carry out the requirements of this subchapter. Such standards, rules, and regulations shall be recommended to the City Council for adoption by ordinance or amendments.

(Ord. 33, passed 4-28-88)

FIRE MARSHAL

§ 91.30 OFFICE CREATED.

The office of Fire Marshal is hereby created. Such office shall be independent of other city departments, the Fire Marshal reporting directly to the City Administrator. Such office shall be filled by appointment by the Mayor, by and with the approval of the City Council. The Fire Marshal be properly qualified for the duties of the office and shall be removed only for cause. If applicable or deemed necessary compensation may be provided for by the

City Council.
(Ord. 113, passed 11-14-91)

§ 91.31 INVESTIGATION OF FIRES.

The Fire Marshal shall investigate the cause, origin, and circumstances of every fire occurring within this city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within 24 hours, not including Sunday, of the occurrence of such fire. The Fire Marshal shall keep in his office a record of all fires, together with all facts, statistics and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this subchapter.
(Ord. 113, passed 11-14-91)

§ 91.32 TAKING TESTIMONY OF PERSONS HAVING KNOWLEDGE OF FIRE.

The Fire Marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such fire, he shall cause such person to be lawfully arrested and charged with such offense or either of them, and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in this case.
(Ord. 113, passed 11-14-91)

§ 91.33 POWER TO SUMMON WITNESSES; FAILURE OF WITNESS TO COMPLY.

(A) The Fire Marshal shall have the power to summon witnesses before him to testify in relation to any matter which is by the provisions of this subchapter a subject of inquiry and investigation, and

may require the production of any book, paper or document deemed pertinent thereto. The said Fire Marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

(B) Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of said Fire Marshal, or who fails or refuses to produce any book, paper, or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings, of the Fire Marshal in the matter of said investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor; and it shall be the duty of the Fire Marshal to cause all such offenders to be prosecuted.
(Ord. 113, passed 11-14-91)

§ 91.34 INVESTIGATIONS MAY BE PRIVATE; SEPARATION OF WITNESSES.

All investigations held by or under the direction of the Fire Marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.
(Ord. 113, passed 11-14-91)

§ 91.35 AUTHORITY TO ENTER AND EXAMINE PREMISES; ORDER TO ABATE DANGEROUS CONDITIONS.

(A) The Fire Marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this chapter, to enter upon and examine any building or premises where any fire has occurred, and other buildings or premises adjoining or near the same, which authority shall be exercised only with reason and good discretion.

(B) The Fire Marshal, upon complaint of any person having an interest in any building or property

adjacent and without any complaint, shall have a right at all reasonable hours for the purpose of examination, to enter into and upon all buildings and premises within the city, and it shall be his duty, monthly or more often, to enter upon and make or cause to be entered and made, a thorough examination of all mercantile, manufacturing and public building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces, or other heating appliances of any kind whatsoever, including chimneys, flues, and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible, inflammable, and refuse materials, or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firemen or occupants, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of such building or premises. Provided, however, that if said owner or occupant deems himself aggrieved by such order, he may, within five working days, appeal to the City Council, who shall investigate the cause of the complaint and unless by his authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. Any owner or occupant who fails to comply with such order within a ten working-day period from the date of such notice, shall be guilty of a misdemeanor. At the end of each month the Fire Marshal shall report to the State Fire Marshal all existing hazardous conditions, together with separate report on each fire in the city during the month.
(Ord. 113, passed 11-14-91)

§ 91.36 MAINTENANCE OF BUILDINGS OR CONDITIONS WHICH CONSTITUTE FIRE HAZARD.

(A) No owner or occupant of a building or other

structure or premises, shall keep or maintain the same when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would endanger other persons or their property therein.

(B) No owner or occupant of any building or other structure, or premises, shall keep or maintain the same with an improper arrangement of a stove, range, furnace, or other heating appliance of any kind whatever, including chimneys, flues, and pipe with which the same may be connected, so as to be dangerous in the matter of fire, or health or safety of persons or property of others; nor shall any owner or occupant keep or maintain any building, other structure or premises with an improper arrangement of a lighting device or system or with a storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, refuse, or with any other condition which shall be dangerous in character to the persons, health or property of others; or which shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firemen, or occupants of such buildings, structures or premises other than the maintenance thereof.

(Ord. 113, passed 11-14-91) Penalty, see § 91.99

§ 91.37 ORDER REQUIRED FOR PROSECUTION.

No prosecution shall be brought under § 91.36 of this subchapter until the order provided for in 91.35(B) be given, and the party notified shall fail or refuse to comply with the same.

(Ord. 113, passed 11-14-91)

§ 91.38 RECOVERY OF PENALTIES.

(A) The penalties provided for herein shall be recovered by the city in the same manner as provided by law for the enforcement of fines, forfeitures, and punishments for offenses against the city.

(B) Every day's maintenance of any of the conditions prohibited in any of the foregoing sections

shall be a distinct and separate offense.

(C) All misdemeanors herein provided for shall be prosecuted, and all fines and forfeitures herein provided for shall be recovered and enforced, in the same manner as provided by law for the enforcement of fines, forfeitures, penalties and punishments for offenses generally against the city.
(Ord. 113, passed 11-14-91)

§ 91.99 PENALTY.

(A) Any person, firm, or corporation violating any provision of §§ 91.10 through 91.16 of this chapter shall be fined not less than \$2 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 33, passed 4-28-88)

(B) Any person who shall violate any of the provisions of §§ 91.36 shall be fined not less than \$35 nor more than \$200. (Ord. 113, passed 11-14-91)

CHAPTER 92: NUISANCES

Section

GENERAL PROVISIONS

General Provisions

- 92.01 Nuisance buildings or lots; abatement; lien
- 92.02 Shredding service; charges
- 92.03 Excessive noise

Weeds, Brush, and Rubbish

- 92.15 Definitions
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- 92.17 Notice to owner; abatement required
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Collection and Disposal of Brush

- 92.35 Definition
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- 92.38 Duty of city to collect and remove
- 92.39 Certain persons to provide own facilities for removal
- 92.40 Charges for pickup service
- 92.41 Billing procedure; lien
- 92.99 Penalty

§ 92.01 NUISANCE BUILDINGS OR LOTS; ABATEMENT; LIEN.

If the City Council regards a building or lot as a public nuisance, it shall attempt to enter into a contract with the owner or owners thereof, and if such contract cannot be entered into, it shall file suit in the District Court of Wilson County, Texas, to abate such nuisance, and nuisance is defined so as to include "attractive nuisances" and as to such a nuisance, the City Council, if it files suit in the District Court of Wilson County, Texas, shall seek permission to abate such nuisance or nuisances, and acquire an equitable lien on such property for the abatement of such nuisances, which equitable lien may be foreclosed in a court of competent jurisdiction in Wilson County, Texas.

(Ord. 0060, passed 9-25-75)

Cross-reference:

Dangerous buildings declared a nuisance; abatement required, see § 150.58

§ 92.02 SHREDDING SERVICE; CHARGES.

(A) The city shall provide shredding service for the owner or owners of any tract, parcel, or lot located within the corporate limits of the city or within the extraterritorial jurisdictional limits of the city upon request of any such owner, provided however, that the city shall have the right to refuse to provide such service if the shredding equipment is in need of repair or unserviceable at the time such request is made, or such service would create a hardship upon the city, or if such tract, parcel, or lot is of such a condition that shredding such lot would likely cause a damage to shredding equipment.

(B) The city shall charge \$35 per hour for each hour, or any part thereof, of shredding service

performed, which charges shall begin to accrue when the operator begins actual shredding upon the lot.

(C) The city shall not shred more than two acres for any lot owner of the city within a 30-day period, nor shall the city shred any tract, parcel, or lot which contains more than two acres of land.

(D) Any charge made under this section shall be billed on or before the tenth of the month following the month in which such shredding services are performed. If such charges are not paid on or before the tenth of the month following the month the charges are billed, the City Manager shall file a statement of expenses incurred stating the amount of such charges, the date on which such work was done and a description of the premises on which such work was performed with the County Clerk of Wilson County, Texas. The city shall have a privileged lien on such lot or real estate upon which such work was done to secure the expenditures so made, which lien shall be second only to tax liens and liens for street improvements, and such amounts shall bear 10% interest from the date the statement was filed. For any such expenditures and interest, as aforesaid, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the city, and a statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work.

(Ord. 0061, passed 5-24-79)

§ 92.03 EXCESSIVE NOISE.

It shall be unlawful for any person to create an excessive noise at unreasonable hours as defined in this section.

(A) A noise is considered to be excessive if the noise exceeds a decibel level of 85 as measured from the front door of the nearest occupied structure (either residence or commercial establishment) from the noise is being created.

(B) An unreasonable hour is any time falling between the following hours on the following days:

(1) On any Saturday, Sunday, legal holiday, or the day after a legal holiday, between 1:00 a.m. and 10:00 a.m.; and

(2) On any other day, between 12:01 a.m. and 10:00 a.m.

(C) A legal holiday is as established by the city as a holiday for its employees.

(Ord. 188, passed 10-25-01) Penalty, see § 92.99

WEEDS, BRUSH, AND RUBBISH

§ 92.15 DEFINITIONS.

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

DEVELOPED AREA. Any block which is divided into two or more lots or parcels under separate ownership or occupancy, upon which buildings exists on more than 25% of such lots or parcels; and in addition, shall include any block not meeting the above definition of **DEVELOPED AREA** if at least 50% of its perimeter is adjacent to or across a road, street or alley from any block which is divided into more than two lots or parcels under separate ownership or occupancy, upon which buildings exists on more than 25% of such lots or parcels.

LOT. Has its ordinary meaning but shall also include, in addition to the land within its boundaries, all land adjacent to and extending beyond the property line to the curb line of adjacent streets, and where no curb exists, to the existing street surface. The word **LOT** shall also include all land lying between the property line of any lot and the center of adjacent alleys.

OWNER. Includes any tenant, lessee, or other occupant of property who is in control of the property under an existing agreement or understanding with the owner thereof.

PARCEL. Any tract of land which lies within the corporate limits of the city and includes all land not defined herein as *LOT* or *DEVELOPED AREA*, but shall also include, in addition to the land within its boundaries, all land adjacent to and extending beyond the property line to the curb line of adjacent streets, and where no curb exists, or the surface of an adjacent public street or road. The word *PARCEL* shall also include all land lying between the property line and the center of any adjacent alley.

RUBBISH. Nonputrescible solid waste (excluding ashes) consisting of both combustible and noncombustible waste materials; cartons, wood, excelsior, furniture, rubber, plastics, yard-trimmings, leaves, and similar materials (unless placed on property pursuant to and in compliance with other ordinances or regulations of the city); *noncombustible rubbish* includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1600° F. to 1800°F.).

WEEDS. All uncultivated plant or plant matter which has grown to more than 12 inches in height, other than trees.
(Ord. 0034, passed 9-22-77)

§ 92.16 ACCUMULATION OF WEEDS, BRUSH, AND RUBBISH DECLARED NUISANCE; REMOVAL REQUIRED.

(A) In developed areas of the city whenever and wherever weeds, brush, or rubbish shall exist, covering or partially covering the surface of such developed area, such condition is hereby declared to be a public nuisance, the prompt abatement of which is a public necessity. All property within a developed area within the city shall be kept completely free and clear of weeds, brush, or rubbish.

(B) In other areas of the city, that portion of any lot or parcel of land within 50 feet of any open public street or road or which is within 75 feet of any building shall be kept completely free and clear of any weeds, brush, or rubbish.

(C) Whenever and wherever weeds, brush, or rubbish shall exist, covering or partially covering the portion of any lot or parcel in a city which is not a developed area, such condition is hereby declared to be a public nuisance, the prompt abatement of which is a public necessity.

(D) It is the duty and responsibility of the owners of property within the city to keep and maintain their properties in compliance with the above standards.
(Ord. 0034, passed 9-22-77)

§ 92.17 NOTICE TO OWNER; ABATEMENT REQUIRED.

(A) Whenever the City Manager receives information of the existence of any property not meeting the standards set out in § 92.16 above, he or she, or any health or fire inspector or sanitary officer assigned such responsibility, shall serve the owner of the property with a written notice informing the owner of such condition and directing that action be taken to bring the property into compliance within ten days.

(B) Such notice may be served by personal delivery to the owner if he can be located within the city limits, but if he cannot be so located or served after reasonable effort, notice may be served by certified letter addressed to such owner at his last known address, but if such address cannot be ascertained after reasonable effort, notice may be served by publication two times within ten consecutive days in a newspaper of general circulation published in the city. In the case of community property, service upon either the husband or the wife shall be deemed sufficient notice hereunder.

(C) If the owner is a corporation, service may be made by delivery of same to any office or place of business of such corporation or any officer of the corporation if such office, place of business, or officer can be located within the city limits, but if such office, place of business, or officer cannot be so located after reasonable effort, service may be made by certified letter addressed to the corporate headquarters address, but if such address cannot be ascertained after

reasonable effort, the notice may be served upon the registered agent of the corporation or by publication two times within ten consecutive days in a newspaper of general circulation published in the city.

(D) Whether delivered personally, by mail, or by publication, the notice provided for above shall be addressed to the owner, but if the owner not be known, service may be had by publication addressed "To the owner of (general description of the property involved)." The notice shall give a general description of the property, state the condition which constitutes a violation hereof, and shall state that upon failure of the owner to rectify the situation within ten days from date the notice is delivered (or within ten days from date of the second publication, if notice is to be served by publication), a criminal complaint may be filed in the Municipal Court of the city for violation of this subchapter, stating the penalties for violation hereof as given below. In addition the notice shall advise that the city may cause the correction and abatement work to be done on its own and charge the owner for the expense involved, and upon failure of the owner to pay the city for such expense, fix a lien on the property for the expense involved as provided for below.

(Ord. 0034, passed 9-22-77)

§ 92.18 ABATEMENT BY CITY; COSTS CHARGED TO OWNER; LIEN.

(A) In addition to the remedy provided for above, the city may also cause the work necessary to bring any property into compliance with this subchapter to be done if the owner has failed to either do such work or cause such work to be done within ten days from the date notice has been received (or published the second time), and to charge the owner for the costs incurred by the city. A statement of the costs incurred by the city to abate such condition shall be mailed to the owner of such premises, if the owner and mailing address is known, and if address is not known or owner cannot be found, may be published once in a newspaper of general circulation in the city. The statement shall demand payment within 30 days from the date of receipt (or publication).

(B) In the event that such statement has not been paid within such period, the Mayor and the City Council may cause a statement to be filed with the County Clerk of Wilson County of the expenses incurred to abate and correct such condition on the premises, such statement to be filed in the Deed Records, and such statement shall be and the city shall have a privileged lien upon the lot, parcel, or tract of land upon which such expenses were incurred, second only to tax liens and liens for street improvements, together with 10% interest per annum on the delinquent amount from the date such payment was due. For any such expenditures and interest, as aforesaid, suit may be instituted and foreclosure had in the name of the city; and the statement so made, as aforesaid, or certified copy thereof, shall be prima facie proof of the amount expended in any such work. (Ord. 0034, passed 9-22-77)

§ 92.19 TREE TRIMMING OR REMOVAL.

Although large trees are not covered hereby, and are not felt to be a nuisance or a hazard, it may be necessary at times to remove trees or parts thereof in order for the city crews or city contractors to effect entry of mowing or clearing equipment to property or portions of property not meeting standards established in this subchapter. In such case, the removal of such trees or parts thereof as is found necessary shall be done and is hereby authorized, and the cost of this work shall be included in the cost charged to the owner.

(Ord. 0034, passed 9-22-77)

§ 92.20 RIGHT TO HEARING.

(A) During the pendency of any of the above actions, any affected owner shall have the right to a public hearing to protest to the City Council any of the following:

(1) The determination that the property is in violation of standards set out in this subchapter.

(2) The cost to rectify the situation.

(3) The adequacy of the notice.

(4) Whether a lien should be placed on the property.

(B) This protest may be made at any regular meeting of the City Council.
(Ord. 0034, passed 9-22-77)

§ 92.21 LIST OF CONTRACTORS; BIDS FOR WORK.

(A) The City Secretary shall maintain a list of independent lot clearing and cleaning contractors and shall make this list available to recipients of notices hereunder or other property owners to assist owners in complying with this subchapter.

(B) The city may award any quantity of work necessary to bring any property into compliance herewith to any person or persons whose bids shall be accepted by the City Council as being the best for doing such work during a stipulated time not exceeding one year.
(Ord. 0034, passed 9-22-77)

§ 92.22 FAILURE TO COMPLY; VIOLATION.

It shall be unlawful for the owner of any land within the city to fail to have any weeds, brush, or rubbish mowed, cut, removed, or otherwise fail to bring the property into compliance with the standards set forth in § 92.16 of this chapter, within ten days after notice is received (or published the second time) directing that such standards be met. The employee of the Health District or Fire Department assigned such duties or the City Manager shall, whenever a violation is found, file a complaint with the Municipal Court and the Prosecutor of the Municipal Court assigned such duties shall prosecute the case.
(Ord. 0034, passed 9-22-77) Penalty, see § 92.99

§ 92.23 REMEDIES CUMULATIVE.

The enumeration of remedies for the suppression of a public nuisance as provided in this subchapter are not to be deemed as exclusive, but as cumulative.
(Ord. 0034, passed 9-22-77)

COLLECTION AND DISPOSAL OF BRUSH

§ 92.35 DEFINITION.

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

BRUSH. Any plant, shrub, hedge, or tree, tree limbs, or any part thereof.
(Ord. 0006, passed 4-25-79)

§ 92.36 UNLAWFUL DEPOSITS.

It should be unlawful for any resident, lot owner, or business to place or permit to be placed any brush along any drain, gutter, alley, sidewalk, street or vacant lot or upon any public or private premises within the city except as otherwise provided in this subchapter.
(Ord. 0006, passed 4-25-79) Penalty, see § 92.99

§ 92.37 PLACEMENT FOR COLLECTION, LENGTH OF CUTTINGS.

(A) If a resident, lot owner, or business in the city has brush to be collected and removed from property within the corporate limits of the city, the owner, occupant, tenant, or lessee of such premises shall keep all brush on the tract, parcel, or lot from which it is to be removed, and place such trash where it may be easily accessible to the person collecting and removing such brush. At no time shall brush be so placed that an alley, street, sidewalk or other public or private right-of-way will be blocked or obstructed.

(B) Tree limbs, trunks, hedge and shrub cuttings shall not exceed five feet in length and shall be stacked neatly so as to facilitate removal of same.

(Ord. 0006, passed 4-25-79) Penalty, see § 92.99

Cross-reference:

Solid waste collection, see Chapter 51

§ 92.38 DUTY OF CITY TO COLLECT AND REMOVE.

It shall be the duty of the city to collect and remove all brush from all premises in a reasonable and expeditious manner under the circumstances in accordance with regulations and charges incorporated in this subchapter.

(Ord. 0006, passed 4-25-79)

§ 92.39 CERTAIN PERSONS TO PROVIDE OWN FACILITIES FOR REMOVAL.

It shall be the duty of all tree surgery operators, nurserymen, or public utility operators concerned to provide their own facilities and equipment for the removal of brush or other similar accumulations of trash created by them.

(Ord. 0006, passed 4-25-79)

§ 92.40 CHARGES FOR PICKUP SERVICE.

There will be no charge for any lot owner or resident for one brush service call for each 30-day period which service does not require more than one hour by the brush pickup crew. If a service call requires more than one hour, a charge shall be made of \$25 for each hour, or part thereof, over one hour.

(Ord. 0006, passed 4-25-79)

§ 92.41 BILLING PROCEDURE; LIEN.

Any charge made under this subchapter shall be billed on or before the tenth of the month following the month in which such services are performed. If such charges are not paid on or before the tenth of the

month following the month the charges are billed, the City Manager shall file a statement of expenses incurred stating the amount of such charges, the date on which such work was done and a description of the premises on which such work was performed with the County Clerk of Wilson County, Texas. The city shall have a privileged lien on such lot or real estate upon which such work was done to secure the expenditures so made, which lien shall be second only to tax liens and liens for street improvements, and such amounts shall bear 10% interest from the date the statement was filed. For any such expenditures and interest as aforesaid, suit may be instituted and recovery and foreclosure of such lien may be had, in the name of the city, and a statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended for such work.

(Ord. 0006, passed 4-25-79)

§ 92.99 PENALTY.

(A) Any person who shall violate any of the provisions of this chapter for which no other penalty has been provided shall be subject to the penalty of § 10.99 of this code of ordinances.

(B) Upon conviction of a violation of § 92.22 of this chapter, the owner shall be fined not less than \$35 nor more than \$500, provided, however, that upon the second or subsequent conviction of any person for violation hereof within a 12-month period, the fine shall be not less than \$75 nor more than \$500. (Ord. 0034, passed 9-22-77)

CHAPTER 93: JUNKED MOTOR VEHICLES

Section

- 93.01 Short title
- 93.02 Definitions
- 93.03 Junked vehicles declared nuisance; creation and maintenance unlawful
- 93.04 Notice by Chief of Police
- 93.05 Public hearing prior to removal of vehicle
- 93.06 Abatement order by Municipal Judge; refusal to comply unlawful
- 93.07 Duty of owner and occupant of premises
- 93.08 Removed vehicles not to be made operable
- 93.09 Notice to Texas Department of Highways and Public Transportation
- 93.10 Removal of vehicle by city; storage; reclaiming by owner
- 93.11 Sale or disposal of vehicles; proceeds pay for cost of removal
- 93.12 Exemptions; application of provisions
- 93.13 Administration by city employees; exception
- 93.14 Authority delegated by Police Chief
- 93.99 Penalty

§ 93.01 SHORT TITLE.

This chapter may be cited as the "Junked Motor Vehicle Ordinance."

(Ord. 0031, passed 10-27-77)

Statutory reference:

Junked vehicles, see TEX. TRANSPORTATION CODE, §§ 683.071 et seq.

§ 93.02 DEFINITIONS.

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

DEMOLISHER. Any person whose business is to convert the motor vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle motor vehicles.

JUNKED VEHICLE. A vehicle that is self-propelled and inoperable and:

(1) Does not have lawfully attached to it:

(a) An unexpired license plate; ~~or~~ **AND**

(b) A valid motor vehicle inspection certificate;

(2) Is wrecked, dismantled or partially dismantled, or discarded; or

(3) Has remained inoperable for more than 45 consecutive days.

(TEX. TRANSPORTATION CODE, § 683.071)

MOTOR VEHICLE. Any motor vehicle subject to registration pursuant to TEX. TRANSPORTATION CODE, §§ 501.001 *et seq.*

POLICE DEPARTMENT. The Police Department of the city.
(Ord. 0031, passed 10-27-77)

§ 93.03 JUNKED VEHICLES DECLARED NUISANCE; CREATION AND MAINTENANCE UNLAWFUL.

(A) Junked vehicles which are located in any place where they are visible from a public place or

public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the state, by producing urban blight which is adverse to the maintenance and continuing development of the municipalities in the state, and such vehicles are therefore, declared to be a public nuisance.

(B) It shall be unlawful for any individual, company, or corporation to leave or permit to remain upon public or private property or public rights-of-way, except as hereinafter provided, within the city, any junked vehicle or parts or portion thereof, for any period of time in excess of ten days. (Ord. 0031, passed 10-27-77) Penalty, see § 93.99

§ 93.04 NOTICE BY CHIEF OF POLICE.

Whenever it is brought to the attention of the Chief of Police of the city that a nuisance, as defined herein, exists in the city, the Chief of Police shall give or cause to be given to the person maintaining said nuisance, in writing a ten-day notice, stating the nature of the public nuisance and that it must be removed and abated within ten days, and further that a request for a hearing must be made before the expiration of said ten-day period, said notice to be mailed, by certified or registered mail with a five-day return requested, to the owner or occupant of the premises whereupon such public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate said nuisance shall be continued to a date not less than ten days from the date of such return. (Ord. 0031, passed 10-27-77)

§ 93.05 PUBLIC HEARING PRIOR TO REMOVAL OF VEHICLE.

A public hearing shall be had prior to the removal of the vehicle or part thereof as a public nuisance, the same should be held before the Municipal Judge of the city, when such hearing is requested by the owner or occupant of the premises

on which said vehicle is located, within ten days after service of notice to abate the nuisance. Any resolution or order requiring the removal of the vehicle or part thereof shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site. (Ord. 0031, passed 10-27-77)

§ 93.06 ABATEMENT ORDER BY MUNICIPAL JUDGE; REFUSAL TO COMPLY UNLAWFUL.

(A) After the hearing is held by the Judge of the municipal court of the city as herein provided, if said Municipal Judge finds that such a nuisance as herein defined exists he shall order the owner or occupant of the premises on which said vehicle is located to remove such junked vehicle within ten days after said order is given to such owner or occupant of the premises on which said vehicle is located.

(B) It shall be unlawful and a violation of this chapter for any such person to whom such order is given to fail or refuse to comply therewith and to remove such junked vehicle within the time provided by said order. (Ord. 0031, passed 10-27-77) Penalty, see § 93.99

§ 93.07 DUTY OF OWNER AND OCCUPANT OF PREMISES.

In the event the owner or occupant of the premises does not request a hearing as hereinabove provided it shall be his duty to comply with the provisions of the notice given him and to abate such nuisance within ten days after the date of the receipt of such notice. (Ord. 0031, passed 10-27-77)

§ 93.08 REMOVED VEHICLES NOT TO BE MADE OPERABLE.

After a vehicle has been removed in accordance with or under the terms and provisions of this chapter, it shall not be reconstructed or made operable. (Ord. 0031, passed 10-27-77) Penalty, see § 93.99

§ 93.09 NOTICE TO TEXAS DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION.

Notice shall be given to the Texas Department of Highways and Public Transportation within five days after the date of removal identifying the vehicle or part thereof.

(Ord. 0031, passed 10-27-77)

§ 93.10 REMOVAL OF VEHICLE BY CITY STORAGE; RECLAIMING BY OWNER.

Within ten days after notice has been delivered to the owner or occupant of the premises on which a junked vehicle is located if a hearing is not requested, or if a hearing is requested, within ten days after an order requiring the removal of such junked vehicle has been served upon or delivered to the owner or occupant of the premises on which said vehicle is located, the Chief of Police or members of the Police Department acting under the direction of the Chief of Police may, if said nuisance has not been abated, remove or cause to be removed the vehicle which was the subject of such notice to a suitable city storage area designated by the City Manager. Such vehicle shall be stored in such storage area for a period of not less than ten days during which period any party owning or claiming any right, title, or interest therein shall be entitled to claim possession of same by the payment to the city, the actual cost of the city of abating such nuisance. The Chief of Police may in such cases, if he deems it necessary, require such person to post bond of not more than \$50 nor less than \$25, conditioned that such person will not use said vehicle to create another nuisance in the city.

(Ord. 0031, passed 10-27-77)

§ 93.11 SALE OR DISPOSAL OF VEHICLES; PROCEEDS PAY FOR COST OF REMOVAL.

(A) When any junked vehicle has remained in the storage area provided in § 93.10, for not less than ten days, it shall be the duty of the Chief of Police to dispose of same by removal to scrap yard or by sale to a demolisher for the highest bid or offer received therefore or to remove same to any suitable site operated by the city for processing as scrap or salvage.

(B) Out of the proceeds of same the Chief of Police shall pay for the cost of removal and storage and the balance, if any, shall be paid to the person entitled thereto (either owner or lienholder).

(C) If there is not a bid or offer for the junked vehicle the Chief of Police may dispose of same by causing it to be demolished or removed to a place provided by the City Council, or by permitting it to be removed by a demolisher who is willing to do so for the benefit of the junk or parts he can salvage.

(Ord. 0031, passed 10-27-77)

§ 93.12 EXEMPTIONS; APPLICATION OF PROVISIONS.

(A) This chapter shall not apply to:

(1) A vehicle or part thereof which 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 part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junk yard.

(B) It is not intended by this chapter to make provisions pertaining to abandoned motor vehicles as that term is defined by the "Abandoned Motor Vehicle Act."

(Ord. 0031, passed 10-27-77)

§ 93.13 ADMINISTRATION BY CITY EMPLOYEES; EXCEPTION.

The administration of this chapter shall be by regularly salaried, full-time employees of the city, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person.

(Ord. 0031, passed 10-27-77)

**§ 93.14 AUTHORITY DELEGATED BY
POLICE CHIEF.**

Whenever the Chief of Police is charged with the enforcement of this chapter he may delegate said authority to any regular salaried employee of the Police Department of the city.
(Ord. 0031, passed 10-27-77)

§ 93.99 PENALTY.

Any person who shall violate the terms and provisions of this chapter shall, upon conviction thereof, be punished by a fine of not less than \$1, and not more than \$200, and each and every day this chapter is violated shall constitute a separate offense.
(Ord. 0031, passed 10-27-77)

CHAPTER 94: CEMETERIES

Section

- 94.01 City Cemetery designated
- 94.02 Platting and sale of lots; recording fee
- 94.03 Payment for lot required prior to interment
- 94.04 Interments
- 94.05 Monuments and tombstones
- 94.06 Concrete work in cemetery
- 94.07 Authority of agents
- 94.08 Rules and regulations
- 94.09 Prohibited acts in cemetery

- 94.99 Penalty

§ 94.01 CITY CEMETERY DESIGNATED.

The cemetery of the city is hereby named Floresville City Cemetery ("City Cemetery") and is located on the Northeasterly boundary of U.S. Business Highway 181 and being that same 13.41 acres of land described in deed dated February 11, 1982, from Jewel G. Woolsey, et al, to City of Floresville, of record in Volume 576, Page 243, Deed Records of Wilson County, Texas, and the burial of human remains or of a human corpse in the City Cemetery in violation of this chapter, or any subsequent amendments thereto, or to the rules and regulations hereafter promulgated, is hereby declared to be unlawful.
(Ord. 0007, passed 6-27-85) Penalty, see § 94.99

§ 94.02 PLATTING AND SALE OF LOTS; RECORDING FEE.

(A) The City Cemetery shall be platted into lots, blocks, and sections by the City Administrator, who shall prepare, maintain and keep at City Hall a plat of the City Cemetery as a public record.

(B) The sale of a cemetery lot or lots shall be sold for cash or by installment sale, for the consideration set forth in the rules and regulations established and approved by the City Council. A deed of conveyance of any such lot or lots shall be executed by the City Administrator, and all such lot or lots shall be sold in strict accordance with the terms of this chapter.

(C) There shall be a recording fee of \$25 for recording any change in title or ownership of any lot after the initial conveyance of same by the city.
(Ord. 0007, passed 6-27-85)

§ 94.03 PAYMENT FOR LOT REQUIRED PRIOR TO INTERMENT.

No interment shall be made in any lot unless the payment thereof shall have been made in full to the city.
(Ord. 0007, passed 6-27-85) Penalty, see § 94.99

§ 94.04 INTERMENTS.

(A) A permit in writing shall be obtained from the City Administrator for all interments.

(B) When an interment is to be made, the owner of the lot, or his agent shall locate the site of the grave on the plat in the office of the City Administrator and the city shall not be responsible for errors in location.

(C) All graves shall be prepared under the direction of the City Administrator, and each grave shall be a minimum of two feet below the surface of the ground.

(D) A 24-hour notice to the City Administrator shall be required for the preparation of a grave for burial.

(E) Fees for the excavation of graves shall be set from time to time by resolution of the City Council.

(F) No owner of any lot shall charge for any interment made thereon.

(G) No permits shall be issued during any other than normal working hours unless approved by the City Administrator.
(Ord. 0007, passed 6-27-85) Penalty, see § 94.99

§ 94.05 MONUMENTS AND TOMBSTONES.

(A) All monuments and tombstones shall be set in concrete on a substantial concrete foundation.

(B) The size of monuments and tombstones and all lettering on tombstones or monuments shall be set forth in the rules and regulations established by the City Council.
(Ord. 0007, passed 6-27-85)

§ 94.06 CONCRETE WORK IN CEMETERY.

(A) Any person or persons desiring to erect monuments or tombstones or perform concrete work in the City Cemetery shall first obtain a written permit from the City Administrator and shall meet and comply with all rules, specifications, and requirements of the city in regard to the cemetery.

(B) A fee set forth in the rules and regulations by City Council shall be paid for each permit issued under the terms of this section.

(C) Concrete for use on any lot shall be mixed and prepared in the streets of the City Cemetery and the person or persons performing such work shall, upon completion, immediately remove all remaining sand, gravel, tools, and other equipment from the cemetery and leave the streets in the same condition as before the work was performed and, in addition, shall thoroughly clean the lots or lots upon which such work was done of all trash or litter and remove the same from the cemetery.
(Ord. 0007, passed 6-27-85) Penalty, see § 94.99

§ 94.07 AUTHORITY OF AGENTS.

The City Administrator may designate, from time to time, an agent or agents to perform any of the duties or responsibilities assigned to the City Administrator which are set forth in this chapter.
(Ord. 0007, passed 6-27-85)

§ 94.08 RULES AND REGULATIONS.

The City Administrator shall prepare and submit to the City Council for approval rules and regulations which shall cover the following areas:

- (A) Price of cemetery lots.
- (B) Terms of installment sales.
- (C) Fee for excavation of graves.
- (D) Size of monuments and tombstones.
- (E) Lettering of monuments and tombstones.
- (F) Fee for permit to perform concrete work.
- (G) Opening and closing graves.
- (H) Authorization forms.
- (I) Planting of trees, shrubs or other plants.

(J) Any other area of operation of the City Cemetery which is necessary to insure the proper operation of the cemetery.
(Ord. 0007, passed 6-27-85)

§ 94.09 PROHIBITED ACTS IN CEMETERY.

(A) It is unlawful to write upon, deface, or in any manner injure any monument, marker, or other structure in the City Cemetery.

(B) It is unlawful for any person other than the owner to remove flowers or plants from any lot in the City Cemetery, provided, however, that the City Administrator may remove or destroy any flowers, trees, shrubs, or other plants in the cemetery if in his

judgement, are, or may become, detrimental to the cemetery.

(C) It shall be unlawful for any person to loiter, loaf, or commit any immoral act in the City Cemetery.

(D) No grave, vault, or tomb of any person buried in the City Cemetery shall be opened except upon special written order from the City Administrator.

(Ord. 0007, passed 6-27-85) Penalty, see § 94.99

§ 94.99. PENALTY.

A person who violates any section of this chapter is guilty of a misdemeanor and upon conviction is punishable by fine of not less than \$25 nor exceeding \$500 per offense.

(Ord. 0007, passed 6-27-85)

CHAPTER 95: PARKS AND RECREATION

Section

Parks Within City Limits

- 95.01 City parks designated
- 95.02 Management and control
- 95.03 Hours of operation
- 95.04 Purpose of parks
- 95.05 Prohibited acts within parks
- 95.06 Camping
- 95.07 Charges
- 95.08 Rules and regulations
- 95.09 Enforcement

Floresville River Park

- 95.20 Floresville River Park designated
- 95.21 Management and control
- 95.22 Hours of operation
- 95.23 Purpose of the park
- 95.24 Prohibited acts within park
- 95.25 Camping
- 95.26 Charges
- 95.27 Rules and regulations
- 95.28 Enforcement

- 95.99 Penalty

PARKS WITHIN CITY LIMITS

§ 95.01 CITY PARKS DESIGNATED.

The City Council shall create and establish city parks situated within the corporate limits of the city. This subchapter shall apply to any public or city park area which is designated as a park by the City Council. There shall remain on file at City Hall a list of the city parks and their location.
(Ord. 0072, passed 12-12-85)

§ 95.02 MANAGEMENT AND CONTROL.

The city parks shall be managed and controlled by the City Administrator, subject to the supervision and direction of the City Council. If there is no City Administrator or acting City Administrator, then the city parks shall be managed by the Mayor.
(Ord. 0072, passed 12-12-85)

§ 95.03 HOURS OF OPERATION.

The city parks shall be open from 8:00 a.m. to 10:00 p.m. each day. No one shall be allowed in the parks during the hours from 10:00 p.m. to 8:00 a.m. without written permission from the City Administrator.
(Ord. 0072, passed 12-12-85) Penalty, see § 95.99

§ 95.04 PURPOSE OF PARKS.

The city parks shall be used exclusively for park and recreation purposes only.
(Ord. 0072, passed 12-12-85)

§ 95.05 PROHIBITED ACTS WITHIN PARKS.

It shall be unlawful for any person to commit any of the following acts within the parks of the city:

- (A) To allow livestock to graze in the city parks.
- (B) To ride horses or other livestock in the parks.
- (C) To play football, baseball, soccer, or other athletic sports in picnic areas, with the exception of volleyball.
- (D) To litter the parks.

(E) To deface trees or property situated in the parks.

(F) To display or carry a gun or guns in the parks.

(G) To build or maintain a fire except in designated picnic areas.

(H) To operate a mini-bike, motorcycle, or other motorized bike or vehicle off the designated roads within the parks or in the case of Pecan Park, inside the park itself including the riding of a bicycle, scooter, or skateboard in and around the jogging/walking trail area.

(I) To operate a motor vehicle at a speed in excess of 15 miles per hour.

(J) To park in any area other than a designated parking area and in the case of Pecan Park, inside the park itself beside the picnic areas or in and around the jogging/walking trail area unless for emergency purposes only.

(K) To possess or bring into the park glass beverage containers.

(L) To bring into the park any pets irregardless of the type or breed of pet.

(M) To erect or place in the parks any sign without written authority from the City Administrator.

(N) To discharge firearms or fireworks, firecrackers, rockets, torpedoes, air guns, BB guns, pellet guns, bows and arrows, or sling shots.

(O) To engage in gambling or games of chance.

(P) To cut or remove any wood, turf, grass, soil, rock, gravel, sand, or fertilizer without written authority from the City Administrator.

(Q) To participate or engage in any activity where such activity will create a danger to the public or may be considered a public nuisance.

(R) To consume any alcoholic beverage in other

than designated areas.

(S) To disturb in any manner any picnic, meeting, or gathering within the parks.

(T) To sell or offer for sale any food, drink, merchandise, or services, unless such person has a written permission from the City Administrator.

(U) To practice, carry on, conduct, or solicit for any trade, occupation, business, or profession or to circulate any petition or whatsoever kind or character without approval of the City Administrator.

(V) To play music through an electric amplifier in a loud manner.

(W) To be in the park while intoxicated. For purposes of this section, *intoxicated* means substantial impairment of mental or physical capacity resulting from introduction of any substance into the body. (Ord. 0072, passed 12-12-85; Am. Ord. 0095, passed 7-13-89; Am. Ord. 109, passed 5-23-91) Penalty, see § 95.99

§ 95.06 CAMPING.

It shall be unlawful for any person to sleep within the parks. Overnight camping shall be at the discretion of the City Administrator and written permit must first be obtained.

(Ord. 0072, passed 12-12-85) Penalty, see § 95.99

§ 95.07 CHARGES.

The City Council may promulgate charges from time to time for the use of park facilities.

(Ord. 0072, passed 12-12-85)

§ 95.08 RULES AND REGULATIONS.

The City Council may promulgate additional rules and regulations from time to time in order to set standards of conduct within the city parks.

(Ord. 0072, passed 12-12-85)

§ 95.09 ENFORCEMENT.

The Mayor, City Administrator, members of City Council, Municipal Judge, and other peace officers shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(Ord. 0072, passed 12-12-85)

FLORESVILLE RIVER PARK**§ 95.20 FLORESVILLE RIVER PARK DESIGNATED.**

There is hereby created and established a city park located outside the corporate limits of the city, known as City of Floresville River Park, said park consists of 34.419 acres of land, a part of the S. & J. Arocha Grant, in Wilson County, Texas, being a composite of that certain 2.263 acre tract described in Quitclaim Deed dated January 14, 1982, from W.P. Clements, Jr. to City of Floresville, Texas, of record in Vol. 575, Page 565, Deed Records of Wilson County, Texas, and that certain 32.156 acre tract described in deed dated September 8, 1980, from Richard E. Ullmann, et ux, to City of Floresville, of record in Vol. 549, Page 847, Deed Records of Wilson County, Texas.

(Ord. 0071, passed 12-12-85)

§ 95.21 MANAGEMENT AND CONTROL.

The city park shall be managed and controlled by the City Administrator, subject to the supervision and direction of the City Council. If there is no City Administrator or acting City Administrator, then the city park shall be managed by the Mayor.

(Ord. 0071, passed 12-12-85)

§ 95.22 HOURS OF OPERATION.

The city park shall be opened from 8:00 a.m. to 10:00 p.m. each day. No one shall be allowed in the park premises during the hours from 10:00 p.m. to

8:00 a.m. without written permission from the City Administrator.

(Ord. 0071, passed 12-12-85) Penalty, see § 95.99

§ 95.23 PURPOSE OF THE PARK.

The city park shall be used exclusively for park and recreation purposes only.

(Ord. 0071, passed 12-12-85)

§ 95.24 PROHIBITED ACTS WITHIN PARK.

It shall be unlawful for any person to commit any of the following acts within the park:

(A) To allow livestock to graze in the city park.

(B) To ride horses or other livestock in the park.

(C) To play football, baseball, soccer, or other athletic sports in picnic areas, with the exception of volleyball.

(D) To litter the park.

(E) To deface trees or property situated in the park.

(F) To display or carry a gun or guns in the park.

(G) To build or maintain a fire except in designated picnic areas.

(H) To operate a mini-bike, motorcycle, or other motorized bike off the designated roads within the park.

(I) To operate a motor vehicle at a speed in excess of 15 miles per hour.

(J) To park in any area other than a designated parking area.

(K) To possess or bring into the park glass beverage containers.

(L) To bring into the park any pet unless such pet is on a leash in the designated area only which shall include and be limited to:

(1) The picnic area along the river not to surpass the boundaries of the one way road loop as indicated in the map attached to Ordinance 0071 in the office of the City Secretary.

(2) All other areas will be prohibited areas that pets may be brought into the park irregardless of the type or breed of pet.

(M) To erect or place in the park any sign without written authority from the City Administrator.

(N) To discharge firearms or fireworks, firecrackers, rockets, torpedoes, air guns, BB guns, pellet guns, bows and arrows, or sling shots.

(O) To engage in gambling or games of chance.

(P) To cut or remove any wood, turf, grass, soil, rock, gravel, sand, or fertilizer without written authority from the City Administrator.

(Q) To participate or engage in any activity where such activity will create a danger to the public or may be considered a public nuisance.

(R) To consume any alcoholic beverage in other than designated areas.

(1) Prohibited areas where alcoholic beverages are disallowed will be as follows:

(a) City River Park - Soccer and baseball field areas, swimming pool facility and playground area.

(b) Pecan Park - All within the park property.

(c) American Legion Park - Basketball and tennis courts area.

(d) Lodi Park - Basketball courts area.

(2) All other areas not mentioned in

subsection (1) of this division will be considered as designated areas to consume alcoholic beverages under this provision.

(S) To disturb in any manner any picnic, meeting, or gathering within the park.

(T) To sell or offer for sale any food, drink, merchandise, or services, unless such person has a written permission from the City Administrator.

(U) To practice, carry on, conduct, or solicit for any trade, occupation, business or profession or to circulate any petition of whatsoever kind or character without approval of the City Administrator.

(V) To play music through an electric amplifier in a loud manner.

(W) To be in the park while intoxicated. For purposes of this section, *intoxicated* means substantial impairment of mental or physical capacity resulting from introduction of any substance into the body. (Ord. 0071, passed 12-12-85; Am. Ord. 0088, passed 7-14-88; Am. Ord. 101, passed 5-24-90) Penalty, see § 95.99

§ 95.25 CAMPING.

It shall be unlawful for any person to sleep within the park. Overnight camping shall be at the discretion of the City Administrator and a written permit must first be obtained.

(Ord. 0071, passed 12-12-85) Penalty, see § 95.99

§ 95.26 CHARGES.

The City Council may promulgate charges from time to time for use of the park facilities. (Ord. 0071, passed 12-12-85)

§ 95.27 RULES AND REGULATIONS.

The City Council may promulgate additional rules and regulations from time to time in order to set standards of conduct within the city park. (Ord. 0071, passed 12-12-85)

§ 95.28 ENFORCEMENT.

The Mayor, City Administrator, members of City Council, Municipal Judge, and other peace officers shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(Ord. 0071, passed 12-12-85)

§ 95.99 PENALTY.

Any person who shall violate or fail to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine or not less than \$25 nor more than \$200.

(Ord. 0071, passed 12-12-85; Ord. 0072, passed 12-12-85)

CHAPTER 96: FAIR HOUSING

Section

- 96.01 Declaration of policy
- 96.02 Definitions
- 96.03 Interpretation and effect
- 96.04 Discrimination in sale or rental of housing
- 96.05 Discrimination in housing financing
- 96.06 Discrimination in providing brokerage service
- 96.07 Unlawful intimidation
- 96.08 Exemptions and exclusions
- 96.09 Violations
- 96.10 Enforcement by Director of Human Relations Department
- 96.11 Complaints
- 96.12 Investigation and conciliation

- 96.99 Penalty

§ 96.01 DECLARATION OF POLICY.

(A) It is hereby declared to be the policy of the city to bring about through fair, orderly, and lawful procedures, the opportunity of each person to obtain housing without regard to race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

(B) It is further declared that such policy is established upon a recognition of the inalienable rights of each individual to obtain housing without regard to race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age; and further that the denial of such rights through considerations based on race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age is detrimental to the health, safety, and welfare of the inhabitants of the city and constitutes an unjust denial or deprivation of such inalienable rights which

is within the power and the proper responsibility of government to prevent.
(Ord. 131, passed 1-12-95)

§ 96.02 DEFINITIONS.

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

AGE. The calendar age of an individual 18 years of age or over.

CREED. Any set of principles, rules, opinions, and precepts formally expressed and seriously adhered to or maintained by a person.

DIRECTOR. The Director of the Human Relations Department or authorized assistant.

DISCRIMINATORY HOUSING PRACTICE.
An act which is unlawful under this chapter.

DWELLING. Any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as a residence by one or more persons and any vacant land which is offered for sale or lease for the construction or location thereof of any such building, structure, or portion thereof.

FAMILY. A single individual or a group of individuals living together under one common roof.

MAJOR LIFE ACTIVITIES. Functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

MARITAL STATUS. An individual's status as a single, married, divorced, widowed, or separated person.

PARENTHOOD. A person's status as a parent or legal guardian of a child or children under the age of 18.

PERSON. One of more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

PHYSICAL OR MENTAL HANDICAP. Any physical or mental impairment which substantially limits one or more major life activities.

PHYSICAL OR MENTAL IMPAIRMENT.
Shall include:

(1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one of more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory including speech; organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine: or,

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

TO RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

SENIOR ADULT. A person 55 years of age or older.
(Ord. 131, passed 1-12-95)

§ 96.03 INTERPRETATION AND EFFECT.

This chapter shall in no way be interpreted as creating a judicial right or remedy which is the same or substantially equivalent to the remedies provided under Title VIII of the Civil Rights Act of 1968, as amended or the Federal Equal Credit Opportunity Act (15 U.S.C. 1691). All aggrieved parties shall retain the rights granted to them to Title VIII of the Civil Rights Act of 1968, as amended and the Federal

Equal Credit Opportunity Act. In construing this chapter, it is the intent of the City Council that the courts shall be guided by Federal Court Interpretations of Title VIII of the Civil Rights Act of 1968, as amended, and the Federal Equal Credit Opportunity Act, where appropriate.
(Ord. 131, passed 1-12-95)

§ 96.04 DISCRIMINATION IN SALE OR RENTAL OF HOUSING.

Except as exempted by this chapter, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

(B) To discriminate against any person in the terms, conditions, or privileges of a sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

(C) To make, print, or publish or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or an intention to make any such preference, limitation or discrimination.

(D) To represent to any person because of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(E) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, religion, sex, national origin, physical or mental handicap, marital status,

parenthood, or age.

(Ord. 131, passed 1-12-95) Penalty, see 96.99

§ 96.05 DISCRIMINATION IN HOUSING FINANCING.

It shall be unlawful for any bank, building and loan association, insurance company, or other person whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age of such person or such persons associated therewith or because of the race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

(Ord. 131, passed 1-12-95) Penalty, see 96.99

§ 96.06 DISCRIMINATION IN PROVIDING BROKERAGE SERVICE.

It shall be unlawful for any person to deny another person access to membership in, or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling and renting dwellings or to discriminate against another person in the terms or conditions of such access, membership, or participation, on account of race, color, creed, religion, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

(Ord. 131, passed 1-12-95) Penalty, see 96.99

§ 96.07 UNLAWFUL INTIMIDATION.

It shall be unlawful for any person to harass,

threaten, harm, damage, or otherwise penalize any individual, group, or business because such individual, group, or business has complied with the provisions of this chapter or has exercised in good faith rights under this chapter, or has enjoyed the benefits of this chapter, or because such individual, group, or business has made a charge in good faith, testified in good faith or assisted in good faith in any manner in any investigation, or in any proceeding hereunder or has made any report to the Director.

(Ord. 131, passed 1-12-95) Penalty, see 96.99

§ 96.08 EXEMPTIONS AND EXCLUSIONS.

(A) Nothing in this chapter shall apply to:

(1) Any single-family house sold or rented by an owner, provided that:

(a) Such private individual owner does not own more than three single-family houses at any one time; and,

(b) If the owner does not reside in the house at the time of the sale or was not the most recent resident of such house prior to the sale, the exemption granted by this division shall apply only with respect to one such sale within any 24-month period; and,

(c) Such bona fide private individual owner does not own any interest in, nor is there owned or reserved on such person's behalf, under any express voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three such single-family houses at any one time; and,

(d) The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and,

(e) The sale or rental is made without the publication, posting, or mailing of any advertisement or written notice in violation of this

chapter; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(B) For the purposes of division (A), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or,

(2) He has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(C) Nothing in this chapter shall prohibit a religious organization, association, or society, or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to person of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, physical or mental handicap, marital status, parenthood, or age.

(D) Nothing in this chapter shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members, or

from giving preference to its members.

(E) Nothing in this chapter shall bar any person from owning and operating a housing accommodation in which rooms are leased, subleased, or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen, or similar facilities available for the use of all persons occupying such housing accommodation.

(F) Nothing in this chapter shall prohibit the sale, rental, lease, or occupancy of any dwelling designed and operated exclusively for senior adults and their spouses, unless the sale, rental, lease, or occupancy is further restricted on account of race, color, creed, religion, sex, national origin, physical or mental handicap and marital status.

(G) Nothing in this chapter shall bar a person who owns, operates or controls rental dwellings whether located on the same property or on one or more contiguous parcels of property, from reserving any grouping of dwellings for the rental or lease to tenants with a minor child or children; provided however, in the event that said reserved area is completely leased or rented, the person owning, operating, or controlling said rental dwelling may not refuse to rent or lease any other available dwelling to the prospective tenant on the basis of the tenant's status as parent or any other of the protected classifications set forth in this chapter.
(Ord. 131, passed 1-12-95)

§ 96.09 VIOLATIONS.

No person shall violate any provision of this chapter, or knowingly obstruct or prevent compliance with this chapter.
(Ord. 131, passed 1-12-95) Penalty, see 96.99

§ 96.10 ENFORCEMENT BY DIRECTOR OF HUMAN RELATIONS DEPARTMENT.

The Director of the Human Relations Department shall have the responsibility of administering and implementing this chapter. The Director may delegate

the authority to investigate and conciliate complaints to other designated city employees.
(Ord. 131, passed 1-12-95)

§ 96.11 COMPLAINTS.

(A) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereinafter referred to as the "charging party") may file a complaint with the Director. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The Director shall prepare complaint forms and furnish them without charge to any person, upon request.

(B) The Director shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to division (A) of this section.

(C) All complaints shall be filed within 180 days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the Director shall provide notice of the complaint by furnishing a copy of such complaint to the person named therein (hereinafter referred to as the "respondent") who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The respondent may file an answer to the complaint within 15 days of receipt of the written complaint.

(D) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.

(E) If at any time the Director shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed a discriminatory housing practice as to

which no complaint has been filed or is about to be filed, the Director may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.
(Ord. 131, passed 1-12-95)

§ 96.12 INVESTIGATION AND CONCILIATION.

(A) Upon the filing or referral of a complaint as herein provided, the Director shall cause to be made a prompt and full investigation of the matter stated in the complaint; provided, however, that before any charge becomes accepted for investigative purposes, the Director or an investigator shall have personally reviewed with the charging party the allegations contained therein and shall have determined that said charge comes within the provisions of this chapter. In the event such review results in the determination that a particular charge does not come within the provisions of this chapter, the charging party shall be given a clear and concise explanation of the reasons why it does not.

(B) If the Director determines that there is not probable cause to believe that a particular alleged discriminatory housing practice has been committed, the Director shall take no further action with respect to that alleged offense.

(C) During or after the investigation, but subsequent to the mailing of the notice of complaint, the Director shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and to obtain adequate assurance of future voluntary compliance with provisions of this chapter. Nothing said or done in the course of such informal endeavors may be made public by the Director, the Commission, the investigator, the conciliator, the charging party, or the respondent, or be used as evidence in a subsequent proceeding without the written consent of all persons concerned.

(D) Upon completion of an investigation where the Director has made a determination that a

discriminatory housing practice has in fact occurred, if the Director is unable to secure from the respondent an acceptable conciliation agreement, then the Human Relations Commission of the city must, upon a majority vote, refer the case to the City Attorney for prosecution in Municipal Court or to other agencies as appropriate. With such recommendation of the Director and the referral of the human relations commission, the Director shall refer his entire file to the City Attorney. The City Attorney shall, after such referral, make a determination as to whether to proceed with prosecution of such complaint in Municipal Court. (Ord. 131, passed 1-12-95)

§ 96.99 PENALTY.

If a discrimination housing practice is found to have in fact occurred and the case has been referred to municipal court, the respondent shall be assessed a penalty of \$300 per violation. (Ord. 131, passed 1-12-95)

CHAPTER 97: STREETS AND SIDEWALKS

Section

General Provisions

- 97.01 Privately-owned driveways;
expansion requirements; repair

Parades

- 97.10 Definitions
97.11 Permit required; contents; exceptions
97.12 Application; filing period; fee
97.13 Contents of application
97.14 Late applications
97.15 Standards for issuance
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97.19 Notice to city and other officials
97.20 Duties of permittee
97.21 Possession of permit
97.22 Interference
97.23 Driving through parades; parking on
parade route
97.24 Revocation of permit

97.99 Penalty

GENERAL PROVISIONS

§ 97.01 PRIVATELY-OWNED DRIVEWAYS; EXPANSION REQUIREMENTS; REPAIR.

The following applies to private driveways:

(A) If the private driveway shall be concrete extending across city utilities, the same shall have a two-foot expansion.

(B) All driveways must have sufficient drainage over or under the driveway. If the drainage is under the driveway it must be of sufficient capacity to carry the flow of water, and not cause a cross-over onto a street.

(C) The owner of any driveway shall be responsible for repair if it is necessary to cut into an existing driveway.

(Ord. 0011, passed 12-2-71) Penalty, see § 97.99

PARADES

§ 97.10 DEFINITIONS.

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

CHIEF OF POLICE. The Chief of Police of the City of Floresville, Texas.

PARADE. Any parade, demonstration, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display in or upon any street, park, or other place in the city.

PARADE PERMIT. A permit as required by this subchapter.

PERSON. Any person, firm, partnership, association, corporation, company, or organization of any kind.

(Ord. 0046, passed 1-27-94)

§ 97.11 PERMIT REQUIRED; CONTENTS; EXCEPTIONS.

(A) *Permit required.* No person shall engage in,

participate in, aid, form, or start any parade, unless a parade permit shall have been obtained from the Chief of Police.

(B) *Contents.* Each parade permit shall state the following information:

(1) Starting time.

(2) Minimum speed.

(3) Maximum speed.

(4) Maximum interval of space to be maintained between the units of the parade.

(5) The portions of the streets to be traversed that may be occupied by the parade.

(6) The maximum length of the parade in miles or fractions thereof.

(7) Such other information as the Chief of Police shall find necessary for the enforcement of this subchapter.

(C) *Exceptions.* This chapter shall not apply to:

(1) Funeral processions.

(2) Students going to and from school, classes, or participating in educational activities.
(Ord. 0046, passed 1-27-94) Penalty, see § 97.99

§ 97.12 APPLICATION; FILING PERIOD; FEE.

(A) A person seeking issuance of a parade permit shall file an application with the Chief of Police on forms provided by such officer.

(B) An application for a parade permit shall be filed with the Chief of Police not less than five days, nor more than ten days, before the date on which it is proposed to conduct the parade.

(C) There shall be paid at the time of filing the application for a parade permit, a fee of \$10.
(Ord. 0046, passed 1-27-94)

§ 97.13 CONTENTS OF APPLICATION.

The application for a parade permit shall set forth the following information:

(A) The name, address, and telephone number of the person seeking to conduct such parade.

(B) If the parade is proposed to be conducted for or 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 organizations.

(C) The name, address, and the telephone number of the person who will be the parade chairman and who will be responsible for its conduct.

(D) The date when the parade is to be conducted.

(E) The route to be traveled, the starting point and the termination point.

(F) The approximate number of persons who, and the animals and vehicles which, will constitute such parade, the type of animals and description of the vehicles.

(G) The hours when such parade will start and terminate.

(H) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traveled.

(I) The location by streets of any assembly areas for such parade.

(J) The time at which units of the parade will begin to assemble at any such assembly area or areas.

(K) The interval of space to be maintained between units of such parade.

(L) If the parade is designed to be held by, and on behalf of, or for, any person other than the applicant, the applicant for such permit shall file with the Chief of Police a communication in writing from the person proposing to hold the parade, authorizing

the applicant to apply for the permit on his behalf.

(M) Any additional information which the Chief of Police shall find reasonable necessary to a fair determination as to whether a permit should be issued.

(Ord. 0046, passed 1-27-94)

§ 97.14 LATE APPLICATIONS.

The Chief of Police, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than five days before the date is proposed to be conducted.

(Ord. 0046, passed 1-27-94)

§ 97.15 STANDARDS FOR ISSUANCE.

The Chief of Police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

(A) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

(B) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city.

(C) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto.

(D) The concentration of persons, animals, and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of or ambulance service to, areas contiguous to such assembly areas.

(E) The conduct of such parade will not interfere with the movement of fire-fighting equipment enroute to a fire.

(F) The conduct of the parade is not reasonably likely to cause injury to person or property, to provoke disorderly conduct or create a disturbance.

(G) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute.

(H) The parade is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit.

(Ord. 0046, passed 1-27-94)

§ 97.16 REJECTION.

The Chief of Police shall act upon the application for a parade permit within ten days after the filing thereof. If the Chief of Police disapproves the application, he shall mail to the applicant within ten days after the date upon which application was filed, a notice of his action, stating the reasons for his denial of the permit.

(Ord. 0046, passed 1-27-94)

§ 97.17 APPEAL PROCEDURE.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be taken within ten days after notice. The City Council shall act upon the appeal within 30 days after its receipt.

(Ord. 0046, passed 1-27-94)

§ 97.18 ALTERNATIVE PERMIT.

The Chief of Police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall within ten days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police. An alternate parade permit shall conform to the requirements of, and shall have

the effect of a parade permit under this subchapter.
(Ord. 0046, passed 1-27-94)

§ 97.19 NOTICE TO CITY AND OTHER OFFICIALS.

Immediately upon the issuance of a parade permit, the Chief of Police shall send a copy thereof to the following:

- (A) The Mayor.
 - (B) The City Administrator.
 - (C) The City Attorney.
 - (D) The Fire Chief.
- (Ord. 0046, passed 1-27-94)

§ 97.20 DUTIES OF PERMITTEE.

A permittee hereunder shall comply with all permit directions and conditions, and with all applicable laws and ordinances.
(Ord. 0046, passed 1-27-94) Penalty, see § 97.99

§ 97.21 POSSESSION OF PERMIT.

The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.
(Ord. 0046, passed 1-27-94) Penalty, see § 97.99

§ 97.22 INTERFERENCE.

No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in a parade.
(Ord. 0046, passed 1-27-94) Penalty, see § 97.99

§ 97.23 DRIVING THROUGH PARADES; PARKING ON PARADE ROUTE.

(A) No driver of a vehicle, street car, or trackless trolley shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designed as a parade.

(B) The Chief of Police shall have the authority when necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The Chief of Police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this section hereof.

(Ord. 0046, passed 1-27-94) Penalty, see § 97.99

§ 97.24 REVOCATION OF PERMIT.

The Chief of Police shall have the authority to revoke a parade permit issued hereunder upon application of the standards for issuance as herein set forth.
(Ord. 0046, passed 1-27-94)

§ 97.99 PENALTY.

(A) Any person who shall violate any of the provisions of this chapter for which no other penalty is provided shall be subject to the penalty of § 10.99 of this code of ordinances.

(B) Any person found guilty of any of the provisions of §§ 97.10 through 97.24 of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than \$2 nor more than \$200. (Ord. 0046, passed 1-27-94)

CHAPTER 98: PEANUT FESTIVAL

Section

- 98.01 Fire safety regulations
- 98.02 Temporary food service establishments
- 98.03 Vendor regulations

§ 98.01 FIRE SAFETY REGULATIONS.

The city ordains the following fire safety regulations which shall be enforced at all venues of the Floresville Peanut Festival in the city during the dates established for the Peanut Festival. These regulations shall be enforced by the Fire Marshal, by his deputies, by the City Health Inspector, and by any City Peace Officer. Any person violating any of the following regulations shall be guilty of a misdemeanor, and upon conviction before the City Municipal Court, shall be fined a sum not to exceed \$200 per violation. Each transaction or violation of any of the following provisions shall be deemed a separate offense. The safety regulations provided for herein as follows:

(A) All cooking booths (i.e. all booths in which food is cooked or to be served hot) must have a fire extinguisher.

(B) All propane or gas appliances must be in good working order and all connections for all propane or gas appliances must be checked for leaks by the use of soapy water. Flames shall not be utilized to check for leaks.

(C) All flammable liquids must be stored in proper containers and kept away from heat and flames.

(D) Gasoline will not be used to start or rekindle cooking fires. If any liquid accelerant is used, it must be charcoal lighter fluid.

(E) Ashes from cooking fires will not be dumped into trash barrels or dumpsters, but rather will be disposed of safely (after all coals have been extinguished).

(F) All electrical currents in food booths will be operated with safety, and no electrical circuits will be overloaded or modified.

(G) All deep fat fryers must have a lid capable of covering the entire fryer. All deep fat fryers must be protected from contact with passersby. All deep fat fryers must be protected from any contact whatsoever with children.

(H) All cooking areas must be kept clear of accumulations of grease and paper trash or any other matters that constitute a fire hazard in the judgment of the Fire Marshal, any deputies, the Health Officer or his deputies, or any City Peace Officer.

(I) Any fire related incidents of any nature must be notified to the Fire Department, the Fire Marshal, any of his deputies, City Peace Officers, or Health Department Officials, immediately.

(J) All persons working in or operating any booth must be trained in emergency procedures, including the obligations contained in this chapter.

(K) All booths shall be open to inspection by any responsible officials of the city at all times.

(L) In the discretion of the appropriate official (Fire Marshal, Health Department Inspector, any Deputy Fire Marshals or Deputy Health Department Inspectors, or any City Peace Officers) a violation of any of these regulations may result in a reprimand or warning, in the issuance of a citation, or in the issuance of a citation and the shutting down of the booth for health or safety reasons.
(Ord. 173, passed 8-11-00)

§ 98.02 TEMPORARY FOOD SERVICE ESTABLISHMENTS.

(A) It is further ordained by the city that the following regulations as promulgated shall be enforced with respect to temporary food service establishments at all venues of the Floresville Peanut Festival, which regulations set forth minimum equipment and health requirements. These regulations, as set forth hereinafter, shall be enforceable by the authorized representatives of the city, including the City Health Inspector, City Peace Officers, City Fire Marshal, or any of their respective deputies. Any person who violates any of these regulations for minimum health requirements for temporary food service establishments shall be guilty of a misdemeanor, and upon conviction before the City Municipal Court shall be assessed a fine of not more than \$200 per violation. Each transaction or violation of any provision of these temporary food service establishment minimum health requirements shall be deemed a separate offense. The temporary food service establishment minimum health requirements are as follows:

(B) Operators of all food service booths shall be required to provide the following equipment, per booth, and observe the following health requirements:

(1) Two plastic or metal containers large enough to wash and sanitize utensils must be maintained in each stand or booth, one of which shall be utilized for hand washing, and a separate one shall be utilized for utensil washing. All hand washing and utensil washing shall be done with soap.

(2) Each booth shall maintain a minimum of one roll of paper towels, a minimum of three gallons of potable water, and a minimum of one bottle of chlorine bleach for sanitizing.

(3) All food service booths shall maintain facilities to heat or cook food at temperatures of at least 140 degrees Fahrenheit or above and to cool or preserve perishable foods at temperatures of 40 degrees Fahrenheit or below.

(4) Condiments and side items (onions, pickles, relish, etc.) may be maintained in containers with flip-top lids for self-service by customers.

(5) All persons handling food must wear plastic gloves at all times.

(6) Food booths will be inspected for compliance with these requirements. The inspector shall be entitled to charge an initial inspection fee, prior to the commencement of selling of any food, of \$25. The fee shall be payable to the city.
(Ord. 173, passed 8-11-00)

§ 98.03 VENDOR REGULATIONS.

It is further ordained by the city that the regulations set forth in this chapter are promulgated as "vendor regulations" and shall apply to all venues during the Floresville Peanut Festival, and shall be enforceable by authorized representatives of the city, including the City Health Inspector, City Peace Officers, City Fire Marshal, or any of their respective deputies. Any person who violates any provision of these vendor's regulations shall be guilty of a misdemeanor, and upon conviction before the City Municipal Court shall be assessed a fine of not more than \$200 per violation. Each transaction or violation of any provision of these vendor regulations shall be deemed a separate offense. The vendor regulations are as follows:

(A) All vendors operating on festival grounds are required to obtain a permit from the Floresville Peanut Festival Association and to comply with all rules of the association.

(B) All areas or venues will be maintained in an orderly, decent and lawful manner, and shall be operated without causing a breach of the peace. All laws of the state, ordinances of the county and ordinances of the city shall be complied with.

(C) All venues shall be inspected by city officials for health, fire safety and safety.

(D) All vendors shall be responsible for keeping the area around their venues free of trash and debris. Trash and debris shall be stored in dumpsters, except as expressly provided in this chapter. Upon completion of the vendors' participation at the Peanut Festival, each vendor is responsible for cleaning their booth area.

(E) Participation in a booth at the Peanut Festival shall be permitted only upon approval by the Floresville Peanut Festival Association.
(Ord. 173, passed 8-11-00)

