

CITY OF ARCOLA
ORDINANCE NO. 2022-05-17

AN ORDINANCE OF THE CITY OF ARCOLA, TEXAS ADOPTING THE CODE NUMBERING SYSTEM, THAT THE OLD CODE WAS RENUMBERED AND RESTRUCTURED AND CODIFIED INTO A NEW NUMBERING SYSTEM, FORMATTED UNIFORMLY FOR EASIER MAINTENANCE MOVING FORWARD AND ALL NEW ORDINANCES CREATED SHOULD BE CREATED FROM THE NEW CODE NUMBERING VERSUS THE OLD; PROVIDING FOR REPEAL AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Arcola desires to adopt the following with the applicable attachments provided herein;

NOW THEREFORE, be it ordained by the Mayor and City Council of the City of Arcola, in the Texas, as follows:

SECTION 1: ADOPTION The Municipal Code attached hereto as Exhibit "A" along with and including attached documents, is hereby adopted in its entirety as provided in Exhibit "A" and incorporated herein by this reference.

SECTION 2: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith prior to the date of this Ordinance, are hereby repealed, subsumed, and replaced with the exhibit adopted herein.

SECTION 3: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.


SECTION 4: EFFECTIVE DATE This Ordinance shall be in full force and effect from and after its approval by City Council.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF ARCOLA, TEXAS on this the 17 day of May, 2022.

Councilmembers Voting Aye: Evelyn Jones, Greg Abarr, Florence Jackson, Ebony Sanco, Rosie Rojas

Councilmembers Voting Nay: 0

Councilmembers Absent: 0



Mayor, City of Arcola

Attest:



City Secretary



EXHIBIT "A"



City of Arcola

Fort Bend County, Texas

Municipal Code

Compiled: Monday, May 16, 2022

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Preface

The Municipal Code of Arcola, Texas began in-house in 2022 with the assistance of Municipal Code Corporation. This Municipal Code shall be cited as the Arcola Municipal Code or “AMC” as an acronym.

AMC references found within the code maintain a structure by subject matter using a decimal numbering system which identifies the chapter and section (**for example: 1.01.010**). This complete set of numbers is designed to aid in searching and/or referencing the Municipal Code, and to assist in subsequent codification as new ordinances are added to the Municipal Code.

- The first number in the sequence (1.01.010) designates the **Title** level
- The second series of numbers (1.**01**.010) designates the **Chapter** level
- The last series (1.01.**010**) designates the **Section** level

The legislation herein may be arranged as an alphanumeric ordered list **A, 1, a, (1), (A), (a)** to show hierarchal relationships. The legislation may also be arranged as an unordered list (using bullets, discs, squares, etc.) to show items without hierarchal relationships. These list structures assist in subsequent codification as new legislation is added. To forego the naming of each list item and to more granularly reference legislation that employs alphanumeric characters, use “Paragraph” followed by the desired alphanumeric reference(s), comma separated. For example, “Paragraph B,7,d”, specifically references item “d”, of item “7”, of item “B”—whereas “Paragraph B” refers more generally to any or all of list item B’s descendants.

References herein revealing “TGC” implies a reference to the "[Texas Government Code](#)".

References herein revealing “LGC” implies a reference to the "[Texas Local Government Code](#)".

Vacant titles, chapters, or sections may be designed for future use and may be marked “Reserved” to ease internal expansion. The legislative history identifies the specific legal sources of a section as may be provided in footnotes.

The Municipal Code is supplemented from time to time with amendments and additions made by the municipality. The specific legal sources that comprise this Municipal Code have been adopted during the codification process from the original formatting of the official hard copy. In the event of discrepancies between the online Municipal Code and the official adopted legislation, the legislation typically governs. Municipal Code Corporation provides a searchable database of the Municipal Code for easy reference

and convenience.

THE ONLINE MUNICIPAL CODE MAY NOT REFLECT THE MOST CURRENT VERSION OF ALL ADOPTED LEGISLATION. ALSO, THE MUNICIPAL CODE MAY NOT REFLECT RULES OR OTHER REGULATIONS PROMULGATED UNDER THE AUTHORITY OF THE CODE, INCLUDING TECHNICAL SPECIFICATIONS.

1 General Provisions

1.04 Code Adoption

1.08 Code Construction And General Provisions

1.12 Official And Corporate Provisions

1.16 General Penalties

1.04 Code Adoption

1.04.010 How Code Designated And Cited

1.04.010 How Code Designated And Cited

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances of the City of Arcola, Texas" and may be so cited.

1.08 Code Construction And General Provisions

1.08.010 Rules Of Construction

1.08.020 Specific Words And Phrases

1.08.030 Amendments Or Additions To Code

1.08.010 Rules Of Construction

- A. **In General.** This Code shall be interpreted and construed in accordance with the Code Construction Act, of the TGC Chapter 311, unless otherwise specifically provided. For this purpose, references to bills and statutes are construed to refer to the correlative City measures (e.g., ordinances, resolutions, motions, etc.).
- B. **Penal Provisions.** Penal provisions of this Code shall be interpreted and construed in accordance with the Texas Penal Code, except that the territorial jurisdiction of the City is limited to the City limits. Words in this Code relating to offenses (for example, "intentionally," "knowingly," "recklessly," "criminal negligence," "presumption," "affirmative defense") have the same meanings as in the Texas Penal Code.
- C. **Officers, Departments.** The title of an officer or body (e.g., Mayor, City Secretary, Police Chief, City Council) or a department (e.g., police department) means the respective officer, body or department of the City. An officer's title includes acting officers. Each title includes any renamed or successor officer, body or department performing the same function.

1.08.020 Specific Words And Phrases

As used in this Code, certain terms have the meanings set out below, unless the context clearly indicates that another meaning is intended:

"Applicable regulations" mean and include all ordinances and regulations of the City and all laws, rules and regulations of the State of Texas and the federal government of the United States, to the extent they may apply.

"City" means the City of Arcola, in the County of Fort Bend and State of Texas.

"Control" means, with respect to property, to control the use and condition of the property. It is presumed that a person controls a site and all structures thereon if the person arranges for, or pays for, any utility service for the site, but only for the time period during which such utility service is provided to the site. Proof of such arrangements or payments may consist of excerpts from the customer billing records of the company or entity (e.g., the City) providing the service.

"County" means Fort Bend County, Texas.

"Development" means either the construction of a new structure or the expansion of the external dimensions of an existing structure.

"Holiday" means a holiday on which most U.S. Postal Service offices are closed.

"Month" means a calendar month.

"Owner," when applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the property. A person is presumed to own a parcel or item of property if: (i) the person is shown on the current tax or appraisal roll as the owner of the property; or (ii) the property was conveyed (or purportedly conveyed) to the person by deed, bill of sale or other document, and a search has revealed no similar document conveying (or purporting to convey) the property to someone else subsequently.

"Person" includes natural persons and all other legal entities, including all those mentioned in TGC Chapter 311.

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

"Premises" includes both: (i) a separately-occupied or used land area and (ii) a building (or a distinct, separately-occupied and controlled part of a building) and all appurtenant grounds, structures and areas.

"Roadway" means that portion of a street area improved, designed or ordinarily used for vehicular traffic (excluding private driveways).

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

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

"Street area" means any highway, alley, street, avenue or public place or square, bridge, viaduct, underpass, overpass, tunnel or causeway in the City, dedicated or devoted to public use, and includes all of the area between the right-of-way lines.

1.08.030 Amendments Or Additions To Code

- A. **Printing, Etc.** All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, subchapter, section or other portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages. The subsequent ordinances, as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the City Council.
- B. **Form of Amendments.** Amendments to this Code may be made by specific reference to a part of this Code to be amended using, for example, the following language: "Section ___ of the Code of Ordinances of the City of Arcola, Texas, is hereby amended to read as follows: [here insert the amended provision in full]." If a new provision is to be added, the following language may be used: "The Code of Ordinances of the City of Arcola, Texas, is hereby amended by adding a new section, to be numbered ____, which new section reads as follows: [here insert the new provision in full]..."

1.12 Official And Corporate Provisions

1.12.010 Other Measures Not Affected By Code

1.12.020 Numbering Ordinances

1.12.010 Other Measures Not Affected By Code

Nothing in this Code or the ordinance adopting this Code is intended to repeal or amend any ordinance, resolution or motion by implication. All such measures shall remain in effect unless a different result is clearly indicated by this Code or the ordinance adopting this Code.

1.12.020 Numbering Ordinances

All ordinances of the City shall be numbered and shall thereafter be known as the ordinance of that number.

1.16 General Penalties

1.16.010 Severability Of Parts Of Code

1.16.020 General Penalty For Violations

1.16.010 Severability Of Parts Of Code

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

1.16.020 General Penalty For Violations

- A. Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in the code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance shall be punished by:
1. A fine not to exceed \$2,000 in all cases arising under municipal ordinances or resolutions, rules, or orders of a joint board that govern fire safety, zoning, and public health and sanitation, other than the dumping of refuse;
 2. A fine not to exceed \$4,000 in cases arising under municipal ordinances that govern the dumping of refuse; or
 3. In all other cases, a fine under any such provision or ordinance shall not exceed
 - a. \$100 for a first violation;
 - b. \$200 for a second violation; and
 - c. \$500 for a third or subsequent violation.
- B. Notwithstanding any other provisions of this chapter, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.
- C. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. In the event that any such violation is designated as a nuisance under the provisions of this code, the nuisance may be summarily abated by the city.
- D. **Penalty.** Any person who violates or causes, allows, or permits another to violate any provision of this chapter, rule, or police regulation of the City shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine or penalty not to exceed five hundred dollars (\$500.00). If such rule,

ordinance, or police regulation governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, the fine or penalty shall not exceed two thousand dollars (\$2,000.00). If such rule, ordinance, or police regulation governs the dumping of refuse, the fine or penalty shall not exceed two thousand dollars (\$2,000.00). Each occurrence of any violation of this chapter, rule, or police regulation shall constitute a separate offense. Each day on which any such violation of this chapter, rule, or police regulation occurs shall constitute a separate offense.

2 Administration And Finance

2.04 In General

2.08 Administrator, Advisors, Etc.

2.10 Elected Officials

2.12 Boards, Commissions And Committees

2.16 Appeals And Variances

2.20 Non-Discrimination Policies

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2.04.010 City Council Meetings; Dates

2.04.020 City Council Rules Of Procedure

2.04.030 Roles And Responsibilities Of Mayor And Council

2.04.040 Texas Water Development Board, Site Certificates, Eminent Domain, Etc.

2.04.050 Official Newspaper

2.04.060 Complaints About City Employees And Contractors

2.04.070 Records Management

2.04.080 "Open Records" Requests That Require Large Amounts Time

2.04.010 City Council Meetings; Dates

- A. **Regular Meetings.** The City Council shall meet in regular session on the second Tuesday of each month, beginning at 7:00 PM.

Exceptions: (i) If a regular meeting falls on a holiday, it is automatically rescheduled for the following Tuesday at the same time. (ii) The City Council, by resolution or ordinance may reschedule any regular meeting.

- B. **Other Meetings.** Other meetings shall be called as provided in state law.
- C. **Notices.** The City Secretary shall prepare, post and distribute notices of meetings (including the agenda) and backup information.
- D. **Agendas.** The Mayor is responsible for assembling the agenda for each meeting. The Mayor must place a subject on the agenda if the subject is requested by the Temporary Receiver (if any), orally or in writing, or by two or more Council Members, in writing. A single Council Member may request an item on the agenda, orally or in writing, and the Mayor shall make a reasonable effort to accommodate the request, taking into account the length of the agenda and the importance of the items. Other persons may request an item on the agenda, in writing. Agendas may include groups of routine or similar items which will be considered as a group, unless any single Council Member requests separate

consideration for an item. All requests must be received by the City Secretary by 5:00 PM on the sixth day preceding the meeting.

- E. **Attendance.** All members are expected to attend all meetings on time, except with a good excuse. Good excuses are determined by the City Council. The Council may cause the attendance record of all members to be posted or published.

2.04.020 City Council Rules Of Procedure

- A. **Robert's Rules.** Except as otherwise provided by this Code or controlling law, "Robert's Rules of Order, Newly Revised" (9th Edition, 1990) shall govern in all cases. Any special rules for small deliberative bodies shall apply to the City Council.
- B. **Standard Procedure.** Each measure shall be introduced by the presiding officer in the order shown on the agenda. After it is introduced, the procedure is:
 - 1. Reading of the measure by the City Secretary (or other person designated by the presiding officer). Reading ordinances or resolutions by caption or summary is allowed.
 - 2. The Temporary Receiver (if any) or other person may present a staff statement.
 - 3. Motion and second.
 - 4. Discussion.
 - 5. Vote.
- C. **Voting.** Informal voice voting shall be used, unless a Council Member requests a roll call vote. On a roll call vote, the moving member votes first, the seconding member votes second, the remaining members vote in alphabetical order, and the presiding officer votes last (if allowed to vote). In case of a tie, the motion fails. Where there is a single vote on a group of items, under circumstances where no member requests a separate vote, the vote on the group is deemed to be same as a separate, identical vote on each item.
- D. **Order and Decorum.** The presiding officer will preserve order and decorum, preventing the impugning of any member's motives or other personal comment not relevant to the orderly conduct of business. The presiding officer shall request all speakers to keep comments brief and relevant to the question before the Council. In regular meetings, all remarks by members should be directed to the chair, not to other members. All persons present in the meeting room should eschew abusive, rude or inappropriate conduct. See Chapter 38 of the Texas Penal Code regarding the "hindering" of official proceedings.
- E. **Public Participation.** Comments and suggestions by the public are highly

valued and encouraged during those parts of a meeting designated for public participation. Speakers should register in advance and should limit their presentations to three minutes each. Speakers should direct all remarks and questions to the presiding officer, who may refer them for investigation, response or other action. The "Texas Open Meetings Act" requires the City to post a notice, in advance, listing every topic or subject to be considered by the Council. This law may prevent the Council from considering a subject raised by a member of the public. In this case, the presiding officer may refer the matter, and the Council may direct that the matter be placed on the agenda for an upcoming meeting.

- F. **Suspension of Rules.** Any of the rules prescribed by this section may be suspended, for any single meeting, by a vote of three-fourths of the Council Members present.

2.04.030 Roles And Responsibilities Of Mayor And Council

A. **Mayor's Roles and Responsibilities.** The Mayor shall:

1. Inspect the conduct of each subordinate municipal officer and cause any negligence, carelessness, or other violation of duty to be brought before the City Council for appropriate action;
2. Provide the City Council with information and recommendations for improving the finances, police, health, security, cleanliness, comfort or government of the City;
3. Serve as the first point of contact for intergovernmental relationships unless others are appointed by City Council;
4. Preside over City Council meetings, which are subject to rules of procedure, conduct and decorum as provided in this chapter;
5. Make no purchases—nor utilize credit accounts, credit cards or other accounts of the City—for any reason not expressly authorized by the City Council, except for emergency expenditures less than \$1,000;
6. Have no special right to use public property or authority to use City vehicle(s) for any purpose, unless expressly authorized by the City Council;
7. Act as approval agent for the City in matters of finance, but only when expressly approved by the City Council;
8. Be responsible, along with the City Administrator and City Secretary, for the initial drafting of the agenda and be responsible for the final review of the agenda and all materials used in public meetings, except that adding materials requires coordination with the City Administrator;
9. Keep and maintain all documents pertaining to the business of the City on

City premises and not remove any documents from City premises.

Exceptions: This does not apply to documents sent out for copying or to copies of documents if the originals (or other copies) are kept on City premises.

B. City Council Roles and Responsibilities. The City Council shall:

1. Deliberate on recommendations by the Mayor or the City Administrator and direct the Mayor to implement recommendations in conjunction with the City Administrator, as desired by the Council;
2. Provide guidance and vision for the City in the form of ordinances, resolutions and motions;
3. Have sole authority to approve or authorize contracts, except to the extent the Mayor or others are specifically authorized to make contracts by the City Council; and
4. Establish and change personnel policies and procedures of the City.

C. Provisions Applicable to Individual Members. Individual City Council members shall:

1. Provide to the City Council information and recommendations for improving the finances, police, health, security, cleanliness, comfort, aesthetics, or government of the City, to the extent desired, but in accordance with open meetings laws;
2. Make no purchases—nor utilize any credit accounts, credit cards or other accounts of the City—for any reason not expressly authorized in advance by the City Council; and
3. Exercise fiduciary responsibility when signing checks written on City accounts, it being City policy that: (i) each check must be signed by at least two Council Members (counting the Mayor); and (ii) no person is authorized to sign any City check payable to that person.

2.04.040 Texas Water Development Board, Site Certificates, Eminent Domain, Etc.

- A. **Site Certificates, Etc.** In support of any "site certificate," filing or application required by the Texas Water Development Board (or other lending or grantor agency) for water or sewer facilities, or their sites, the City Council does formally determine and declare that, in the event of conflicts with existing underground utilities, or to preserve unknown cultural or historic resources the City (i) has the right of eminent domain, (ii) will take condemnation action, if necessary, to acquire any sites, easements or rights-of-way which may be required to change

the location of any of the facilities described above; and (iii) upon acquisition of the rights-of-way and recording of documents, the City will submit another site certificate to that effect.

- B. **Letter, Filings.** The Mayor is authorized and directed to send a letter or other appropriate document to the State Comptroller stating that the City is authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the City that authority. Such letter or document shall be sent (by certified mail, return receipt requested) in compliance with TGC Chapter 2206, including Section 2206.101, as amended in 2011 or thereafter.
- C. **Other.** The attorneys, engineers and officers of the City are authorized to assist the Mayor, make certificates and take other actions to evidence or carry out the policies of the City established, determined or declared in this section.

2.04.050 Official Newspaper

The official newspaper of the City is the *Fort Bend Herald*. The Mayor is authorized to contract with such newspaper as soon as practicable after the beginning of each municipal year, on behalf of the City Council.

2.04.060 Complaints About City Employees And Contractors

- A. **In General.** Any affected person may file a complaint about a City employee or contractor. Although complaints may be made orally, this section only applies to written complaints in the prescribed form.
- B. **Form of Complaints.** If there is a standard form for complaints, it should be filled-out. A complaint should contain, at a minimum: (i) a detailed description, including the date, time and place, of any occurrence or incident upon which the complaint is based, (ii) the names of the employees or contractors involved, (iii) the names, addresses and telephone numbers of any witnesses, and (iv) the name, address, telephone numbers and signature of the person who makes the complaint.
- C. **Where to File.** Complaints must be filed with the appropriate City official. The appropriate City official is the supervisor of the employee or contractor whose conduct is involved in the complaint. Usually this will be the department head. If the complaint involves conduct of a supervisor or department head, the Mayor is the appropriate City official. Anyone unsure about where to file a complaint may file it with the Mayor, who should see that it reaches the appropriate City official.
- D. **Action on Complaints.** The appropriate City official should: (i) acknowledge receipt of the complaint in writing, (ii) investigate as circumstances warrant and resources permit, (iii) comply with TGC Chapter 614, if applicable, (iv) take action if appropriate, or recommend that action be taken, and (v) report the disposition of the complaint to the person who filed it, in writing, with a copy to the Mayor and

City Council.

- E. **Appeals.** Any person who files a complaint and is dissatisfied with action on the complaint may appeal to the City Council. Appeals should be in writing and delivered to the Mayor or the City Secretary.
- F. **Executive Sessions.** Any discussions of complaints about individual employees or officers by the City Council will normally be conducted in executive session, unless otherwise required by law.

2.04.070 Records Management

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

B. **Additional Definitions.**

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

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

"Permanent record" means any record of the City for which the retention period on a records control schedule is given as permanent.

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

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

inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

"Records management officer" means the person designated in paragraph E.

"Records management plan" means the plan developed under paragraph F.

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

- C. Municipal Records Declared Public Property.** All municipal records as defined in this section are hereby declared to be the property of the City. No municipal official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.
- D. Policy.** It is hereby declared to be the policy of the City to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all municipal records through a comprehensive system of integrated procedures for their management from creation to ultimate disposition, consistent with the requirements of LGC Title 6, Subtitle C, ("Local Government Records Act") and accepted records management practice.
- E. Designation of Records Management Officer.** The current City Secretary and the successive holders of said office, shall serve as Records Management Officer for the City. As provided by state law, each successive holder of the office shall file his or her name with the director and librarian of the Texas State Library within thirty days of the initial designation or of taking up the office, as applicable.
- F. Records Management Plan to be Developed; Approval of Plan; Authority of Plan.**
1. The Records Management Officer shall develop a records management plan for the City for submission to the City Council. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the essential records of the municipality, and to properly preserve those records of the municipality that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by state law and this section effectively.
 2. Once approved by the City Council, the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the City and records

shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

3. State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this section and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the City.

G. Duties of Records Management Officer. In addition to other duties assigned in this section, the Records Management Officer shall:

1. Administer the records management program and provide assistance to department heads in its implementation;
2. Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
3. In cooperation with department heads identify essential records and establish a disaster plan for each municipal office and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;
4. Develop procedures to ensure the permanent preservation of the historically valuable records of the city;
5. Establish standards for filing and storage equipment and for recordkeeping supplies;
6. Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the City;
7. Monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and the municipality's records control schedules are in compliance with state regulations;
8. Disseminate to the City Council and department heads information concerning state laws and administrative rules relating to local government records;
9. Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the records of the City are carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
10. Maintain records on the volume of records destroyed under approved records control schedules or through records destruction authorization requests, the volume of records microfilmed or stored electronically, and

the estimated cost and space savings as the result of such disposal or disposition;

11. Report annually to the City Council on the implementation of the records management plan in each department of the City, including summaries of the statistical and fiscal data compiled under paragraph G,10; and
12. Bring to the attention of the City Council non-compliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act.

H. Duties and Responsibilities of Department Heads. In addition to other duties assigned in this section, department heads shall:

1. Cooperate with the Records Management Officer in carrying out the policies and procedures established in the City for the efficient and economical management of records and in carrying out the requirements of this section;
2. Adequately document the transaction of government business and the services, programs, and duties for which the department head and his or her staff are responsible; and
3. Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the City and the requirements of this section.

I. Records Control Schedules to be Developed; Approval; Filing with State.

1. The Records Management Officer, in cooperation with department heads, shall prepare records control schedules on a department by department basis listing all records series created or received by the department and the retention period for each series. Records control schedules shall also contain such other information regarding the disposition of municipal records as the records management plan may require.
2. Each records control schedule shall be monitored and amended as needed by the Records Management Officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state and that it continues to reflect the recordkeeping procedures and needs of the department and the records management program of the City.
3. Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the City Council.
4. Before its adoption a records control schedule must be submitted to and

accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The Records Management Officer shall submit the records control schedules to the director and librarian.

J. Implementation of Records Control Schedules; Destruction of Records Under Schedule.

1. A records control schedule for a department that has been approved and adopted under paragraph I, shall be implemented by department heads according to the policies and procedures of the records management plan.
2. A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending lawsuit, or the department head requests in writing to the Records Management Officer that the record be retained for an additional period.
3. Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer from the City Council.

K. Destruction of Unscheduled Records. A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Management Officer has submitted to and received back from the director and librarian an approved destruction authorization request.

2.04.080 "Open Records" Requests That Require Large Amounts Time

- A. As authorized by the Public Information Act, TGC Chapter 552 ("PIA"), including, e.g., Section 552.275, the City establishes reasonable monthly and yearly limits on the amount of time that personnel of the City are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time. Such yearly limit is 36 hours for a requestor for a City fiscal year, and the monthly limit is 15 hours for a requestor for a one-month period.
- B. The PIA, including, e.g., TGC Section 552.275, shall govern administration and application of this section, including statements, estimates of total cost, determinations, notices, etc. The City's officer for public information and the Mayor are each authorized to administer and apply this section for the City, subject to the jurisdiction of the City Council regarding appeals, interpretations and variances.

- C. This section is inapplicable to requestors so designated in the PIA, e.g., TGC Section 552.275, Subsections (i), (k), (l) and (m) (regarding news media, communications, elected officials, certain legal services providers).

2.08 Administrator, Advisors, Etc.

[2.08.010 In General](#)

[2.08.020 City Administrator](#)

[2.08.030 Bookkeeping, Etc.](#)

[2.08.040 Attorney](#)

[2.08.050 Utility Operator](#)

[2.08.060 Engineer](#)

[2.08.070 Auditor](#)

2.08.010 In General

- A. **Purpose.** The purpose of this chapter is to set out qualifications for the City administrator and advisors to the City. These requirements are designed to secure the benefits of professional and responsive government while preserving the fiscal integrity of the City. These requirements are also designed to provide continuing assurance to the Texas Water Development Board (and other potential lenders) that the City is committed to sound fiscal management.
- B. **Appointment, Removal.** All positions mentioned in this chapter shall be filled by the City Council, either by appointment or by approval of an appropriate contract for professional services. Each such person or firm serves at the pleasure of the City Council, unless otherwise provided by written contract or controlling law.
- C. **Modifications.** The City Council may modify a requirement set out in this chapter, if the Council finds and determines, by formal resolution, that: (i) the modification is required by the public interest and (ii) the modified requirement is in keeping with the purpose of this chapter.

2.08.020 City Administrator

- A. **Generally; Qualifications.** The City will employ a City Administrator having at least five years of experience as a city administrator, city manager, finance director, assistant city manager or public works director of a city, or cities, in Texas with a population exceeding 2,500, or having equivalent qualifications, taking into account education, training and experience.
- B. **Duties.** The City Administrator's duties shall include the following, subject to general supervision by the Mayor and reduction (or focusing) of specific duties by the Mayor:

1. Visit City Hall at least three times each week (or more, if the position calls for more than 20 hours per week of regular working time). visit other City facilities as requested by the Mayor and attend each meeting of the City Council.

Exceptions: The Mayor may allow omission of visits and meetings (during two weeks per calendar year) and re-scheduling of visits (at any time).

2. Remain available in the City (or its immediate vicinity), at least 20 hours per week (or more, if the position calls for more than 20 hours per week of regular working time) selected by the administrator, but meeting any special requests of the Mayor (counting the required visits and meetings) and keep the Mayor advised of the selected hours.

Exceptions: The Mayor may allow omission of availability hours (during approved leaves, travel, etc.) and re-scheduling of hours (at any time).

3. Remain available by cell phone at all times ("24/7"). Maintain two-way contact with the Mayor and City Secretary by email, at least once per day, seven days a week.
4. Develop and distribute schedules and procedures for routine and repetitive operations and functions, including both administrative functions and equipment and facility maintenance (which may incorporate schedules provided by others); provide all necessary assistance in seeing that such operations and procedures are carried out in a timely manner.
5. Provide administrative and technical support to the Mayor, City Council, Zoning & Planning Commission and the Arcola 4B Corporation (including recommendations for improvements), monitor and report on capital improvements and the operations of City departments (to determine if they are making the most efficient and effective use of physical, employee and financial resources). Prepare citywide and project budgets (also budgets for the STP and other City systems) and review financial guidelines, salaries and taxes. Keep City officials informed as to the city's financial condition, tax receipts, tax rates, etc. and make recommendations regarding same. Serve as liaison between the City Council and City's staff and contractors. Prepare grant and loan applications.
6. Investigate and respond to reports of problems affecting City personnel or property.
7. Prepare and submit required reports on a timely basis: (i) as required by regulatory authorities, and (ii) to others approved by the City.

Exception: When the utility operator or other City contractor is obligated to provide such reports, the administrator shall make sure such reports are

submitted in a timely manner and copies are filed with the City Secretary. The administrator shall work with regulatory authorities to help keep the City in compliance with regulatory requirements.

8. Deliver reports to keep the City's governing body, Mayor and representatives apprised of the operations of the City, including any special reports required from time to time by the City's governing body or Mayor.
9. Monitor all construction, repair, replacement and improvement projects; collect and preserve items related to operation or maintenance (including reports, maps, "as built" plans, specifications, contracts, capacity data, warranties, manuals, bonds, permits, keys, codes, etc.); coordinate activities with construction contractors, developers, landowners, engineers, other governmental units and other agencies, regulatory bodies and City (including City's governing body, bookkeeper, and Mayor); attend "walk-throughs" and inspections and provide related services, other than those specially assigned by City to engineers or others.
10. Take steps to promote good relations with the City's residents, utility customers and contractors as well as governmental units and other agencies.
11. Respond to all correspondence and inquiries from the City's officers, consultants, regulatory authorities, applicants or customers in a prompt, professional manner and provide copies to the Mayor.
12. Consult with and advise the Mayor as to purchases of goods or services and arrange the necessary transactions, shipping, warranties, etc. and administer City contracts.
13. Monitor and report damages and losses to City property and other claims; prepare and file insurance claims and pursue such claims (or see that they are prepared and pursued).
14. Work with representatives of the North Fort Bend Regional Water Authority, Fort Bend County Fresh Water Supply District No. 1, Fort Bend County Municipal Utility District No. 141 and other utility suppliers to coordinate operations, arrange deliveries of water or sewage flows to and from the City, determine amounts owed to or by the City and make sure that billings are timely submitted and pursued.
15. Provide other, related services as the Mayor or City Council may request or as may be required to comply with applicable laws, rules, regulations and ordinances.

C. **Authority.** The authority of the City Administrator includes the following specific authority, in addition to general authority to carry out the duties listed above:

1. To the extent specified by the Mayor from time to time: Authority to supervise department heads and other City employees not assigned to a department with a designated department head, including yearly evaluations of those individuals. Each designated department head must report to the City Administrator regarding personnel assigned to that department and is responsible for yearly evaluations of those personnel. The Mayor may designate the City Administrator as the department head for employees not otherwise assigned to a department with a designated department head.
2. Authority to participate in the initial drafting of the agenda for each Council meeting and assemble back-up materials.

2.08.030 Bookkeeping, Etc.

The City will engage the services of a qualified, independent accounting firm to provide all check preparation, general accounting and bookkeeping services for the City. A qualified accounting firm will be managed by a Texas Certified Public Accountant, will have over five years' experience in general accounting, and will provide similar services to a minimum of five municipalities or municipal agencies. The accounting firm will retain all of the City's check books in its possession.

Exception: There will be one small account kept at City Hall, subject to these limitations: (i) it will only be used to pay budgeted expenditures, (ii) it will not contain more than \$3,500 at any given time; and (iii) transfers to refill the account must be approved by City Council, upon presentation of proper documentation for the preceding expenditures.

2.08.040 Attorney

The City will retain the services of a qualified attorney-at-law to provide legal services to the Mayor and Council. A qualified attorney-at-law will have a minimum of five years' experience in Texas Municipal Law, and will currently provide similar services to a minimum of five Texas municipalities or municipal agencies. This paragraph does not prevent the City from using the services of attorneys and assistants who work under the direct supervision of the person engaged as the City's attorney, as long as the City's attorney remains responsible for all work performed.

2.08.050 Utility Operator

The City will engage the services of a qualified utility operating company to provide operating services, including billing and collection, for the City's sanitary sewer system. A qualified firm will be licensed by the TNRCC to operate wastewater treatment plants, will have a minimum of five years' experience in utility operations, including billing and collection, and will currently provide similar services to five Texas municipalities or municipal agencies, and will operate a minimum of five wastewater collection and

treatment systems within 50 miles of the City.

2.08.060 Engineer

The City will retain the services of one or more qualified civil engineers to provide routine engineering consultation at the request of the City. It is not required that the engineers selected be a member of a firm engaged to design the City's water system. Any qualified engineer will be a Registered Professional Civil Engineer, will have a minimum of five years' experience providing civil engineering services, and will currently provide similar services to a minimum of five Texas municipalities or municipal agencies. This paragraph does not prevent the City from using the services of engineering assistants who work under the direct supervision of the person or persons engaged as the City's engineer, as long as the City's engineer remains responsible for all work performed by their engineering assistant.

2.08.070 Auditor

The City will engage a qualified, independent Certified Public Accountant (CPA) to perform its annual audits. A qualified CPA will be a Texas CPA, other than a member of the accounting firm engaged to provide general accounting and bookkeeping services to the City, will have a minimum of five years' experience providing audit services, and will currently be providing similar services to a minimum of five municipalities or municipal agencies. This paragraph does not prevent the City from using the services of accountants and accounting assistants who work under the direct supervision of the person engaged as the City's Certified Public Accountant, as long as the City's Certified Public Accountant remains responsible for all work performed.

2.10 Elected Officials

2.10.010 Elected Official's Compensation

2.10.010 Elected Official's Compensation

- A. **In General.** Effective as of the dates indicated, the compensation for City elected officials shall be as set out in this section, subject to budget approval as provided below:

For regular terms ending from May 2005 to May 2014 (both inclusive):	
Mayor	For attending the first regular meeting in a calendar month: \$400* For attending a meeting—other than the first regular meeting—in a calendar month: \$200* For any other meeting or task: \$(none)
Council Members	For attending the first regular meeting in a calendar month: \$150* For attending a meeting—other than the first regular meeting—in a calendar month: \$75* For any other meeting or task: \$(none)

* Indicated payments apply to each official elected to serve all or part of an eligible term of office. Payments at these rates begin in the month of June following a May General Election.

For regular terms ending in May 2015 to October 2020:

Mayor	For attending the first regular meeting in a calendar month: \$500** For attending a meeting—other than the first regular meeting—in a calendar month: \$250** For any other meeting or task: \$(none)
Council Members	For attending the first regular meeting in a calendar month: \$200** For attending a meeting—other than the first regular meeting—in a calendar month: \$100** For any other meeting or task: \$(none)

** Indicated payments only apply to officials after they have been elected or appointed to serve all or part of a specified term of office. Payments at the specified rates begin, in staggered fashion, in the month of June 2013 (for those elected in May 2013), in the month of June 2014 (for those elected or appointed in May 2014 or later).

For terms in place as of November 4, 2020:

Mayor	For attending all meetings in a month: \$1,200
Council Members	For attending the first regular meeting in a calendar month: \$400 For attending a meeting—other than the first regular meeting—in a calendar month: \$200 For any other meeting or task: \$(none)

- B. **Benefits.** The Mayor shall be given the opportunity to enroll in a health plan offered by the City of Arcola for him/herself only.
- C. **Budget Approval.** All compensation is subject to sufficient funds being made available in the annual budget adopted as provided by law, provided that an officer's compensation may not be changed during the term for which the officer was elected or appointed.

Compensation for the Mayor Pro Tem:

Mayor Pro Tem	For attending the first regular meeting in a calendar month: \$500 For attending a meeting—other than the first regular meeting—in a calendar month: \$250 For any other meeting or task: \$(none)
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2.12 Boards, Commissions And Committees

2.12.010 Senior Citizen Program Committee

2.12.010 Senior Citizen Program Committee

- A. **Creation and Duties.** There is hereby created the Senior Citizen Program Committee or "SCPC." The SCPC shall:
1. Study the needs of senior citizens and related services, financial assistance and plans,
 2. Make recommendations to the City Council on senior citizen programs, services, financial assistance and plans, and
 3. Perform such other duties with reference to senior citizens as the City Council may, from time to time, require.
- B. **Positions; Terms.** The SCPC shall have seven positions (numbered 1 through 7), with all positions and the presiding officer appointed by the City Council. Each position shall have successive terms of office, with each term beginning on September 1 of each even-numbered calendar year and extending through August 31 of the next following even-numbered calendar year. Each member shall be appointed to a specific term, or the unexpired portion thereof, of a specific numbered position. A member shall also serve after the expiration of a term of office until a successor is selected and qualified.
- C. **Appointments, Vacancies.** Appointments for upcoming terms may be made no sooner than 60 days prior to the beginning of the term. In the event of death, resignation, removal from office or any other vacancy, a successor shall be appointed to serve the remaining unexpired portion of the specific term of office of the vacant position.
- D. **Removal.** The City Council may remove a member after providing notice and an opportunity for a hearing to the member.
- E. **Officers.** The City Council may from time to time designate one member as the presiding officer, who shall serve until another presiding officer is so designated. The Council may also designate other officers.
- F. **No Compensation.** Members shall receive no compensation for their services. This shall not prohibit reimbursement for actual and reasonable expenses incurred by authority of the City Council.
- G. **Meetings; Quorum.** The SCPC shall post the date, time and place of its meetings, whether required to do so by state law or not. A quorum is half of the members appointed and holding non-vacant positions, but never fewer than three.
- H. **No Contracts or Obligations.** The SCPC may not make any contract or incur

any obligation, but may recommend that the City Council do so. The SCPC may also request that the City Council authorize materials and services (including professional services) to support the work of the SCPC.

2.16 Appeals And Variances

2.16.010 Determination, Appeals, Public Hearings, Etc.

2.16.010 Determination, Appeals, Public Hearings, Etc.

- A. **Generally.** The City Council has the authority to hear and decide applications for appeals, interpretations and variances from: (i) the requirements of this Code and other ordinances, rules, regulations and policies of the City, and (ii) actions of City officers, engineers or other representatives relating to permits, licenses, infrastructure or other determinations, approvals or permissions (including failures to take authorized actions promptly following a written request). This section applies to all such requirements and actions, unless a specific appeal, interpretation or variance procedure is provided elsewhere.
- B. **Who May Apply; When to File.** Any person aggrieved by such a requirement or action may apply for an appeal, interpretation or a variance. Unless otherwise allowed, applications must be filed in writing with the City Secretary within 30 days following the time the person (or the person's representative) learns of the requirement or action in question. The City Council may extend the time for filing, if: (i) there is good cause shown for the delay, and (ii) as a practical matter, the Council is still able to reverse or modify the requirement or action in question and grant relief, without causing a substantial adverse effect upon the the City or others.
- C. **Special Requirements for Variances.**
1. Variances shall only be issued to the minimum extent necessary to afford relief, and variances shall only be issued upon:
 - a. Showing a good and sufficient cause;
 - b. A determination that failure to grant the variance would result in unusual hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or a conflict with existing laws or ordinances.
 2. Taking into account the factors listed above, the City Council may attach conditions to variances to carry-out the purpose and intent of this Code or other applicable ordinances, rules, regulations and policies of the City affected by the variance.

D. Additional Procedures for Infrastructure Appeals. For appeals of infrastructure determinations under LGC Section 212.904, the following procedures apply, in addition to the other provisions of this section:

1. Appeals may be filed in writing or, with approval by the Council, they may be presented orally at a Council meeting.
2. The Council will provide a public hearing, including an opportunity for the appealing party to: (i) present evidence and testimony (ii) respond to evidence, testimony and comments by others, and (iii) present a summary or closing statement.
3. Council Members may ask questions of any witness. Other persons may request that questions be asked, indirectly, by submitting the questions in writing to the presiding officer. Direct cross-questioning by a party may be allowed if requested by written motion and supported by good cause and true need.
4. The Council may reverse, affirm or modify the determination that is appealed, as provided by law, and may: (i) return or modify dedications made to the City, (ii) reduce or modify fees, except to the extent already obligated or spent, and (iii) reduce construction costs required to be paid, except to the extent already obligated or spent. If necessary to grant full relief or to achieve a fair and just outcome, the Council may require changes to permits, licenses, infrastructure or other determinations, approvals or permissions related to the appeal.

E. Finality of Decisions. No decision is final until it is officially made by the officer, engineer, other representative or body authorized to do so, or by the Council under this section. City Council decisions on appeals, interpretations and variances control over decisions by any other officer, engineer, representative or body of the City.

F. Additional Administrative Remedies. In addition to appeals, interpretations and variances, administrative remedies include applying to the City Council for an interpretation or amendment of ordinances or applicable regulations. Such an application may be made in writing and delivered to the City Secretary.

2.20 Non-Discrimination Policies

[2.20.010 Purpose, Policy, Etc](#)

[2.20.020 Employment Discrimination](#)

[2.20.030 Remedies](#)

[2.20.040 Sanctions](#)

2.20.010 Purpose, Policy, Etc

- A. **Purpose.** The purpose of this chapter is to provide an environment of nondiscrimination and to comply with Federal and State equal opportunity laws and regulations.
- B. **Non-discrimination Policy.** It is the policy of the City not to discriminate on the basis of race, color, religion, sex, age, national origin, disability, disabled veteran status or veteran status, in its programs, activities or employment policies.
- C. **Effect of Policies.** Conduct prohibited herein may or may not violate the law, but it nevertheless violates City policy. Remedies and sanctions for violations of City policy are provided in this chapter. For conduct that only violates City policy, those remedies and sanctions are exclusive.

2.20.020 Employment Discrimination

It is the policy of the City not to discriminate illegally in any aspect of employment, including, but not limited to: hiring and firing; compensation, assignment or classification; transfer or promotion; job advertisements; recruitment; testing; training and apprenticeship programs; fringe benefits and pay; retirement and leave; and other terms and conditions of employment. Forbidden discriminatory practices include: (i) harassment on the basis of race, color, religion, sex (including sexual orientation), national origin, disability, or age; (ii) retaliation for filing a charge of discrimination or for participating in an investigation or opposing discriminatory practices; (iii) employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group or individuals with disabilities; and (iv) denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, or an individual with a permanent disability.

2.20.030 Remedies

- A. **Right to File; No Retaliation.** Any person aggrieved by a violation of this chapter may file a grievance in accordance with this section. No person shall be disciplined, penalized, restrained, coerced or otherwise prejudiced in his or her employment for exercising the rights or remedies provided in this chapter.
- B. **Additional Employee Rights.** Employees who follow the grievance procedures shall be allowed time off from regular duties, with pay, to attend scheduled meetings and hearings. The employee may present a grievance individually or through a representative who does not claim the right to strike. Employees are encouraged to first discuss and attempt to resolve potential grievances at the first-line supervisory level, unless it involves the conduct of that supervisor, in which case the grievance may be filed as provided herein.
- C. **Filing Procedure.** All grievances shall be in writing and filed with the Mayor (unless the grievance involves the conduct of the Mayor, in which case it shall be

filed with the City Council). Unless there is good cause for delay, a grievance shall be filed within 15 days following the day the grievant becomes aware of the action or condition that gives rise to the grievance.

- D. **Investigation, Responses, Etc.** Grievances shall be investigated within a reasonable time, not to exceed 30 days. After investigation, the Mayor (or City Council) shall respond to the grievance in writing and may schedule a meeting with the grievant. If the grievant is not satisfied with the response of the Mayor, the grievant may appeal, in writing, to the City Council. Appeals must be filed within 15 days following the response of the Mayor (or, if there is no response, within 15 days following the deadline for response). If there is an appeal, the City Council may investigate further and may schedule a meeting with the grievant. The City Council shall respond to the grievance within a reasonable time, not to exceed 30 days (unless additional time is necessary to schedule and post Council meetings, take action in an open meeting, etc.).
- E. **Alternative Dispute Resolution.** Upon request of a grievant, the Mayor or the City Council may agree to mediation in connection with any grievance.
- F. **Confidentiality.** Both the grievant and the City shall take reasonable steps to keep grievance procedures confidential, subject to the Public Information Act and the Open Meetings Act, as well as other laws. This does not prohibit one party from responding to public statements by the other party.

2.20.040 Sanctions

City officers and employees who violate this chapter may be subject to disciplinary action, up to and including termination of employment, to the extent allowed by law.

2.24 Investment Policy And Depository Matters

[2.24.010 Generally](#)

[2.24.020 Investment Officer](#)

[2.24.030 Internal Controls](#)

[2.24.040 Investment Instruments](#)

[2.24.050 Qualified Institutions](#)

[2.24.060 Safekeeping](#)

[2.24.070 Reports](#)

[2.24.080 Electronic Wire Transfer](#)

[2.24.090 Other Depository Matters](#)

2.24.010 Generally

- A. **Application.** This chapter applies to all investments of City funds, including the funds under the City's control. The term "investments" shall be construed broadly to include all investable funds not on deposit at a City depository or paying agent bank. However, if City funds are used to buy an instrument described in AMC

2.24.040, such funds are "investments" and are subject to this chapter, regardless of whether a depository or paying agent holds such funds.

B. Laws and Objectives. Funds of the City will be invested in accordance with: (i) LGC Chapter 105, as amended; (ii) TGC Chapter 2256, as amended; (iii) other applicable state laws; (iv) IRS arbitrage regulations; (v) bond and other debt covenants; and (vi) this Code. The City's objectives in managing its investment portfolio are, in general, suitability to the requirements of the City, and the following factors listed in order of importance:

1. **Preservation and Safety.** The first and foremost consideration is preservation and safety of the principal amount involved.
2. **Liquidity.** The City must have sufficient cash on hand to meet current needs.
3. **Marketability.** Investments must be readily marketable or otherwise convertible to cash.
4. **Diversification.** Investments must be diversified so that any difficulties with one type of securities or one seller or institution will not affect the others.
5. **Yield.** The City will invest at the highest possible rate of return while providing necessary protection of the principal consistent with the terms set forth in this policy.

C. Particular Funds. The City Council hereby adopts an investment strategy and objectives for each fund or group of funds of the City, as follows:

1. **General Fund.** The primary investment objective of the City's General Fund will be to preserve the safety of principal, maximize liquidity, diversify and maximize yield (in that order of priority). The strategy to meet these objectives will be to invest in eligible investments authorized by this chapter, provided that funds needed for the City's day-to-day operating expenditures will be available on short notice, and investments of operating reserves will mature no later than two years after the date of the purchase.
2. **Debt Service Fund.** The primary investment objective of the City's Debt Service Fund will be to purchase investments that will preserve the safety of principal, maximize liquidity, diversify and maximize yield (in that order of priority) taking into account the timing of the City's debt service payments. The strategy to meet these objectives will be to invest in eligible investments authorized by this chapter, provided that funds needed to meet the City's next debt service payment will be invested with a maturity no later than the date the debt service payment is due, and funds in the debt service reserve (those funds not needed for the City's

next debt service payment) will be invested with a maximum stated maturity date no more than two years after the purchase.

3. **Capital Projects Funds.** The investment objective of these funds will be to purchase investments that will preserve the safety of principal, maximize liquidity, diversify and maximize yield (in that order of priority) taking into account the City's planned or potential capital projects that may require the expenditure of the funds invested. The strategy to meet these objectives will be to invest in the eligible investments authorized by this chapter, provided that funds needed to meet the City's specific planned capital projects will be invested to mature no later than the date(s) the funds will be needed to make scheduled payments for the project, and funds not designated for specific planned capital projects will be invested with a maximum stated maturity date no more than two years after the purchase.
4. **Economic Development Fund.** The investment objective of the City's Economic Development Fund will be to purchase investments that will preserve the safety of principal, maximize liquidity, diversify and maximize yield (in that order of priority). The strategy to meet these objectives will be to invest in eligible investments authorized by this chapter, provided that funds needed for the special purposes of the funds will be available as needed, and investments of reserves will mature no later than two years after the date of the purchase.
5. **Sewer Enterprise Fund.** The investment objective of the City's Sewer Enterprise Fund will be to purchase investments that will preserve the safety of principal, maximize liquidity, diversify and maximize yield (in that order of priority). The strategy to meet these objectives will be to invest in eligible investments authorized by this chapter, provided that funds needed for the City's day-to-day operating expenditures in the Sewer Enterprise Fund will be available on short notice, and investments of reserves will mature no later than two years after the date of the purchase.
6. **All Other Funds.** The investment objective for all other City funds will be to purchase investments that will preserve the safety of principal, maximize liquidity, diversify and maximize yield (in that order of priority). The strategy to meet these objectives will be to invest in eligible investments authorized by this chapter, provided that funds needed for these funds' day-to-day operating expenditures will be available on short notice, and investments of available operating reserves will mature no later than two years after the date of the purchase.

2.24.020 Investment Officer

- A. **Designated Investment Officers.** The Mayor and City Administrator, with advice

from the City's Financial Advisors, are designated as the Investment Officers for the City, to be responsible for investment of City funds consistent with the City's adopted investment policy. The Investment Officer(s) shall have the authority to execute sale and purchase transactions in accordance with this Code and to transfer funds between authorized investments. When requested to do so by the Mayor, or in the absence of the Mayor, the Mayor Pro Tem may act as Investment Officer.

- B. **Standard of Care.** The standard of care specified in TGC Chapter 2256, including the "prudent investor rule," shall apply to all officers of the City and all investments of the City.
- C. **Monitoring.** The Investment Officer(s) will routinely monitor the market price of investments acquired with public funds as well as the available markets and the relative values of competing instruments, and will adjust the portfolio accordingly. Monitoring methods will include examination of periodic statements from investment pools and funds, both in electronic and paper form, and review of market data from banks, other sellers of investment securities and third parties.
- D. **Investment Training.** The Mayor, City Administrator, and Mayor Pro Tem will attend training sessions and prepare training reports that meet: (i) the requirements of TGC Chapter 2256 and (ii) any additional requirements specified by the City Council.
- E. **Personal Disclosure.** The Mayor or Mayor Pro Tem must file a disclosure statement in accordance with TGC Chapter 2256 if any such person:
 - 1. Has a personal or business relationship with an entity offering to engage in an investment transaction with the City or seeking to sell an investment to the City;
 - 2. Is related within the second degree by affinity or consanguinity, as determined by the TGC Chapter 573, to an individual seeking to sell an investment to the City.

2.24.030 Internal Controls

- A. **Written Procedures.** The Mayor shall establish written procedures designed to prevent loss of public funds due to fraud, error, misrepresentation, theft, unanticipated market changes, and imprudent actions.
- B. **Audit.** In connection with the annual audit, the City's independent auditors will perform an annual compliance audit of the City's internal controls applicable to the investment of City funds and adherence to this chapter.
- C. **Annual Review.** Each year, concurrent with the delivery of the final investment report or audit required by this chapter, or at any other time, the City Council will review this chapter to ensure that the requirements outlined are satisfied and to

request any changes.

2.24.040 Investment Instruments

City funds may only be invested in investments authorized by TGC Chapter 2256 that are also listed below (other investments being not suitable):

- A. Direct obligations backed by the full faith and credit of the United States Government maturing in two years or less.
- B. Certificates of deposit not exceeding 12 months in length, which are insured by Federal Deposit Insurance or which are fully collateralized under a pledge agreement approved by the City. Bids for certificates of obligation may be solicited orally, in writing, electronically or in any combination of these methods. No more than \$230,000 (aggregate) may be invested with any single bank, other than the City's depository (and covered by pledged collateral).
- C. "Eligible investment pools" established under the provisions of TGC Chapter 2256. Such an investment must be authorized by a separate resolution, and the cumulative investment in any one pool may not exceed 50% of the City's total investment portfolio, but this limitation does not apply to Tex Pool.

2.24.050 Qualified Institutions

- A. **Financial Institutions List.** The Mayor shall maintain a listing of financial institutions which are approved for investment purposes. These institutions will be evaluated from time to time, as circumstances dictate, to assure their creditworthiness.
- B. **Requirements.** The City may not purchase, acquire, or otherwise obtain investments from any entity which does not meet the following requirements:
 - 1. The entity must be either the City's depository or specifically approved by a resolution of the City Council.
 - 2. The entity must acknowledge the receipt of a copy of this ordinance in writing.
 - 3. The entity must provide written assurances that it has implemented reasonable controls and procedures as required by TGC Chapter 2256.

2.24.060 Safekeeping

- A. **Third-Party Safekeeping.** All investment securities purchased directly by the City shall be held by the City or in third-party safekeeping by an institution designated as custodian by the City Council. A safekeeping receipt shall be issued and delivered to the City listing the specific instrument held in

safekeeping, rate of return, maturity, and other pertinent information.

- B. **Deposit-Type Securities.** Deposit-type securities (i.e., certificates of deposit) are to be physically delivered to City contemporaneously with purchase.
- C. **Delivery vs. Payment Method.** Securities will be purchased using the delivery vs. payment method. That is, funds will not be wired or paid until verification has been made that the correct security was received by the trustee. The security will be held in the City's name or in a third party's name on behalf of the City. The trustee's records will assure the notation of the City's ownership of the explicit claim to the securities.
- D. **Insurance.** Investments in the physical custody of the City will be covered by insurance.

2.24.070 Reports

- A. **Investment Officer.** As required by TGC Chapter 2256, the Investment Officer(s) will prepare and submit to the City Council quarterly written reports of investment transactions for all funds of the City for the preceding reporting period. The report will describe in detail the investment position of the City on the date of the report and include elements specified by TGC Chapter 2256.
- B. **Bookkeeper.** The City's bookkeeper shall make monthly reports directly to the City Council, independently of the Investment Officer(s). Each report shall show each of the City's investments, including such data as the City Council may require.

2.24.080 Electronic Wire Transfer

The Investment Officer(s) may use electronic means to transfer or invest funds collected or controlled by the City, but only (1) between City accounts; and (2) in the name of the City, unless otherwise authorized in writing by the City Council.

2.24.090 Other Depository Matters

- A. **Location of Depositories.** After taking into consideration what is in the best interest of the City in establishing a depository, the City Council expressly permits consideration of applications received by the City from a bank, credit union, or savings association that is not doing business within the municipality. This is officially adopted as a written policy of the City.
- B. **Authority.** All transactions will be reported to City Council for ratification of investment activities.

2.28 Economic Development

2.28.010 Definitions: Economic Development

[2.28.020 Findings And Purposes](#)

[2.28.030 Establishment, Agreements, Administration, Etc.](#)

[2.28.040 Application, Procedure, Etc.](#)

[2.28.050 Criteria For 380 Agreement](#)

2.28.010 Definitions: Economic Development

As used in this chapter, certain terms have the meanings set out below, unless the context clearly indicates that another meaning is intended:

"Administrator" means the Mayor or the Mayor's designee.

"Development Area" means an area designated as such in an agreement under this chapter.

"LGC" means "Texas Local Government Code," as amended from time to time.

"Program" means the economic development program established by this chapter.

"Public Improvements" means new, enlarged, extended or rehabilitated public water, sewer, drainage and transportation facilities and related public amenities and appurtenances.

"380 Agreement" means an agreement calling for City financial assistance to defray costs of Public Improvements necessary to serve a Development Area and containing related provisions.

2.28.020 Findings And Purposes

A. **Findings.** The City Council has found and determined:

1. Article 3, Section 52-a of the Texas Constitution authorized the Texas Legislature to provide for the creation of programs and the making of loans and grants of public money for certain specified public purposes; and
2. Pursuant to such authorization, the Legislature adopted of the LGC Chapter 380 authorizing municipalities to establish economic development programs;
3. LGC Section 380.001 permits a municipality to establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the municipality, including programs for making loans and grants of public money and providing personnel and services of the municipality; and
4. Under LGC Section 380.001, the governing body of a municipality may

administer an economic development program by the use of municipal personnel, and may accept contributions, gifts, or other resources to develop and administer an economic development program; and

5. Under LGC Section 380.003, a municipality may, as an agent of the State, provide matching funds for a federal program that requires local matching funds from a state agency, to the extent state agencies that are eligible decline to participate or do not fully participate in the program; and
6. The Program will benefit the City by stimulating business and commercial activity.

B. Purposes. The purposes of the Program are:

1. To make loans and/or grants of public money and to provide personnel and/or services of the City for the purpose of promoting state or local economic development and to stimulate business and commercial activity in the City, pursuant to LGC Section 380.001;
2. To accept contributions, gifts or other resources pursuant to LGC Section 380.001, for the purpose of developing and administering the economic development program;
3. To provide matching funds under LGC Section 380.003 for a federal program that requires local matching funds from a state agency to the extent state agencies that are eligible decline to participate or do not fully participate in the program.

2.28.030 Establishment, Agreements, Administration, Etc.

- A. **Establishment; Agreements, Etc.** Based on the findings set out above, and to advance the purposes set out above, the City Council hereby establishes the Program as provided in this chapter. The principal components of the Program shall be 380 Agreements. Applications for agreements and the agreements themselves must comply with this chapter, except to the extent a variance is granted, as provided in AMC Title 2.
- B. **Administration.** The Program shall be administered by the Administrator. The Administrator may obtain the assistance of City staff and the City's attorneys, engineers, bookkeepers, utility operators, consultants, etc. as may be reasonably necessary to review and process applications, prepare and negotiate 380 Agreements, administer and enforce agreements and otherwise administer the Program.
- C. **Effect of Chapter.** Nothing in this chapter and nothing in any application, review or process shall create any property, contract or other legal right. No person will have any entitlement to be considered for or to receive financial assistance, or

any entitlement to a 380 Agreement.

2.28.040 Application, Procedure, Etc.

A. Application. An applicant for a 380 Agreement must submit:

1. A letter, signed by all the owners of land in the Development Area (excluding streets, roads, easements and other public areas), describing proposed improvements, the impact upon the community and the resulting fiscal effect upon the City (including estimated property taxes and sales and use taxes for the proposed term of a 380 Agreement) and describing requested financial assistance;
2. Evidence that the applicant is ready, willing and able to commence and complete the proposed improvements promptly, including, for each entity proposing to own or develop taxable property in the Development Area: (i) a business plan including, but not limited to, executive summary, company history, historical financial statements (for at least the two most recently completed years), and proforma (projected) financial information; and (ii) resumes of the entity's principal(s);
3. Legal description and survey drawing of the proposed Development Area;
4. A "Phase I" environmental survey report(s) covering the Development Area;
5. Preliminary or final plans for: (i) Public Improvements necessary to develop the Development Area and (ii) the existing or proposed taxable buildings and related improvements in the Development Area;
6. An estimated timetable for development and Public Improvements; and
7. A nonrefundable application fee of \$750 to partially defray the cost to process and review the application.

B. Processing & Review; Preparation. An application for a 380 Agreement will be reviewed by the Administrator. If recommended by the Administrator, the application will be submitted to City Council for consideration. The Administrator or City Council may require submission of additional information and changes. If the City Council makes the required findings listed below, the Council may authorize the Administrator to proceed with preparing and negotiating a 380 Agreement, subject to receipt of estimated cost, as provided further below. The required findings are: (i) the proposed development and 380 Agreement will be lawful, feasible and beneficial to the City and its taxpayers and will not violate any covenants made in connection with the issuance of the City's bonds, notes or certificates of obligation; (ii) the Public Improvements are useful, appropriate and beneficial for existing and planned public infrastructure in the area; (iii) the City is authorized to acquire and own those Public Improvements proposed to be

conveyed to the City; (iv) the proposed development and 380 Agreement will be consistent with this chapter; and (v) all applicable rules, regulations and requirements of the City, affected counties, affected drainage districts and other agencies will be met. The City Council may require written approvals by other agencies regarding compliance with their requirements.

- C. **Estimated Costs.** As a condition to the Administrator's preparing and negotiating a 380 Agreement, applicant must make deposits to cover out-of-pocket costs to be incurred by the City, as estimated by the Administrator. If the actual costs are less than the estimated deposits, the excess will be refunded. If the actual costs are more, the applicant must pay the difference. City Council may waive or reduce the requirement to make cost deposits.
- D. **Approval; Execution.** A 380 Agreement prepared and negotiated by the Administrator will be returned to the City Council for its consideration. A 380 Agreement does not take effect unless and until: (i) necessary financial assistance is appropriated from current funds or otherwise lawfully provided for; and (ii) the agreement is authorized by an ordinance duly adopted by the City Council and approved by the Mayor, and (iii) the agreement is duly executed by all parties. Any offer by the City to enter into a 380 Agreement automatically expires on the 181st day following the day the authorizing ordinance is adopted and signed, unless the agreement is duly executed by all parties before that day. An offer may be revoked before the agreement is duly executed by all parties.

2.28.050 Criteria For 380 Agreement

To comply with this chapter, a 380 Agreement must:

- A. Demonstrably stimulate business and commercial activity in the City and support at least five new, full-time (40 hours per week), permanent jobs (or equivalent positions);
- B. Describe the Development Area, which must consist of at least 40,000 square feet (contiguous or non-contiguous) within the City limits and must contain: (i) one or more existing or proposed buildings and related improvements with a taxable value of at least \$1,000,000 (exclusive of land), and (ii) one or more existing or proposed establishments for the sale of goods or services with an aggregate value subject to the City's local sales and use tax of at least \$2,000,000 per year;
- C. Describe the Public Improvements necessary to develop the Development Area; provide for construction, initially at the expense of the applicant, in accordance with engineering plans and contract documents submitted in advance to, and approved in writing, by the City; require that the Public Improvements and related contract rights be owned by the City or other public agency on terms acceptable to the owning agency; make provisions for permanent maintenance of the Public Improvements (including, for example, recorded notices, covenants, restrictions,

- property owner associations, etc. supported by assessments);
- D. Require construction, reconstruction or rehabilitation, as appropriate, of the existing or proposed taxable buildings and improvements and establishments for the sale of goods or services;
 - E. Require compliance with competitive bidding laws;
 - F. Provide for calculation of the basic local sales and use taxes (imposed at the basic 1% rate) to be received each year by the City as a result of the sale of goods and services within the Development Area, and authorize reimbursement to the applicant out of such receipts over a term not to exceed 20 years;
 - G. Limit such reimbursements to 100% of the allowable costs of the Public Improvements borne by applicant up to an agreed-upon maximum amount;
 - H. Require a documented cash equity investment in the project of at least \$250,000 by the applicant (not including any loans or guarantees);
 - I. Provide for recapture (return) of payments made by the City if applicant does not fulfill its promises, or if specified economic development objectives are not met;
 - J. Provide for reports, audits, inspections and remedies for breach;
 - K. Include tangible means of measuring if the applicant fulfills its promises and if specified economic development objectives are met;
 - L. Include provisions relating to administration, assignments, indemnification, payment of taxes, rates, fees, charges, etc.; and
 - M. Include other provisions required by the Administrator or the City Council.

2.30 Taxation

2.30.010 Ad Valorem Taxation

2.30.010 Ad Valorem Taxation

- A. **In General.** The City's ad valorem taxes shall be levied, assessed and collected as allowed by the Texas Tax Code and other applicable laws.
- B. **Exemptions.** Subject to applicable legal requirements, the following exemptions are granted, re-granted and confirmed:

Homestead	20% or \$5,000, whichever is greater
Over 65*	\$25,000
Disability*	\$25,000
DAV (veteran)	\$(according to schedules)

* An eligible property owner may have the over 65 exemption or the disability exemption, but not both.

- C. **Additional Penalty; Notices.** An additional penalty in the amount of 20% of the sum of the tax, penalty and interest otherwise due is imposed for all taxes still delinquent on July 1 of the year in which they first become delinquent (or such earlier date as may be allowed by law for imposition of the penalty). This penalty, which remains in effect from year to year until changed, is for the purpose of helping defray costs of collection. The tax assessor-collector shall give notices of delinquency (and of this penalty) before each July 1 (or such earlier date as may be allowed by law for giving notice of the penalty), as provided in the Texas Tax Code.

4 Business Licensing And Regulations

4.04 Alcoholic Beverages

4.08 Food Establishments

4.04 Alcoholic Beverages

4.04.010 Definitions: Alcoholic Beverages

4.04.020 Permit Or License Required

4.04.030 Permit Or License Application

4.04.040 Fee Required, Exceptions

4.04.050 Renewal Required

4.04.060 Sale Near Church, School, Or Hospital

4.04.070 Hours Of Sale

4.04.080 Late Hours Permit

4.04.090 Penalty

4.04.010 Definitions: Alcoholic Beverages

The words in this chapter shall have the meanings ascribed by the Texas Alcoholic Beverage Code, Section 1.04, as amended, except where the context clearly indicates a different meaning.

4.04.020 Permit Or License Required

It shall be unlawful for any person to manufacture, distill, brew, sell, possess for the purpose of sale, import, export, transport, distribute, warehouse, store, solicit or take orders, or for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process beer, wine, or any other alcoholic beverage or engage in any other activity for which a state permit or license is required under the Texas Alcoholic Beverage Code, as amended, until the City issues a permit or license or renews a permit or license for such allowable activity within the City.

4.04.030 Permit Or License Application

A person who is required to receive a permit or license from the City under this chapter shall complete and submit to the City an Alcohol Permit or License Application form as provided by the City. Each Alcohol Permit or License Application submitted to the City shall include a copy of a valid state permit or license as required by the Texas Alcoholic Beverage Code, as amended.

4.04.040 Fee Required, Exceptions

A. If the City approves an Alcohol Permit or License Application, the City shall issue

a permit or license to the applicant after the applicant pays to the City a fee not to exceed one-half the state fee for each permit or license issued for premises located within the City as permitted pursuant to the provisions of the Texas Alcoholic Beverage Code, section 11.38 and section 61.36, as amended. The City hereby levies and is authorized to collect such fee.

- B. The following are exempt from the fee authorized by paragraph A, but are not exempt from completing and submitting an Alcohol Permit or License Application to the City and receiving a permit or license from the City:
1. Agent's, airline beverage, passenger train beverage, industrial, carrier's, private carrier's, private club registration, local cartage, storage, and temporary wine and beer retailer's permits;
 2. A wine and beer retailer's permit issued for a dining, buffet, or club car;
 3. A mixed beverage permit during the three-year period following the issuance of the permit;
 4. Temporary beer license; and
 5. Agent's beer license.
- C. After the third-year period following the issuance of a mixed beverage permit or license, such permit or license holder shall complete and submit to the City an Alcohol Permit or License Application form as provided by the City. Each Alcohol Permit or License Application submitted to the City shall include a copy of a valid state permit or license as required by the Texas Alcoholic Beverage Code, as amended. If the City approves an Alcohol Permit or License Application, the City shall issue a permit or license to the applicant after the applicant pays to the City a fee not to exceed one-half the state fee for each permit or license issued for premises located within the City as permitted pursuant to the provisions of the Texas Alcoholic Beverage Code, as amended.

4.04.050 Renewal Required

- A. Permits or licenses issued under this chapter shall be renewed with the City no later than the fifteenth day (15th) day after the date a state permit or license is renewed. Renewal permits or licenses require the completion and submission to the City of an Alcohol Permit or License Application. If the City approves an Alcohol Permit or License Application, the City shall issue a renewal permit or license to the applicant after the applicant pays to the City a fee not to exceed one-half the state fee for each permit or license issued for premises located within the City.
- B. If a state permit or license is expired, revoked, or terminated, then the City's permit or license is automatically expired, revoked, or terminated.

4.04.060 Sale Near Church, School, Or Hospital

It shall be unlawful for any person to sell or engage in the business of selling any alcoholic beverage within the City where the place of business of such person is situated within any regulated area measured from any church, public school, or public hospital. The regulated area is the maximum area allowed to be regulated under Chapter 109 of the Texas Alcoholic Beverage Code, as amended. Measurements and other provisions applicable to such regulated area shall be as prescribed in Chapter 109 of the Texas Alcoholic Beverage Code, as amended.

4.04.070 Hours Of Sale

The hours of sale for alcoholic beverages in the City shall be as prescribed in Chapter 105 of the Texas Alcoholic Beverage Code, as amended.

4.04.080 Late Hours Permit

The sale of beer and mixed beverages in the City is hereby authorized between 7:00 a.m. and 2:00 a.m. on any day except Sunday and, on Sunday, between 12:00 midnight and 2:00 a.m. and between noon and midnight, provided that the seller of the same shall hold a mixed beverage late hours permit and/or a retail dealer's on-premises late hours license for the sale of beer as required by the Texas Alcoholic Beverage Code, as amended.

4.04.090 Penalty

Any person who violates or causes, allows or permits another to violate any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) unless such violation is governed by fire safety, zoning, or public health and sanitation including dumping of refuse in which case the fine amount shall not be more than two thousand dollars (\$2,000.00), except where state law provides otherwise, in which case the range of fine shall be as provided by in such state law. Each occurrence of any such violation of this chapter shall constitute a separate offense. Each day on which any such violation of this chapter occurs shall constitute a separate offense.

4.08 Food Establishments

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4.08.010 Definitions: Food Establishments

For purposes of this chapter, the words, terms and phrases set forth in the Texas Food Establishment Rules (TFER) as definitions shall have the meanings set forth therein. Additionally, the following words, terms and phrases shall have the meanings set forth below except where the context clearly indicates a different meaning:

"Authorized agent" or "employee" means an employee(s) of the City of Arcola.

"Caterer" means any person or entity that transports complete meals from an approved establishment to another location for consumption but shall not include persons operating restaurants that routinely deliver food on order or persons that deliver a product or distribute a product to vending machines.

"Commissary" or "central preparation facility" means a facility that mobile food service establishments use to dispose of waste and to obtain supplies.

"Food establishment" or "Food Service Establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption as follows:

- A. A restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, ending location, (machine), self-service food market, conveyance used to transport people, institution, or food bank;
- B. An establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout order, or delivery service that is provided by common carriers; and
- C. Includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on- or off-premises; and regardless of whether there is a charge for the food.
- D. Food establishment does not include an establishment that offers only prepackaged foods that are not time/temperature controlled for safety food, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, a cottage food industry, an area where cottage food is prepared, sold or offered for human consumption, a bed and breakfast limited

facility as defined in the TFER, or a private home that receives catered or home-delivered food.

"HACCP Plan." A written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

"Mobile food unit (MFU)" means a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to, catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A mobile food unit does not include a stand or a booth. A roadside food vendor is classified as a MFU.

"Mobile food unit - additional permit" means a mobile food unit operated by an existing permitted food establishment that provides an additional source of food service and also includes multiple mobile food units operated by the same owner. The owner is legally considered to be the person holding the food establishment's permit or the food permit(s) for the multiple mobile food units.

"Nonprofit organization" means an incorporated organization which exists for educational or charitable reasons, and from which its shareholders or trustees do not benefit financially. Nonprofit status must be verified by submission of supporting documentation, such as an IRS form 501c.

"Person in charge" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

"Public property." The term "public property" shall mean any property open or devoted to public use or owned by the city, including, but not limited to, sidewalks, streets, rights-of-way, parks, and municipal buildings. This definition does not include property owned by any county entity.

"Public rights-of-way." The term "public rights-of-way" shall mean the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, waterway, easement, or similar property in which the city or the State of Texas now or hereafter holds any property interest.

"Regulatory authority" means the City of Arcola, Texas.

"Servicing Area." A base location to which a Mobile Food Unit or transportation vehicle returns regularly for such things as vehicle cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food. No food preparation, service or utensil/ware washing is conducted at a Servicing Area.

"Temporary food establishment" is a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

"Texas Food Establishment Rules ("TFER")" means the rules promulgated by the Texas Department of State Health Services with an effective date of October 11, 2015, and set forth in 25 Texas Administrative Code, Chapter 228, Subchapters A–J, and as such rules may be hereafter amended.

"Time/Temperature Control for Safety Food (TCS)" means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

4.08.020 Permits And Applications

- A. **Required Permit.** A food establishment, caterer, temporary food establishment, mobile food unit, childcare center or group residence that provides food service shall only be operated with a valid permit issued by the city. Permits are not transferable from place to place or person to person, except that, mobile food service establishments may retain the same license when moving from place to place as long as the vehicle remains the same. A valid permit shall be posted in public view in every establishment. Each and every food establishment, whether under one roof or not, shall be considered a separate establishment, and a permit must be obtained for each establishment. Each such establishment is subject to the requirements in this chapter. A valid permit must be posted at a clearly visible and accessible location near the entrance, or part of the premises most commonly approached by the public, of every food establishment regulated by this chapter.
- B. **Filing of Application.** Any person desiring to operate an establishment covered by this chapter shall make written application and pay the non-refundable fee as amended or stipulated in Fee Schedule approved by City Council. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis, and the same information is required for a renewal permit as for an initial permit. Such application shall include, but not be limited to, the following:
1. The applicant's full name, post office address and street address;
 2. Whether such applicant is an individual, firm or corporation and, if a partnership, the name of each partner and his address;
 3. The location and type of the proposed food service establishment;
 4. Dates of event for the food service establishment;
 5. The signature of the applicant; and

6. All other information deemed necessary by the City.

- C. **Texas Food Establishment Rules.** All of the food uses described in this chapter shall be governed by all applicable Texas Food Establishment Rules.
- D. **Filing of a Food Manager Certificate.** A copy of the certified food manager certificate must be submitted with the license application or renewal.
- E. **Exemption.** Temporary food establishments and establishments that serve, sell, or distribute only prepackaged non-TCS foods are exempt from this Section. A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this chapter, but is not exempt from compliance with state rules. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.
- F. **Inspection.** After the application has been submitted and all fees paid, the regulatory authority shall inspect the food service establishment for compliance with this chapter. If the establishment complies with this chapter, the regulatory authority shall issue the license.
- G. **Administrative Rules.** The City Administrator reserves the right to develop checklists, application forms, and other forms as necessary to administer the requirements of this chapter.

4.08.030 Plans And Specifications

- A. **When Plans Are Required.** A permit applicant or permit holder may be required to submit to the regulatory authority properly prepared plans and specifications for review and approval before:
 - 1. The construction of a food establishment;
 - 2. The conversion of an existing structure for use as a food establishment; or
 - 3. The extensive remodeling of a food establishment or a change of type of food establishment or food operation. Extensive remodeling means that 20% or greater of the area of the food establishment is to be remodeled.
- B. **Contents of the Plans and Specifications.** The plans and specifications for a food establishment shall include, as required by the regulatory authority based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with code provisions:
 - 1. Intended menu;
 - 2. Anticipated volume of food to be stored, prepared, and sold or served;
 - 3. Proposed layout, mechanical schematics, construction materials, and finish schedules;

4. Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
5. Evidence that standard procedures that ensure compliance with the requirements of this rule are developed or are being developed; and
6. Other information that may be required by the regulatory authority for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

C. When a HACCP Plan Is Required. An HACCP plan is required pursuant to Chapter 228 § 228.244(c) of the Texas Administrative Code, as amended.

4.08.040 Suspension

The city may, without warning, suspend any permit to operate a food establishment, caterer, temporary food establishment, and/or mobile food unit, if the permit holder does not comply with the requirements of this chapter and the violation(s) creates an immediate threat to the health and safety of the public. Suspension is effective upon written notice, and service operations shall immediately cease. The city code enforcement officer is required to give written notice to the permit holder, their designee, or the person in charge of the establishment at the time of the violation suspension. Said suspension is effective immediately upon service of the required notice. Said required notice shall also advise the permit holder of their right to file for a hearing on the suspension within ten days. If written request for such hearing is timely filed with the city, the hearing will be held no later than 20 days following receipt of the request. If no request for a hearing is timely filed, the suspension will be sustained. The city may end a suspension at which time it is shown that the reason(s) for suspension no longer exist or if the grounds for suspension are found to be unsubstantiated at the hearing. When a permit is suspended, food operations shall immediately cease.

4.08.050 Revocation Of Permit

The regulatory authority may after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten day period. If no request for hearing is filed within the ten-day period, the revocation of the permit takes effect; otherwise, it shall not take effect until after the hearing.

4.08.060 Notices

A notice as required in this chapter is properly served when it is delivered to the holder of the permit or the person in charge, or on the third business day following the day it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.

4.08.070 Correction Of Violations

The inspection form shall specify a reasonable period of time to correct the violations and such violations must be corrected within the specified period; provided, however that: (i) if an imminent health hazard exists, the establishment shall immediately cease food service operations and operations shall not be resumed until authorized by the city; and (ii) all violations at temporary food establishments and mobile food units shall result in cessation of temporary food service operations. The establishment or mobile food unit shall not resume operations until such time as a re-inspection determines that the condition(s) responsible for the requirement to cease operations no longer exists. The city shall offer to re-inspect the establishment within a reasonable time.

4.08.080 Food And Food Establishments

A. Temporary Food Service Establishment.

1. All TCS food shall be prepared in a licensed food establishment or on the temporary food service establishment's premises. No TCS food or beverages stored or prepared in a private home may be offered for sale, sold or given away from a temporary food facility.
2. Non-TCS food, such as baked items, prepared in a kitchen in a private home may be sold at a function, such as a religious or charitable organization bake sale.

B. Mobile Food Establishments; Generally.

1. General Requirements.

- a. Designation of a central preparation facility. Mobile food service establishments, including caterers and mobile food units that serve TCS foods shall operate from a central preparation facility, commissary, or other fixed food service establishment that is permitted and regularly inspected by the City or some other regulatory authority.
- b. Central preparation facility authorization. A signed letter of authorization is required, to verify the facility use and to confirm that food and drink items will be provided to the operator for sale if the central preparation facility is not owned by the mobile unit operator.

- c. Central preparation facility inspection report. A copy of the most current health inspection of the central preparation facility must be maintained on the mobile unit at all times.
- d. Food Preparation. Food prepared in a private home may not be used or offered for human consumption from a mobile food service establishment.
- e. Vehicle Registration and Insurance. Mobile food service establishments must comply with all state and local laws pertaining to vehicle registration and insurance.
- f. Certified Food Manager. Mobile food service establishments must have a certified food manager on site when preparing or selling food. Limited Service Mobile Food Units, as classified below, are exempt from this requirement.

2. Central Preparation Facility; Protection.

- a. A caterer and mobile food unit servicing area shall include at least overhead protection for any supplying, cleaning, or servicing operations. Those areas used only for the loading of water and/or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.
- b. Within the servicing area, the location provided for the flushing and drainage of liquid wastes shall be separate from the location provided for potable water servicing and for the loading and unloading of food and related supplies.
- c. A servicing area will not be required where only packaged food is placed on the mobile food unit or where mobile food units do not contain waste retention tanks.
- d. The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.
- e. Potable water servicing equipment shall be installed in the servicing area according to the International Plumbing Code and shall be stored and handled in a way that protects the water and equipment from contamination.

3. Mobile Food Units; Classified.

- a. Unrestricted Mobile Food Unit is defined as a commercially-manufactured towed trailer or motorized self-contained food

service operation or establishment designed to be readily movable in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution.

- b. Restricted Mobile Food Unit is defined as a commercially-manufactured towed trailer, or motorized self-contained food service operation or establishment designed to be readily movable in which only food that is prewrapped, bottled, or otherwise packaged in individual servings is sold. Under this type of permit, no open food preparation or handling may occur. All food items including beverages and condiments must be prepackaged at an approved food establishment or come prepackaged from an approved source. This type of unit is not required to have sinks.
- c. Limited Service Mobile Food Unit. Any mobile food unit that is not a Restricted or Unrestricted Mobile Food Unit is classified as a limited service mobile food unit. This type of mobile unit, with limited food handling, sells only packaged food from ingredients with a low potential for creating a food-borne hazard. The term includes the following types of mobile food vending operations, and also requires the issuance of a peddler license:
 - (1) Ice Cream Trucks and Pushcarts shall be limited to pre-packaged ice cream or pre-packaged non-TCS foods approved by the City and are permitted to operate on public roads in neighborhoods and stop for only a brief period of time to serve their products. Stopping to conduct business on State System Highways is prohibited.
 - (2) Mobile Vending Food Units selling whole fruits and raw vegetables are only allowed to drive through neighborhoods and stop for only a brief period of time to sell their product and may not be parked in any public street or within any right-of-way to conduct business at a fixed location.
 - (3) Trucks selling packed frozen foods may sell their products door-to-door subject to the issuance of a peddler license.

C. Unrestricted and Restricted Mobile Food Unit Regulations.

- 1. **Unrestricted Mobile Food Units.** The following requirements apply to all unrestricted mobile food units:
 - a. Location. Unrestricted mobile food establishments may operate at the following locations:

- (1) At any construction site in any zoning districts as a mobile meal and snack commissary with periodic brief stops at construction sites;
- (2) At school and church carnivals, special event, or conferences;
- (3) At any catered event;
- (4) On properties zoned Commercial-General (C-G), Commercial/Office Retail (C-OR), Central Business District (CBD), and Light Industrial (LI); and
- (5) At public parks and other public facilities, subject to the approval of the Parks and Recreation Director, City Administrator, as applicable, or their designee, and upon the execution of an agreement that would indemnify the City of Arcola and would assign the operator responsibility for any damages that may occur to City property, facilities, and to the health and well-being of the general public.

b. Duration of Events. Unrestricted mobile food establishments are generally classified as a temporary use, except as specified below:

- (1) Events may last for up to five (5) hours before being removed from the site and are permitted for up to two (2) days per week; unless the exception criteria spelled out below are applicable;
- (2) The unit must be removed from the site daily and may not become a permanent use unless the use complies with all Subdivision and Zoning requirements that would regulate the establishment of a permanent use;
- (3) The only exceptions to the duration of event requirements are:
 - (A) A multi-day special event hosted by the City of Arcola, or by a church, a school, or a charitable organization, subject to the approval of a site plan that demonstrates that a multi-day event can be conducted in a manner that would comply with all requirements of this chapter and not disrupt adjoining businesses or properties; and
 - (B) At a block party, a special street event conducted in a public right-of-way upon, a national holiday, or at any other function that is not expressly permitted in

this chapter by the City Council.

c. Approval Criteria. Prior to the issuance of a permit to authorize any event, the following information shall be submitted to the City:

- (1) A letter from the property owner granting approval of the proposed use at the proposed location and hours of operation requested by the applicant;
- (2) Submittal of a site plan showing how the unrestricted mobile food unit would be positioned on the site to not block driving aisles, clear sight visibility areas, fire lanes, truck delivery routes, driveways, no more than four (4) off-street parking spaces, collect trash, and be located on a developed lot that has asphalt or concrete surfacing; and
- (3) Food services of any nature shall be prohibited outside of the unit.

d. Health Criteria.

(1) Ice. Ice used in a beverage served from the unit must be:

(A) From an approved source; and

(B) Stored in a stainless-steel container that:

- (a) Is covered;
- (b) Is not installed above food equipment or food contact surfaces;
- (c) Drains into the food unit's liquid waste retention tank; and
- (d) Is dispensed with an approved scoop by an employee of the mobile food unit or from automatic self-serve ice dispensing equipment.

(C) Ice used to keep food cold must be drained into the mobile food unit's liquid waste retention tank and properly disposed of at the designated Central Preparation Facility or Commissary.

(2) Servicing Methods and Equipment.

(A) Potable water servicing equipment must be installed according to all applicable City

ordinances and state and federal law and stored and handled in a way that protects the water and equipment from contamination.

- (B) The liquid waste retention tank for a mobile food unit must be thoroughly flushed and drained during the servicing operation.
- (C) All liquid waste must be discharged to a sanitary sewage disposal system constructed and operated according to all applicable City ordinances and state and federal law.
- (D) Liquid waste may not be discharged while the unit is motion.
- (E) Food may not be prepared or served while the mobile food unit is in motion or in an area that exposes any person present to a health or safety hazard.

(3) Structural Requirements for Unrestricted Mobile Food Units.

- (A) Unrestricted mobile food units must have a potable water system under pressure that is equipped with a permanently installed water supply tank of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing.
- (B) The water supply tank must have a minimum capacity of 30 gallons and be equipped with a water inlet that is located where it will not be contaminated by waste discharge, road dust, oil or grease.
- (C) The connection size/type must prevent its use for any other service.
- (D) The system must be constructed and installed in accordance with the Rules on Food Service Sanitation, as adopted and amended by the Texas Department of State Health Service, which include the National Sanitation Foundation standards, Underwriter Laboratory standards, and equivalent standards.
- (E) In lieu of the potable water system under pressure,

a mobile food unit may have a gravity fed system with a mixing faucet if the water tanks are vented for escape or intake of air of sufficient volume to allow for water flow and the vent openings are protected; if they have a smooth interior with no recesses and crevices and if they have a combined water capacity of not less than five gallons.

- (F) Propane tanks, if used, shall be installed in accordance with applicable International Fire Code (IFC) regulations.
- (G) If equipped with a water heater, the water heater must be capable of heating water to at least 110 degrees Fahrenheit, and any tank of the water heater must have a minimum capacity of three gallons and provide a minimum water pressure of one gallon per minute.
- (H) If liquid waste results from the operation of a mobile food unit, it must have a liquid waste retention system that is equipped with a permanently installed retention tank of at least 15 percent larger capacity than the potable water supply tank, is equipped with servicing connections that are located lower than the water inlet to prevent contamination of the potable water system and are of a different size or type than the connection used for supplying potable water to the unit and is properly sloped to drain and collect all potential liquid waste.
- (I) Floors must be constructed of durable, easily cleanable material, including, but not limited to anodized aluminum, stainless steel, or tile. All junctures must be properly sealed. All service lines and pipes must be installed off the floor to allow for easy cleaning
- (J) Walls must be durable, easily cleanable, non-absorbent, and light in color. Minimum wall covering materials include but are not limited to aluminum or fiberglass-reinforced paneling. Walls at vent hood and grill areas must be covered with stainless steel panels. Wall covering must be installed to cover the entire height of each wall. Studs and utility lines may not be unnecessarily

exposed on the wall or prevent cleaning.

- (K) Ceiling must be light in color, non-absorbent, and easily cleanable. The height over the aisle-way portion of the vehicle must be at least 74 inches and unobstructed. Joists and rafters may not be exposed.
- (L) The cab of the vehicle must be physically separated from the food preparation area, and the seats designated for the cook and any passengers must be located outside of the food preparation area. Aisle space must be unobstructed and at least 30 inches wide.
- (M) Construction joints must be tightly fitted and sealed with no gaps or voids, and all sealant, solder, and weld joints located in the food contact areas must be smooth and approved for food contact surfaces.
- (N) All equipment and utensils must meet or exceed the standards published by the National Sanitation Foundation (NSF).
- (O) All equipment must be placed, installed, stored, and secured on the unit in a manner that allows for thorough cleaning and sanitizing around the equipment and prevents movement of the equipment when the unit is in motion. Counter-mounted equipment must be sealed directly to the countertop or securely installed to provide a four-inch clearance under the equipment. Floor-mounted equipment must be sealed directly to the floor or securely installed to provide a six-inch clearance under the equipment.
- (P) The unit must be equipped with a stainless steel, three-compartment sink. Compartments shall be large enough to accommodate immersion of the largest piece of equipment or utensil. The sink must be equipped with a mixing faucet with a swivel spigot capable of servicing all sink compartments; and have an integral stainless-steel drain-board at least 12 inches long, which must be installed with a minimum one-half inch top or rim to prevent the draining liquid from spilling onto the floor.
- (Q) The unit must be equipped with a hand-sink that

must be fully accessible and separated from the ware-washing by a splashguard. Handwashing sinks are required to have a soap and paper towel dispenser in close proximity. The sink must be located in an area that is fully accessible and at counter level, is separated from the ware-washing sink by a metal splashguard at least six inches high.

- (R) Outer openings of the unit, including but not limited to service windows, doors, pop-up vents, and sunroofs, must be insect and rodent proof. Screens must be tightly fitted and in good repair, with a maximum of 16 mesh per square inch. Entrance doors and service windows to the food preparation area must be self-closing and must be kept closed when not in use.
- (S) The unit must be equipped with a power source, approved by the City that is capable of handling the power demands of the unit and equipment when the unit is stopped or in motion. The power source must be permanently installed in an area that is completely separated from food preparation and food storage areas and must be accessible for proper cleaning and maintenance.
- (T) Light bulbs and tubes must be covered and completely enclosed in plastic safety shields or the equivalent.

(4) Fire Protection Requirements for Unrestricted Mobile Food Units.

- (A) A valid invoice from a Certified Master Plumber indicating an annual pressure/gas test has been successfully completed. This will be required for initial permitting in addition to ongoing permit renewal.
- (B) Liquefied Petroleum Gas (hereinafter LPG) piping shall be of an approved, labeled and listed type for use with the cooking appliances. Rubber type hoses shall not be allowed. All piping shall be in accordance with the most recently published National Fire Protection Association 58 and shall be protected against physical damage.

- (C) Food Truck-Maximum of 200 gallons LPG located within a vented compartment: containers shall not be ahead of the front axle or beyond the rear bumper of the vehicle. An ASME tank is required for permanently installed tanks.
- (D) Food Trailer-Maximum of 200 gallons LPG located outside but mounted upon the trailer in a protected location; containers shall not extend beyond the rear bumper.
- (E) LPG cylinders shall not exceed 100 pounds, shall have an approved label, and a listed shut-off valve.
- (F) All LPG cylinders shall be protected from damage and secured with a solid bracket.
- (G) The storage of LPG cylinders inside trucks and/or trailers is prohibited.
- (H) All valves must be turned off when appliances/cylinders are not in use.
- (I) "No Smoking" signs shall be posted. Additionally, the signage should be visible near any propane containers.
- (J) Electrical.
 - (a) Extension cords shall not be utilized as a substitute for permanent wiring.
 - (b) An appropriately sized "outdoor rated" power supply cord with corresponding connections will be allowed. The cord will be sized according to the vehicle's electrical demands.
 - (c) Appliances shall be plugged directly into electrical outlets.
 - (d) All electrical outlets within six feet of a wet location shall be Ground Fault Circuit Interrupter (GFCI) protected. All exterior outlets shall be GFCI protected.
- (K) Fire Extinguishers.
 - (a) Require an annual inspection by a Texas licensed fire extinguisher company. Required extinguishers must be properly

mounted and readily accessible.

- (b) At least one portable extinguisher of the 2A10BC rating shall be accessible to the interior of the food truck/trailer.
- (c) Units utilizing oil/grease fryers are required to have a Class K fire extinguisher on the unit.

(L) Fire Suppression System.

- (a) Mobile Food Units which perform cooking operations that produce grease laden vapors shall be provided with a Type 1 hood with ventilation.
- (b) Type 1 hoods shall be protected by a UL 3200 or UL 300A fixed fire extinguishing system.
- (c) A biannual system inspection is required for all fire suppression systems by a Texas licensed fire suppression company.
- (d) All cooking surfaces and hoods are to be kept clean to prevent grease build-up.

(M) Cooking Equipment and Appliances.

- (a) Shall be of an approved type, listed and labeled for the intended use. Propane appliance can be approved by the following testing labs: UL, CSA, CGA, AGA and/or ETL.
- (b) Cooking appliances shall have an approved, labeled, and listed on-off valve.
- (c) All appliances shall be installed according to the manufacturer's instructions.
- (d) Water heaters or hot water tanks shall be installed in accordance with the International Plumbing Code and manufacturer's installing instructions and shall include venting of the tank.

(N) Prohibited Cooking.

- (a) Solid fuel cooking is prohibited unless a cooking device is expressly listed and approved for mobile food cooking applications.
- (b) Coleman Stove or their equivalents are prohibited.

2. Restricted Mobile Food Units shall be subject to:

- a. All of the requirements set out in paragraph C,1, with respect to Location, Duration of Events, and Approval Criteria.
- b. All of the requirements set out in paragraph C,1,d,(4) Fire Protection Requirements for Unrestricted Mobile Food Units shall be applicable to the degree that they pertain to the operation of any restricted mobile food units.

D. Catering.

- 1. **License.** Any entity that operates as a caterer must obtain either an annual license or a temporary license issued for the duration of a single event. The license shall be posted at the caterer's commissary location and at the location of the event.
- 2. **Additional Requirements–Notification to the City.** Prior to catering an event, a caterer shall provide the City with written notification of the location, time, date, number of persons to be served and menu items, as well as the phone number, license number and name of the person certified in food protection management who will be the person in charge of catering the event.
- 3. Catering operations conducted from an Unrestricted and Restricted Mobile Food Unit shall be subject to and in compliance with all Unrestricted and Restricted Mobile Food Unit Regulations.

E. Ice Cream Trucks.

1. **Safety Devices.**

- a. Signs stating "WATCH FOR CHILDREN" must be provided on the front, back and both sides of the vehicle in at least 4" letters of contrasting colors.
- b. Serving window capable of being closed when not in use must be provided and located on the curbside only.

- c. The vehicle must be provided with left and right outside rear-view mirrors as well as two additional outside wide-angle mirrors on the front and back of the vehicle to enable the driver to see around the entire vehicle. In addition, drivers are asked to check around the vehicle before leaving the area to ensure that children are not remaining. Care should be taken when handing the ice cream to the children to make certain traffic is clear, should the child leave the truck immediately and fail to observe the hazard of oncoming traffic.
- d. All vehicles must have operable four-way, yellow flashing hazard lights to warn approaching drivers of children.
- e. A rear bumper cover must be installed to prevent children from standing or jumping on the rear of the vehicle.
- f. Swing arms are recommended as an additional warning stating "Stop for Children".

2. Operational Requirements.

- a. Maintain the interior and exterior of the unit clean at all times. Remove any accumulation of trash from the vending area.
- b. Keep the trash containers on the vehicles covered. Empty the containers in authorized dumpsters when full.
- c. Maintain the freezers clean and in good repair at all times.
- d. No unauthorized personnel should be allowed to ride in the vehicle while vending. All sales and transactions shall be conducted outside of the ice cream truck.
- e. Only prepackaged and sealed ice cream or canned beverages, and like items, may be sold. Merchandise may not be sold.
- f. Toxic items must be properly labeled and stored separate and below food items.
- g. Maintain all frozen foods products at 0° F or below.

3. Vending Restrictions.

- a. Mobile trucks are permitted to vend in an area for short periods of time and shall move to another location without remaining at a single location for more than 10 minutes on neighborhood street or more than 30 minutes when pulled safely off-street at a place where children are gathered in substantial numbers.
- b. Mobile Ice Cream Trucks cannot conduct vending sales within 50

feet of a street intersection.

- c. Sound equipment must be limited to music or human speech and can only be used between 10:00 a.m. to 7:00 p.m. Monday - Saturday and from Noon until 7:00 p.m. on Sunday. Sound may not be broadcast within 100 yards of schools, hospitals, churches, the Courthouse, funeral homes, or cemeteries and may not be audible in excess of 100 yards from the truck. Music must be turned off while the unit is stopped for vending.

4.08.090 Power Failures And Illness; All Food And Food Establishments

A. Power Failure.

1. **Power Failure Greater than Thirty (30) Minutes and Less than Four (4) Hours.** If there is a power failure, mechanical failure, or other condition that results in an internal machine thermometer that cannot maintain food temperatures, and such condition continues for a length of time greater than thirty (30) minutes but less than four (4) hours, the following steps must be taken:
 - a. The food establishment must be closed during the power failure;
 - b. A log must be kept of the time that the power failure initially occurred, the temperature of the food at that time, and the time and temperature of the TCS food at one (1) hour intervals until the power is restored;
 - c. The regulatory authority must be notified immediately of the power failure; and
 - d. The documentation must be provided to the regulatory authority immediately upon request.

2. **Power Failure Greater than Four (4) Hours.** If there is a power failure, mechanical failure, or other condition that results in an internal machine thermometer that cannot maintain food temperatures, and such condition continues for a length of time greater than four (4) hours, the following steps must be taken:
 - a. The food establishment must be closed during the power failure;
 - b. The food establishment must not re-open until an inspection has been conducted by the regulatory authority;
 - c. A log must be kept of the time that the power failure initially occurred, the temperature of the food at that time, and the time and temperature of the TCS food at one (1) hour intervals until the

- power is restored;
- d. The City must be notified immediately of the power failure; and
- e. The documentation must be provided to the City upon request.

B. Detention and Destruction of Food.

1. The City may examine and collect samples of food as often as necessary for the enforcement of this chapter. A receipt for samples must be issued by the regulatory authority.
2. The City shall, upon written notice to the owner or person in charge specifying the reason, place any food under detention which it has probable cause to believe is adulterated, misbranded, or a hazard to public health. No food subject to a detention order shall be used, served or moved from the establishment.
3. The City shall allow storage of the detained food under conditions specified in the detention order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The detention order shall state that a request for hearing with the Building and Standards Commission may be filed within ten (10) days and that if no hearing is requested the food shall be destroyed.
4. A hearing shall be held if so requested and, on the basis of evidence produced at the hearing, the detention order may be vacated or the person in charge of the food may be directed by written order to destroy such food or to bring it into compliance with the provisions of this chapter.
5. **Time Temperature Control for Safety Foods (TCS).** Immediate destruction of TCS food shall be ordered and accomplished if:
 - a. The TCS food is in a container or package that does not bear a date or day, and is not properly labeled to show evidence that the TCS food is less than seven (7) days old; or
 - b. The TCS food is at a temperature of greater than five (5) degrees Celsius (forty-one (41) degrees Fahrenheit) and less than a temperature of fifty-seven (57) degrees Celsius (one hundred thirty-five (135) degrees Fahrenheit); or
 - c. When using time as a public health control, the TCS food exceeds the time that is four (4) hours past the point in time when the food is removed from temperature control.

C. Food Service Employee Illness. When the City or another health agency with

jurisdiction has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, the regulatory authority may require any or all of the following measures:

1. The immediate exclusion of the employee from all food service establishments.
2. The immediate closing of the food service establishment until the regulatory authority determines no further danger of disease outbreak exists.
3. Restriction of the employee's services to areas of the establishment where there is no danger of transmitting disease.
4. Adequate medical and laboratory examination of the food service establishment employees.

4.08.100 Inspections

Inspections are required pursuant to Section 228.249 and 228.250 of the Texas Administrative Code, as amended.

4.08.110 Penalty

Any person who violates or causes, allows, or permits another to violate any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any such violation of this chapter shall constitute a separate offense. Each day on which any such violation of this chapter occurs shall constitute a separate offense.

6 Criminal Code

6.04 Municipal Court And Police

6.08 Offenses And Miscellaneous Provisions

6.04 Municipal Court And Police

6.04.010 Municipal Court

6.04.020 Police

6.04.010 Municipal Court

- A. **Seal.** The Mayor is hereby authorized and directed to procure a seal for the municipal court, and to have the same engraved with a star of five points in the center thereof and to have engraved on such seal the words, "Municipal Court, City of Arcola, Texas."
- B. **Jurisdiction.** Municipal courts shall have jurisdiction within the City, with power to hear and determine all cases regarding the violations of this Code, the ordinances of the City, and all other cases in which municipal courts are given jurisdiction by the Texas Code of Criminal Procedure and all other the laws of the State of Texas, as amended.
- C. **Organization; Positions.**
1. **Judge.** There is hereby created the office of judge of the municipal court, who shall have the power and authority as granted by, and shall perform the duties as required by, state law. The judge of the municipal court shall be appointed by City Council. To be eligible for appointment, a person must be licensed to practice law in the State of Texas and be familiar with criminal court procedures. The judge shall preside over the municipal court.
 2. **Powers and Duties.** The judge shall preside over the municipal court. The judge shall be a magistrate and shall have all of the powers and authority prescribed by state law and the ordinances of the City.
 3. **Term of Office; Holding Over.** The position of the judge has successive two-year terms of office that extend through May 15th of each even-numbered year. Each person appointed shall serve for the specific term, or the unexpired portion thereof, to which the person is appointed. Judges shall also serve after the expiration of their terms of office until their successors are appointed and shall have qualified, as provided in state law.
 4. **Clerk.** The Court Administrator shall be the Clerk of the Municipal Court while serving as Court Administrator. The Clerk, assisted by those

deputies who are appointed, shall have all the duties and authority prescribed by state law and the ordinances of the City of Arcola, Texas. The Clerk and any deputies may administer oaths and give certificates pertaining to any duties performed for the Court.

5. **Removal.** Removal of judges, clerks, and deputy clerks shall be governed by state law and this Code.
6. **Vacancies.** Vacancies shall be filled pursuant to TGC Chapter 29, as amended.
7. **Prosecutors.** There is hereby created the office of prosecutor and assistant prosecutor. The prosecutors shall be appointed by, and serve at the pleasure of, the City Council.

D. **Oath.** The officers of the municipal court, prior to taking office, shall take the oath of office required by the Constitution and state law.

E. Court Fees and Costs.

1. **Court Fees and Costs.** Costs and fees chargeable as costs shall follow and conform to the rules and provisions set out in the Code of Criminal Procedure of the State of Texas for justice courts, as amended.
2. **Municipal Court Building Security.** Pursuant to the provisions of V.T.C.A., Code of Criminal Procedure art. 102.017(b)–(e), the city council does hereby provide that the city shall collect a security fee of \$3.00 as a cost of court which shall be used to provide for the security of the municipal court building. Such monies shall be paid as a part of the cost of court collected by the clerk of the municipal court.

F. Municipal Court Technology Fund.

1. **Created.** There is hereby created and established a municipal court technology fund, herein now known as the fund, pursuant to V.T.C.A., Code of Criminal Procedure art. 102.0172. The fund may be maintained in an interest-bearing account and may be maintained in the general revenue account.
2. **Establishment of Amount of the Fee and Assessment.** The fee shall be in the amount of \$4.00 and shall be assessed and collected from defendant upon conviction for a misdemeanor offense in the municipal court as a cost of court. A defendant is considered convicted if:
 - a. A sentence is imposed on the person;
 - b. The person is placed on community supervision, including deferred adjudication community supervision; or
 - c. The court defers final disposition of the person's case.

3. **Collection.** The fee shall be collected upon conviction for an offense committed on or after September 27, 1999. The clerk of the court shall collect the fee and pay the fee to the municipal treasurer (or other official who discharges or performs the duties of the treasurer), who shall deposit the fee into the municipal court technology fund.
4. **Designated Use of the Fund.** The fund shall be used only to finance the purchase of technological enhancements for the municipal court, including:
 - a. Computer systems;
 - b. Computer networks;
 - c. Computer hardware;
 - d. Computer software;
 - e. Imaging systems;
 - f. Electronic kiosks;
 - g. Electronic ticket writers; or
 - h. Docket management systems.
5. **Administration of the Fund.** The fund shall be administered by or under the direction of the city council.

G. **Penalty.** Any person, firm or corporation who violates this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred and no/100's dollars (\$500.00).

6.04.020 Police

- A. **Powers and Duties of Police Officers.** City police officers are charged with the duties of preserving the public peace; preventing crime; arresting offenders; protecting the rights of persons and property; preserving order at elections, public meetings and public places; preventing possible nuisances on any of the streets, highways, alleys, waters and other places; enforcing the Texas Penal Code, this Code and other ordinances of the City; and performing and discharging such other duties as are now or may hereafter be imposed upon them by state law, this Code and other ordinances of the City, or by the City Manager, the Mayor or the City Council.
- B. **Acceptance and Forfeiture of Bail.** Each police officer may receive from any person arrested for violation of any section of this Code, City ordinance or any state law of which the municipal court has jurisdiction, cash bail for the

appearance of such person before the municipal court, except in those cases where bail is not authorized under state law. If the person agrees in writing to appear at a certain time and place, but fails to do so, the municipal court may order or adjudge that the bail be forfeited, without service of notice or citation of any kind upon the person. The same instrument may authorize the court to adjudicate the person guilty and apply the cash bail to the payment of the fine, fees and costs.

- C. **Amount of Bail.** Any officer accepting any cash bail shall accept only the amounts authorized by the municipal court. No cash bail shall be accepted unless voluntarily offered by the person charged.
- D. **Receipt for Payment of Bail.** When cash bail is tendered and accepted, the court clerk shall issue a special cash bail receipt therefor to the person tendering such cash bail, a copy of which shall remain in the cash bail receipt book. When a cash bail is returned to the person who deposited it, a receipt shall be taken therefor. The same procedure shall apply where the person who deposited the money is present and orders such cash bail to be applied on the payment of any fine and costs assessed against him. When such person fails to make his appearance and bail is adjudged guilty, the court clerk shall apply so much of the cash bail as may be necessary for the satisfaction of such fine, fees and costs, and the balance shall be returned to the defendant.

6.08 Offenses And Miscellaneous Provisions

[6.08.010 Adoption Of State Penal Laws](#)

[6.08.020 Strict Enforcement Of State Laws](#)

[6.08.030 Discharge Of Firearms](#)

[6.08.040 Air Rifles, Firearms; Possession By Children](#)

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[6.08.070 Peddling, Hawking, And Vending](#)

[6.08.080 Garage Sales](#)

[6.08.090 Youth Curfew](#)

6.08.010 Adoption Of State Penal Laws

Any act, the commission of which constitutes a misdemeanor under the laws of the state, is prohibited within the City, and if committed within the City, is hereby declared to be an offense; provided, however, that the penalty therefor shall not exceed the penalty prescribed in AMC Title 1.

6.08.020 Strict Enforcement Of State Laws

The police officers of the City are directed to strictly enforce all laws of the state not covered by this Code or which, because of prohibitions imposed by state law, cannot be included in this Code.

6.08.030 Discharge Of Firearms

It shall be unlawful for any person to discharge a firearm within the City. This section does not apply to City police officers or other law enforcement officers while performing their duties. It is a defense to prosecution under this section that: (i) the discharge was justified as provided in Chapter 9 of the Texas Penal Code, or (ii) the discharge occurred at an established gun range that has all required state and federal licenses and permits.

6.08.040 Air Rifles, Firearms; Possession By Children

A. **Definitions.** In this section:

"Adult" means any person who is 18 years of age or older.

"Air rifle" means air rifles and any other type of gun which uses compressed air, gas, or a compressed spring to project a BB, metal pellet, or similar projectile, including BB guns and pellet guns.

"Child" means any person who is younger than 18 years of age.

"Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosive or burning substance or any device readily convertible to that use.

"Range" means any public or private facility at which firearms or weapons training or practice, or both, is conducted under controlled circumstances intended to encourage the safe handling of firearms or weapons and at which procedures or facilities are in place that are intended to prevent any projectiles from causing any damage to persons or property.

- B. **Allowing Access by a Child.** It is unlawful for any adult intentionally, knowingly, recklessly, or with criminal negligence to facilitate, suffer, or permit the physical possession of a firearm or an air rifle by a child by allowing the child to obtain unsupervised access to the firearm or air rifle.
- C. **Possession of Air Rifle by a Child.** It is unlawful for a child intentionally, knowingly, recklessly, or with criminal negligence to possess an air rifle within the City.
- D. **Allowing Discharge of Air Rifles.** It is unlawful for any adult intentionally, knowingly, recklessly, or with criminal negligence to facilitate, suffer, or permit the discharge of a firearm or an air rifle by a child.
- E. **Discharging and Shooting Generally.** It is unlawful for any person to discharge or shoot an air rifle within the City.
- F. **Certain Defenses.** It is a defense to prosecution under paragraphs B, C, D, or E

that:

1. The weapon in question was possessed or discharged upon a range and under the supervision of an adult, or
2. The discharge or possession was justified as provided in Chapter 9 of the Texas Penal Code.

G. **Additional Defense.** It is additionally a defense to prosecution under paragraphs B or D that the actor had taken reasonable precautions under the attendant circumstances to ensure that a child would not have the ability to obtain access to the firearm or an air rifle without supervision. Such precautions could include, but need not be limited to, the storage of the firearm or air rifle in a place where, at the time the access was obtained, an unsupervised child would not reasonably have been expected to have been able to gain access. Such precautions could also include: (i) storage of the firearm or air rifle in a locked safe, locked rack, locked hard case, locked soft case, locked drawer, locked cabinet or other locked container, or (ii) installation of a lock on the firearm or air rifle to prevent its normal function and discharge.

H. **Police and Law Enforcement.** The provisions of this section shall not apply to the discharge of a weapon by City police officers or other law enforcement officers while performing their duties.

I. **State Law; Seizures.** To the extent that any conduct in violation of this Section also constitutes a violation of state law, then the conduct shall be punishable under the applicable state law. The City may petition the court hearing charges involving the violation of applicable state law and request that any firearm(s) forming the basis of the violation be permanently seized and thereafter destroyed.

6.08.050 Abandoned Iceboxes And Refrigerators

A. **Prohibition.** It shall be unlawful for any person to keep, maintain, store or abandon in any open place within the City any icebox or refrigerator, when such icebox or refrigerator is not in actual use for its intended purpose, unless such icebox or refrigerator has had all doors removed by removal of the hinges securing the doors to the main portion of the icebox or refrigerator.

B. **Definition.** The term "open place," means:

1. Any unlocked building; and
2. Any area, including any open space within the City, not enclosed by a fence with all gates locked, such fence being at least five feet in height and of a type which does not permit entry into the enclosed area through or under the fence.

6.08.060 Public Property; Damage Or Injury

It shall be unlawful for any person to willfully injure, deface or destroy any real or personal property belonging or appertaining to the City.

6.08.070 Peddling, Hawking, And Vending

- A. **Prohibitions.** The practice of going in and upon private residences in the City by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise, not having been requested or invited to do so by the owner or occupant of said private residences for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable as a misdemeanor.
- B. **Defenses.** It is a defense to violation of this section that the actor had registered with the Chief of Police, in writing and in advance, providing: (i) notice of the specific times and places the actor would be going in and upon private property (ii) positive identification (including name, address, telephone number and driver's license or identity card), and (iii) a registration fee of \$25 per week. The Chief of Police shall waive the fee for persons 12 years of age or younger and for those representing non-profit organizations. The affirmative defenses for speech or expression enumerated in Section 42.04 of the Texas Penal Code shall also be available in any prosecution for violations of this section.

6.08.080 Garage Sales

- A. **Regulations.** It shall be unlawful to conduct a garage sale in the City unless it complies with the following regulations:
1. The sale shall not be conducted for a greater length of time than three consecutive days.
 2. No sale shall be conducted on a Sunday or holiday.
 3. No more than two garage sales per year may be held at premises. The interval between garage sales at the same premises shall be at least six months.
 4. All garage sale signs shall be removed within twelve hours after the sale.
 5. No garage sale shall be conducted between the hours of 8:00 PM and 7:00 AM of the following day.
- B. **Definition.** The term "garage sale" means the disposition of surplus items of furniture, appliances, toys, secondhand clothing, tools, gardening equipment, household goods or other items normally found in the home by offering them for

sale at a residence.

6.08.090 Youth Curfew

A. Definitions. In this section:

"Curfew hours" means: (i) 11:00 PM on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and (i) 12:01 AM until 6:00 AM on any Friday or Saturday, and (iii) While school is in session, between the hours of 9:00 AM. and 2:30 PM

"Emergency" means an unforeseen combination of circumstances of the resulting state that calls for immediate action. This term includes, but is not limited to: a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"Establishment" means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to: any place of amusement or entertainment.

"Guardian" means: (i) a person who, under court order, is the guardian of the person of the minor; or (ii) a public or private agency with whom a minor has been placed by a court.

"Minor" means any person under 17 years of age.

"Operator" means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members of partners of an association or partnership and the officers of a corporation.

"Parent" means a person who is: (i) a natural parent, adoptive parent, or step-parent of another person; or (ii) at least 18 years of age and authorized by a parent or guardian to have the care and custody of the minor

"Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to: streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

"Remain" means to: (i) linger or stay; or (ii) fail to leave the premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

B. Offenses.

1. A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.
2. A parent or guardian of a minor commits an offense if he/she knowingly permits, or by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
3. The owner, operator, or any employee of an establishment commits an offense if he/she knowingly allows a minor to remain upon the premises of the establishment during curfew hours

C. Defenses. It is defense to the prosecution under paragraph B that the minor was:

1. Accompanied by the minor's parent or guardian;
2. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
3. In a motor vehicle involved in interstate travel;
4. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
5. Involved in an emergency;
6. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
7. Attending an official school; religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, or other similar entity that takes responsibility for the minor;
8. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
9. Married or had been married or had the disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

D. Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that based on any response and other circumstances, no defense in paragraph C is

present.

- E. **Juvenile Court.** When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates paragraph B,1 and shall refer the minor to juvenile court.

8 Utility Services

8.01 General Provisions

8.04 City Water Services

8.08 City Sewer Services

8.12 Electric Utilities

8.16 Garbage And Trash

8.20 Waste Discharge

8.01 General Provisions

8.01.020 Deferred Payments

8.01.020 Deferred Payments

The Mayor may enter into deferred payment agreements for delinquent accounts (both sewer service and garbage or solid waste). The agreements may allow a matching credit for any payment of delinquent balances accrued as of September 1, 2004. The agreements may require a minimum monthly payment on the delinquency, in addition to the current amount. The matching credit may not exceed one dollar for each dollar paid on the delinquency.

8.04 City Water Services

8.04.010 Water Rates, Fees And Charges

8.04.020 Utility Capacity Information Letters

8.04.030 Water System Connection Policies

8.04.040 Measurements Of Volumes

8.04.050 Special Program For New Water Connections

8.04.010 Water Rates, Fees And Charges

Finality; Administrative Remedies. Decisions of the Mayor or other City officials or representatives under this Fees & Charges Schedule (or under related provisions of the Code, e.g., AMC 8.08) are subject to appeal to the City Council, as provided in AMC Title 2. Such decisions do not become final until acted upon finally by the City Council, or the time for appeal has run out. Provisions in AMC Title 2 relating to variances also apply, and these can also affect finality of decisions. As an additional administrative remedy, any person may request that the City Council amend this fee schedule or related provisions of the Code, e.g., AMC 8.08. Applications for amendment should be in writing and submitted to the City Secretary. They should include the exact wording that is requested.

In this section "SUE" has the meaning given in AMC 8.08, and "dwelling unit" means a building, a single room or a group of rooms occupied or capable of being occupied as separate living quarters. "Separate living quarters" are those which have all of the

following: (i) direct access from outside of the building or through a common hall; (ii) plumbing and electrical facilities sufficient to serve a kitchen sink, a refrigerator and cooking equipment; and (iii) a full bathroom including a sink, a commode and either a bathtub or a shower. Each of the following is a separate dwelling unit, regardless of how it is equipped or configured: a house, a unit of a duplex, an apartment unit and a manufactured-housing unit. However, for purposes relating to impact fees and water supply facilities, the number of "SUE's" is determined by the water equivalency table in AMC 8.08.110.

NOTE: ALL WATER CHARGES ARE SEPARATE FROM AND IN ADDITION TO ANY APPLICABLE SEWER CHARGERS.

A. Tap Fees.

1. Single-family residential taps (5/8" x 3/4" only): \$975.00
2. All other taps: The City's actual out-of-pocket cost plus 25%.
3. Revenues received from the above-listed tap fees may only be used, initially, to pay: (i) the City's out-of-pocket costs of making connection to the City system (including tap, service line, meter, etc.) and (ii) the City's costs of setting up or changing the account. After paying such costs, the remainder shall be deposited into the Repair and Replacement Fund created as a requirement of receiving USDA loan and grant proceeds in 2013, and such deposit may only be used to pay for repairs and replacements to the City's system (not for funding or recouping any costs of capital improvements or facility expansions necessitated by and attributable to new development).
4. In addition, the applicant must bear the full cost of extending water lines to serve the applicant's property from the nearest City provided connection point, but subject to possible cost sharing under AMC 8.08. The City may elect to participate in the cost of extension or oversizing an extension.
5. Tap fees and extension fees are reduced to the level required by the terms of a state or federal loan or grant, for a particular tap or extension, if: (i) the underlying costs are paid in whole or in part by that loan or grant; and (ii) the terms of the grant or loan require such reduction.
6. The Mayor may allow installment payment of the tap fee in these circumstances: (i) the premises are used exclusively for single-family residential purposes (one dwelling unit per connection to the City system), (ii) the premises have existing sanitary sewer service, for which payment (including any payment under deferred or installment payment agreements) is current, and (iii) because of need to make private plumbing improvements or other factors, payment of the entire tap fee in advance presents an unusual hardship. This paragraph applies to the tap fee specified above or to any special tap fee established from time to time

by the City for new water connections to serve single-family residences. This paragraph does not apply to deposits. Installments, if allowed, accrue monthly as additional charges for water service (payable in addition to the periodic rate and other applicable charges), and the full amount must be paid within 12 months. If the customer changes before the full amount is paid, the unpaid portion must be paid in one lump sum as the tap fee for the new customer (full credit being given for installments paid by the old customer), assuming the same tap and meter are used to serve the new customer.

B. Deposits.

1. The deposit is \$100 for each single-family residential account (one dwelling unit per connection to the City system)
2. For all other accounts, the deposit is equal to three months of estimated bills, based upon the estimated three peak months.
3. A deposit is required if there is water service. If this is also sewer service, an additional deposit is required; see above. Water and sewer deposits for each account are combined and may be applied to either water charges, sewer charges or both.

C. Periodic Rates.

1. Rates for single-family residential premises (one dwelling unit only) are as follows:

Minimum Charge (per billing period)	Volume Charge (per 1,000 gallons of water received at the premises served during the billing period)*
Inside City limits: \$28.00 Outside City limits: \$41.65	
	First 3,000 gal: (included in minimum charge)*
	Next 4,000 gal.: \$2.00* inside City (\$2.97* outside City)
	Next 3,000 gal.: \$3.00* inside city (\$4.46* outside City)
	Next 5,000 gal.: \$3.50* inside City (\$5.20* outside City)
All remaining gal.: \$4.75* inside City (\$7.06* outside City)	

*Plus the surface water conversion pass-through. See below.

2. Rates for all other premises are the sum of: (i) the applicable minimum charge plus (ii) the applicable volume charge, determined as shown below.

a. The applicable minimum charge is the greater of: (i) \$28.00 per dwelling unit for premises inside the City or \$41.65 per dwelling unit for premises outside the City or (ii) the amount determined by the size of the meter serving the premises according to the following chart:

Meter size (inches)	Minimum Charge per billing period	
	Inside City	Outside City
5/8 x 3/4	\$42	\$61
1	\$84	\$123
1 1/2	\$150	\$220
2	\$225	\$330
3	\$540	\$792
4	\$988	\$1,448
6	\$2,047	\$3,000
8	\$2,682	\$3,931
10	\$4,102	\$6,013
12 or larger	\$7,650	\$9,850

b. The volume charge is determined by the following chart:

Location of premises served	Volume Charge (per each 1,000 gallons of water received at the premises served during the billing period)
Inside City limits	\$4.75 plus the surface water conversion pass-through. See below.
Outside City limits	\$7.06 plus the surface water conversion pass-through. See below.

3. In addition to the rates shown above, the surface water conversion pass-through applies to each bill, each customer and every thousand gallons received by each customer (there is no "free" or included quantity). The pass-through is equal to the exact volume rate imposed by the North Fort

Bend Water Authority upon water used to supply the City system at the time the water was received by the customer, regardless of whether the rate is imposed directly or indirectly or if the water is received directly or indirectly. (Note: At the time of original adoption of this section, the Authority's rate was \$1.80 per 1,000 gallons.) A change in the Authority's rate changes the pass-through automatically, with the same effective date as set by the Authority for the change in its rate.

- D. Eleemosynary Institutions.** Eleemosynary institutions which meet all the following criteria are treated the same as a single-family residential customer: (1) the institution is occupied only intermittently and for not more than 10 hours per week, (2) the institution demonstrates clearly that the sewage volume is less than or equal to an ordinary single-family house and includes only domestic wastewater.
- E. Additional Charges For Certain Repairs, Etc.** The City may repair, replace and maintain water service lines downstream of the meter and connect or disconnect branches from those lines, but only if: (i) the City is granted an easement or other access right for that purpose (unless there is an emergency-type condition), and (ii) and the Mayor authorizes the necessary work. The cost of each repair, replacement or maintenance item shall be charged to the customer(s) using the line that is affected, and the cost shall be apportioned equally if there are two or more customers using the line. The charge to each customer shall be set at a rate not exceeding \$50 per month until the cost is fully paid. These are additional charges for water service, payable in addition to the periodic rate and other applicable charges.
- F. Disconnection.** If service is physically discontinued, there is a fee for reconnection of \$100. In addition, all other amounts due for service to the same user at that location must be paid in full, plus a deposit of \$150. These fees and charges do not apply to a new user who: (1) was not receiving service, either directly or indirectly, at the location previously, and (2) is not acting on behalf of, or in concert with, a person who was receiving service at the location previously.
- G. Capacity Information Letters.**
1. Fees for capacity information letters are as follows:
 - a. Application fee (non-refundable): The greater of \$100 or the City's actual out-of-pocket costs to evaluate the application, determine an appropriate response and prepare a draft letter.
 - b. Original letter issuance fee (must be paid before issuance): \$35 per SUE per month covered by the letter (maximum 12 months).
 - c. Re-issuance fee, if re-issuance is allowed (must be paid before re-issuance): \$45 per SUE per month covered by the re-issued letter (maximum three months), plus the City's actual out-of-pocket costs

to evaluate the request for re-issuance, determine an appropriate response and prepare a draft re-issuance letter.

2. See AMC 8.08 for other provisions relating to such letters.

H. Impact Fees.

1. Impact fees are imposed against all new development at the following rates:
 - a. \$1,050 per SUE for water central system
 - b. Notes: The indicated rates are net rates, after deduction and credits for sums to be provided from other sources. Fees apply to each SUE in excess of the first new service unit per parcel existing on June 11, 2013.
2. For purposes of this Schedule, assessment, collection, refunds, credits, expenditures, definitions, etc. for impact fees are governed by the LGC Chapter 395 and this Schedule.
3. A plat or other development plan may, at the applicant's option, designate specific land uses or a limit on the number of SUE's for each parcel. If no such designation is made, the assessment of impact fees shall be based upon the maximum probable intensity of development, taking into account the size, location, applicable restrictions and other factors likely to affect the ultimate land use.
4. Impact fees shall be accounted for separately for water and sewer central facilities and used only as allowed by the LGC Chapter 395.

8.04.020 Utility Capacity Information Letters

- A. **Generally.** A letter issued under this section may provide information regarding available water or sewer capacity to serve:
 1. A new connection to the City's water or sanitary sewer systems; or
 2. Altering the facilities (or their uses) served by an existing connection or making another change affecting the load on the water or sanitary sewer system (e.g., changing fixtures or space served, changing the use of fixtures or space, etc.)
- B. **Criteria.** The following are the criteria for issuance of a letter under this section:
 1. The application and issuance procedures, specified below, must be complied with fully, completely and correctly.

2. The capacities described in the letter must be available and uncommitted and must comply with any applicable loading regulations.
3. All applicable fees must be paid.
4. The capacities, the site and the structures must be reasonable, feasible and must otherwise appear to be in compliance with applicable regulations.
5. The letter must be reduced to writing and signed by the City's engineer. In addition, if the letter describes more capacity than necessary to serve a single-family residential unit, there must be a separate motion, resolution or order adopted by the City Council approving the letter.

- C. **Site, Transfer.** Each letter is specific to the site and structures for which it is issued, and it may not be transferred or assigned to any other site or structure. A letter may be transferred in whole or in part to a subsequent purchaser or end-user of the site for which it was issued, if: (i) the addresses of the letter and transferee both apply in writing, (ii) the transferee assumes all obligations of the addressees, and (iii) a transfer fee equal to 50% of the original issuance fee is paid.
- D. **Expiration.** Utility capacity information in a letter expires unless, during the term of the letter: (i) construction or alteration of all the structures to be served actually begins, (ii) the end-user (or builder) makes all of the regular arrangements for utility service and the utility account, including payment of tap fees, obtaining permits and approvals, making registrations, making a deposit, opening the account, signing the service agreement, etc., and (iii) all other conditions in the letter and applicable regulations are satisfied. For purposes of this section, construction of a structure does not begin until its foundation is poured or affixed to the ground, and alteration does not begin until all demolition (if any) and structural framing of the structure are completed. Each letter expires 12 months from the date of issuance, unless the applicant requests a shorter period. If the capacity information expires, no refunds of application fees or other fees may be made. Before a letter expires, the addressees may apply for a re-issued letter for the same site and same structures. The application contents are the same as for original letters. If the new application requires less time and expense to review and consider than the previous application, the City Council may authorize a partial refund of the new application fee.
- E. **Compliance, Amendment, Etc.** All letters remain subject to the regulatory authority of the City. Letters are subject to all applicable regulations. Letters do not confer property rights or vested rights of any kind. Letters are subject to suspension or revocation.
- F. **Applications, Processing, Etc.** Any person or entity desiring a letter must apply in writing to the City's engineer. Both the owner of the site and the end-user of the utility service (or a subdivider or builder, if the end-user is not known) must sign

the application, as co-applicants. The application must include: (i) a specific description of the site and the structures to be served, including plat information sufficient to disclose if the site has been properly platted; (ii) plans of all structures to be served, if needed by the engineer, (iii) name, address, etc. of each co-applicant; and (iv) the requested length of time before the letter expires and (v) applicable fees. The engineer shall review each application, calculate the required capacities and determine if the application meets the criteria of this section. The engineer may obtain the assistance of the operator and others, as necessary. The engineer may: (i) issue the letter, if it calls for only a minor level of capacity (equivalent to one single-family residential unit or less) or (ii) seek approval of the City Council before issuing the letter. Any letter may include conditions necessary to achieve compliance with Applicable Regulations.

8.04.030 Water System Connection Policies

- A. **Applicability.** This section applies to: (i) making a new connection to the City's water or sanitary sewer systems; (ii) altering any facilities (or their uses) served by an existing connection or (iii) making another change affecting the load on the water or sanitary sewer system (e.g., changing fixtures or space served, changing the use of fixtures or space, etc.)
- B. **Capacity.** There must be a permit issued by the Mayor for each connection or change covered by this section. Unless there is a current capacity letter issued under the preceding section, the City engineer must advise the Mayor that sufficient capacity is available and not designated for another purpose.
- C. **Agreements, Etc.** The applicant must sign a utility service agreement in a form prescribed by the Mayor and meeting TCEQ requirements. The applicant must submit all other application documents required by the Mayor and must pay all applicable fees and deposits.
- D. **Other Water Sources.** The applicant must physically disconnect all other sources of water supply from each building located at the premises to be served and must make sure all pressure-relief valves on water heaters and similar appliances are in working condition. The applicant must furnish a certification from a licensed plumber that these conditions have been met.
- E. **Inspections.** Inspections of the new connection (or altered facilities) are required and they must be found to be in compliance with applicable regulations before physical connection is made or service is allowed to begin. The applicant must arrange for all inspections, including the customer service inspection and inspections of all connections to City facilities. Unless otherwise prescribed by this Code, the fees for such inspections shall be 150% of the City's out of pocket costs of having the inspections made.
- F. **Compliance.** All the affected premises and facilities must strictly comply with any utility information letter and other applicable regulations.

8.04.040 Measurements Of Volumes

- A. **Generally.** All water received or used at the premises served shall be counted to determine volume charges for water and sewer services, as applicable. However, if the user demonstrates clearly to the Mayor that some part of the water was: (i) obtained from a non-City source in compliance with applicable regulations, (ii) was not co-mingled with water provided by the City, (iii) was used only for irrigation or similar outdoor purposes, and (iv) did not enter the sanitary sewer system, that part shall not be counted. This paragraph does not apply to measured-discharge service (sewer).
- B. **Measured-Discharge Service (sewer).** All discharges into the sewer system shall be counted to determine the volume charges for measured-discharge service.
- C. **Missing or Incomplete Measurements.** If actual measurements are not available for all or part of a billing period, volumes of water or discharges for the whole billing period shall be estimated based upon meter readings, weather conditions. System volumes, typical patterns and other available data.

8.04.050 Special Program For New Water Connections

In connection with the initial installation of the City's water system, the Mayor may arrange for installation of all facilities necessary to make a connection to the City's water system (including, if requested by the applicant, a line from the meter to the buildings to be served) for new single-family residential water customers, on a first-come-first-serve basis, until the funds allocated by the City Council are exhausted. Applications must be in writing filed in time to allow the facilities to be installed in connection with the installation of the initial water system in the area. Applicants must pay a one-time fee of \$385 plus all applicable deposits. An applicant must pay any arrearages in sewer charges, to be eligible for this special program. An easement and maintenance agreement is required for any facilities to be installed on private property, if requested by the applicant, and it must be signed by the owner(s) of the property. If such facilities on private property are not installed by the City or its contractor, the work must be done in accordance with City specifications, and it must be submitted for inspection (and pass inspection) before such facilities may be connected to the public water supply. The Mayor shall make other regulations for this special program.

8.08 City Sewer Services

8.08.010 General Provisions

8.08.020 Definitions: City Sewer Services

8.08.030 Sewer Rates, Fees And Charges

8.08.040 Utility Capacity Information Letters

8.08.050 Sewer System Connection Policies

8.08.060 Billing, Payment, Etc.

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[8.08.080 Sewer Main Extensions](#)

[8.08.090 Funding Of The Extension Of Sanitary Sewer Lines](#)

[8.08.100 Special Provisions Relating To Sewer Discharges](#)

[8.08.110 Wastewater Discharge Equivalency Table](#)

8.08.010 General Provisions

- A. **Non-discrimination.** Service is rendered to all applicants within the City's service area who comply with applicable regulations regardless of race, color, creed, sex, marital status or national origin.
- B. **Applications for Service.** Applicants for service must first obtain any necessary permits required. All applications must be made on the City's standard application and must be signed by the applicant. A separate application must be made for each service at each separate location, for homes or single business units or for apartments or multiple business units. For each physical connection to the City system, there may only be one account, one customer and one bill (Note: one account may include more than one unit, and one customer may include two or more individuals or entities acting jointly).

Exception: For existing multiple connections, the Temporary Receiver may approve different account arrangements, and may require that any new or resumed service on those connections be brought into compliance. Any required deposits, tap fees, sewer main extension charges and other applicable charges must be paid after the time the application is approved. The tap fees apply when the service will not use an existing tap, and the City makes a new tap. The tap fees are set out in the Fees & Charges Schedule.

C. Refusal of Service.

1. The City may decline to serve an applicant until the applicant has complied with applicable regulations, or for any of the below-listed reasons:
 - a. Applicant's Facilities or Use. If the applicant's installation or equipment is known to be hazardous or of such character that satisfactory service cannot be given, or if applicant's use would violate City rules, regulations or ordinances.
 - b. Ability to Pay. If the applicant has failed to demonstrate a readiness, willingness and ability to pay for utility services of the same or different types.
 - c. Refusal to Pay Charges or Deposit. For refusal to pay charges or deposits required by the City.
 - d. Failure to Pay. Failure to pay for merchandise or charges for non-

utility service purchased from the City.

- e. **Inadequate Facilities.** If City facilities do not have sufficient capacity available and unreserved to serve the applicant (see main extension policy, below).

2. If the City refuses to serve an applicant, the City must inform the applicant of the reasons upon request. The applicant may appeal to the City Council.

- D. **Deposit.** The amount of the deposit is set out in the Fees & Charges Schedule. Deposits will be refunded to customers if service is not connected. Once service begins, a customer's deposit will be refunded, upon written request, if the customer has timely paid each bill for 18 consecutive months, with no delinquency notices being issued.
- E. **New Taps.** After an application is approved, the applicant must notify the City's operator. Connections will be made only if a sewer main abuts the property for which service is requested (See below for sewer main extension policies). All connections to the System shall be made in accordance with the City's Plumbing Code and other applicable regulations. All new taps shall be made or inspected by a representative of the City prior to being covered in the ground. The applicant is responsible for installing the service line (sometimes called "house line") from the structure served to the City's main. No one shall expose the City's main or tap it or disturb it unless specifically authorized to do so by a permit issued by the City. All service lines upstream from the point of connection must be inspected to insure compliance with the City's Plumbing Code and other applicable regulations.
- F. **Access to Premises.** The City will have the right of access to the customer's premises at all times reasonable for the purpose of installing, inspecting, repairing, modifying or replacing sewer mains or other equipment used in the connection with sewer service, and for the purpose of removing its property or disconnecting service and for all other service-related purposes.
- G. **Rates.** Each customer must pay for sanitary sewer service at applicable current rates as set forth in the Fees & Charges Schedule. The rates will apply to each service unit equivalent, or SUE, unless otherwise indicated in the Fees & Charges Schedule. No reduced rates or free service will be provided except as provided in the Fees & Charges Schedule.
- H. **Maintenance and Repair.** It shall be the responsibility of each user to maintain the sewer lines and any related equipment from each structure served to the point of connection to the System.
- I. **Assignment.** No application, agreement or contract for service may be assigned or transferred without the written consent of the City.

8.08.020 Definitions: City Sewer Services

As used in this chapter, certain terms have the meanings set out below, unless the context clearly indicates that another meaning is intended:

"Applicant" means any person or party owning or occupying property inside the service area of the City who desires service and has made application for same.

"Customer, user, consumer" means an owner, tenant, occupant or resident of a property which is connected to the System or who is otherwise using the service of the System.

"Regulatory authority" means the City.

"Service" means sewer service to a customer, including any and all acts done, rendered or performed in the delivery of sewer service by the City.

"Service unit equivalent" or "SUE" means a single-family residence, or 315 gallons per day of wastewater discharge as calculated by applying the equivalency table attached in AMC 8.08.110.

"System" means the City's sanitary sewer system.

8.08.030 Sewer Rates, Fees And Charges

Finality; Administrative Remedies. Decisions of the Mayor or other City officials or representatives under this Fees & Charges Schedule (or under related provisions of the Code, e.g., AMC 8.08) are subject to appeal to the City Council, as provided in AMC Title 2. Such decisions do not become final until acted upon finally by the City Council, or the time for appeal has run out. Provisions in AMC Title 2 relating to variances also apply, and these can also affect finality of decisions. As an additional administrative remedy, any person may request that the City Council amend this fee schedule or related provisions of the Code, e.g., AMC 8.08. Applications for amendment should be in writing and submitted to the City Secretary. They should include the exact wording that is requested.

In this section "SUE" has the meaning given in AMC 8.08, and "dwelling unit" means a building, a single room or a group of rooms occupied or capable of being occupied as separate living quarters. "Separate living quarters" are those which have all of the following: (i) direct access from outside of the building or through a common hall; (ii) plumbing and electrical facilities sufficient to serve a kitchen sink, a refrigerator and cooking equipment; and (iii) a full bathroom including a sink, a commode and either a bathtub or a shower. Each of the following is a separate dwelling unit, regardless of how it is equipped or configured: a house, a unit of a duplex, an apartment unit and a manufactured-housing unit. However, for purposes relating to impact fees and water supply facilities, the number of "SUE's" is determined by the water equivalency table in AMC 8.08.110.

NOTE: ALL SEWER CHARGES ARE SEPARATE FROM AND IN ADDITION TO ANY APPLICABLE WATER CHARGERS.

A. Tap Fees.

1. Single-family residential taps: \$1,500.00
2. All other taps: Out-of-pocket cost plus the greater of: (i) 25% thereof or (ii) \$750.00
3. The Mayor is authorized to grant a dollar-for-dollar credit against tap fees if a user has paid for sewer service but did not receive it because the tap or connection was not actually in existence.
4. Revenues received from the above-listed tap fees may only be used, initially, to pay: (i) the City's out-of-pocket costs of making connection to the City system (including tap, service line, meter, etc.) and (ii) the City's costs of setting up or changing the account. After paying such costs, the remainder shall be deposited into a special repair and replacement fund and used only to pay for repairs and replacements to the City's system (not for funding or recouping any costs of capital improvements or facility expansions necessitated by and attributable to new development).
5. In addition, the applicant must bear the full cost of extending sanitary sewer lines to serve the applicant's property, but subject to possible cost sharing under AMC 8.08. The City may elect to participate in the cost of extension or oversizing an extension.
6. Tap fees and extension fees are reduced to the level required by the terms of a state or federal loan or grant, for a particular tap or extension, if: (i) the underlying costs are paid in whole or in part by that loan or grant; and (ii) the terms of the grant or loan require such reduction.

B. Deposits.

1. \$100 for each single-family residential account.
2. For all other accounts, the deposit is equal to three-months of estimated bills, based upon the estimated three peak months.
3. A deposit is required if there is sewer service. If there is also water service, an additional deposit is required; see below. Water and sewer deposits for each account are combined and may be applied to either water charges, sewer charges or both.

C. Periodic Rates.

1. **Single-Family Residential Premises.** For premises used exclusively for single-family residential purposes (only one dwelling unit per connection

to the City system), and excluding measured-discharge service:

a. Inside City limits:

(1) When City water service is provided to the user during the entire billing period:

Minimum Charge (per billing period)	Volume Charge (per 1,000 gallons of water received at the premises served during the billing period)
\$20.00 per billing period (for one dwelling unit)	First 3,000 gal: (included in minimum charge)
	Next 4,000 gal.: \$2.00
	Next 3,000 gal.: \$3.00
	Next 5,000 gal.: \$3.50
	All remaining gal.: \$4.00

(2) When City water service is not provided to the user during the entire billing period:

(A) For billing periods beginning before January 1, 2016: \$20.00 (flat rate; for one dwelling unit)

(B) For billing periods beginning on or after January 1, 2016: \$37.00 (flat rate, for one dwelling unit).

b. Outside City limits: \$54.00 (flat rate, per dwelling unit)

2. **Other Residential Premises.** For other premises used exclusively for residential purposes (except measured discharge service):

a. Inside City limits.

(1) When City water service is provided to the user during the entire billing period:

Minimum Charge (per billing period)	Volume Charge (per 1,000 gallons of water received at the premises served during the billing period)
\$20.00 per billing period per	First 3,000 gal. per dwelling unit: (included in minimum charge)
	Next 4,000 gal: \$2.00

dwelling unit served.	Next 3,000 gal: \$3.00
	Next 5,000 gal: \$3.50
	All remaining gal.: \$4.00

(2) When City water service is not provided to the user during the entire billing period: \$37.00 per dwelling unit served.

b. Outside City limits: \$54.00 per dwelling unit per month (flat rate)

3. **All Other Premises.** Premises not used exclusively for residential purposes, including commercial, institutional, mixed-use and others (except measured discharge service).

a. Inside City limits:

(1) When City water service is provided to the user during the entire billing period:

Minimum Charge (per billing period)	Volume Charge (per 1,000 gallons of water received at the premises served during the billing period)
\$38.75 per SUE. served	First 3,000 gal per SUE: (included in minimum charge)
	Next 4,000 gal.: \$3.86
	Next 3,000 gal.: \$5.79
	Next 5,000 gal.: \$6.75
	All remaining gal.: \$7.72

(2) When City water service is not provided to the user during the entire billing period: \$48.00 per SUE served.

b. Outside City limits: \$72.00 per SUE served.

4. **Measured-Discharge Service.** The following rates apply to those premises and users for which approved discharge measurements are required (see AMC 8.08). Each such user must pay the basic charge for each billing period plus, if applicable, the extreme-event charge for each extreme event during the billing period.

		Basic charge (per	Extreme-event charge
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Service Area	Classification*	volume-based equivalent unit**)	(per 1,000 gallons discharged during an extreme event***)
Inside City limits	Residential	\$37.00	\$6.56
	Non-residential	\$48.00	
Outside City limits	Residential	\$54.00	\$9.86
	Non-residential	\$72.00	

* Classification. The classification is determined by the predominant use of the premises served, based on square footage of buildings upon the premises.

** Basic Charge. The number of "volume-based equivalent units" is computed by dividing "V" by "DxU," where:

V = the number of gallons discharged into the System during the billing period; and
DxU = the number of days in the billing period multiplied by 315 gallons.

*** Extreme-event Charge. An "extreme event" is an interval of hours between two consecutive volume measurements during which the number of gallons discharged into the System, per hour, exceeds 400% of the average hourly discharge during the entire billing period. The average hourly discharge during the entire billing period is calculated by dividing "V" (same as above) by ("Dx24"), where "Dx24" is the number of days in the billing period (same as above) multiplied by 24 hours. Note: If the interval between two sequential consecutive volume measurements is shorter than 18 hours, the second measurement is disregarded, and the next available measurement is used instead.

D. Eleemosynary Institutions (except measured discharge service).

Eleemosynary institutions which meet all the following criteria are treated the same as a single-family residential customer: (1) the institution is occupied only intermittently and for not more than 10 hours per week, (2) the institution demonstrates clearly that the sewage volume is less than or equal to an ordinary single-family house and includes only domestic wastewater.

E. Additional Charges. To protect the sewer system, the City may repair private

sewer service lines and connect or disconnect branches from those lines, but only if: (i) the City is granted an easement for that (unless there is an emergency-type condition), and (ii) and the Mayor authorizes the necessary work. The cost of each repair shall be charged to the customer(s) using the line that is repaired (except for repairs that are part of a TCEQ-approved SEP or that are paid for by a grantor agency). The charge to each customer shall be set at a rate not exceeding \$50 per month until the cost is fully paid. These are additional charges for sewer service, payable in addition to the periodic rate and other applicable charges.

F. Deferred or Installment Payments. The Mayor may authorize deferred or installment payment agreements for delinquent accounts (both sewer service and garbage or solid waste). The agreements may allow a matching credit for any payment of sums delinquent for 90 days or longer, if current charges are paid when due. The agreements must require a minimum monthly payment on the delinquency, in addition to the current amount. The matching credit shall be one dollar for each dollar paid toward the delinquent sums. However, if the customer does not make the agreed-upon payments when due, and if service is discontinued or disconnected, all credits are forfeited, and the full amount of the delinquent sums must be paid.

G. Disconnection. If service is physically discontinued, there is a reconnection fee equal to the City's costs for discontinuing and reconnection service, but not less than \$350. In addition, all other amounts due for service to the same location must be paid in full, plus other applicable fees, charges and costs, plus a deposit of \$150. These fees and charges do not apply to a new user at the affected location who: (1) was not receiving service, either directly or indirectly, at the location previously, and (2) is not acting on behalf of, or in concert with, a person who was receiving service at the location previously.

H. Impact Fees.

1. Impact fees are imposed against all new development at the following rates:

a. \$3,450 per SUE for sewer central system

b. Notes: The indicated rates are net rates, after deduction and credits for sums to be provided from other sources. Fees apply to each SUE in excess of the first new service unit per parcel existing on June 11, 2013.

2. For purposes of this Schedule, assessment, collection, refunds, credits, expenditures, definitions, etc. for impact fees are governed by the LGC Chapter 395 and this Schedule.

3. A plat or other development plan may, at the applicant's option, designate specific land uses or a limit on the number of SUE's for each parcel. If no

such designation is made, the assessment of impact fees shall be based upon the maximum probable intensity of development, taking into account the size, location, applicable restrictions and other factors likely to affect the ultimate land use.

4. Impact fees shall be accounted for separately for water and sewer central facilities and used only as allowed by the LGC Chapter 395.

8.08.040 Utility Capacity Information Letters

A. **Generally.** A letter issued under this section may provide information regarding available water or sewer capacity to serve:

1. A new connection to the City's water or sanitary sewer systems; or
2. Altering the facilities (or their uses) served by an existing connection or making another change affecting the load on the water or sanitary sewer system (e.g., changing fixtures or space served, changing the use of fixtures or space, etc.)

B. **Criteria.** The following are the criteria for issuance of a letter under this section:

1. The application and issuance procedures, specified below, must be complied with fully, completely and correctly.
2. The capacities described in the letter must be available and uncommitted and must comply with any applicable loading regulations.
3. All applicable fees must be paid.
4. The capacities, the site and the structures must be reasonable, feasible and must otherwise appear to be in compliance with applicable regulations.
5. The letter must be reduced to writing and signed by the City's engineer. In addition, if the letter describes more capacity than necessary to serve a single-family residential unit, there must be a separate motion, resolution or order adopted by the City Council approving the letter.

C. **Site, Transfer.** Each letter is specific to the site and structures for which it is issued, and it may not be transferred or assigned to any other site or structure. A letter may be transferred in whole or in part to a subsequent purchaser or end-user of the site for which it was issued, if: (i) the addresses of the letter and transferee both apply in writing, (ii) the transferee assumes all obligations of the addressees, and (iii) a transfer fee equal to 50% of the original issuance fee is paid.

D. **Expiration.** Utility capacity information in a letter expires unless, during the term

of the letter: (i) construction or alteration of all the structures to be served actually begins, (ii) the end-user (or builder) makes all of the regular arrangements for utility service and the utility account, including payment of tap fees, obtaining permits and approvals, making registrations, making a deposit, opening the account, signing the service agreement, etc., and (iii) all other conditions in the letter and applicable regulations are satisfied. For purposes of this section, construction of a structure does not begin until its foundation is poured or affixed to the ground, and alteration does not begin until all demolition (if any) and structural framing of the structure are completed. Each letter expires 12 months from the date of issuance, unless the applicant requests a shorter period. If the capacity information expires, no refunds of application fees or other fees may be made. Before a letter expires, the addressees may apply for a re-issued letter for the same site and same structures. The application contents are the same as for original letters. If the new application requires less time and expense to review and consider than the previous application, the City Council may authorize a partial refund of the new application fee.

- E. **Compliance, Amendment, Etc.** All letters remain subject to the regulatory authority of the City. Letters are subject to all applicable regulations. Letters do not confer property rights or vested rights of any kind. Letters are subject to suspension or revocation.
- F. **Applications, Processing, Etc.** Any person or entity desiring a letter must apply in writing to the City's engineer. Both the owner of the site and the end-user of the utility service (or a subdivider or builder, if the end-user is not known) must sign the application, as co-applicants. The application must include: (i) a specific description of the site and the structures to be served, including plat information sufficient to disclose if the site has been properly platted; (ii) plans of all structures to be served, if needed by the engineer, (iii) name, address, etc. of each co-applicant; and (iv) the requested length of time before the letter expires and (v) applicable fees. The engineer shall review each application, calculate the required capacities and determine if the application meets the criteria of this section. The engineer may obtain the assistance of the operator and others, as necessary. The engineer may: (i) issue the letter, if it calls for only a minor level of capacity (equivalent to one single-family residential unit or less) or (ii) seek approval of the City Council before issuing the letter. Any letter may include conditions necessary to achieve compliance with Applicable Regulations.

8.08.050 Sewer System Connection Policies

- A. **Capacity.** This section applies to: (i) making a new connection to the City's water or sanitary sewer systems; (ii) altering any facilities (or their uses) served by an existing connection or (iii) making another change affecting the load on the water or sanitary sewer system (e.g., changing fixtures or space served, changing the use of fixtures or space, etc.). There must be a permit issued by the Mayor for each connection, alteration or change. Unless there is a current capacity letter

issued under the preceding section, the City engineer must advise the Mayor that sufficient capacity is available and not designated for another purpose.

- B. **Agreements, Etc.** The applicant for any water or sewer service must sign a utility service agreement in a form prescribed by the Mayor and meeting TCEQ requirements. The applicant must submit all other application documents required by the Mayor and must pay all applicable fees and deposits.
- C. **Other Water Sources.** The owner and each person in control of buildings or facilities receiving City water service must make sure that: (i) the buildings and facilities are physically disconnected from all other sources of water supply, at all times; and (ii) all pressure-relief valves on water heaters and similar appliances at the premises or connected to the facilities are in working condition. The applicant for any water service must certify that these conditions have been met, as a condition of receiving water service.
- D. **Inspections.** Inspections of the new connection (or altered facilities) are required-and they must be found to be in compliance with applicable regulations before physical connection is made or service is allowed to begin. The applicant must arrange for all inspections, including the customer service inspection and inspections of all connections to City facilities. Unless otherwise prescribed by this Code, the fees for such inspections shall be 150% of the City's out of pocket costs of having the inspections made.
- E. **Compliance.** All the affected premises and facilities must strictly comply with any utility information letter and other applicable regulations.
- F. **Penalty.** It shall be unlawful for any person owning or controlling any building or facilities in the City which receive City water service to: (i) cause or allow such building or facilities to be connected to any other source of water supplied under pressure, or (ii) to cause or allow any water from a non-City source to be mixed with any water provided by the City in any pipe, tank or other container under circumstances where non-City water or mixed water could enter or affect any public water line or facility. This section is adopted as an essential public health and sanitation measure, and violations shall be subject to the maximum penalty allowed by state law.

8.08.060 Billing, Payment, Etc.

- A. **Billing.** Whenever practicable, bills for utility service shall be rendered monthly unless otherwise authorized by the City, or unless service is terminated before the end of a billing cycle. Service initiated less than one week before the next billing cycle may be billed with the following month's bill. Bills shall be rendered as promptly as possible.
- B. **Delinquent Bills.** A bill shall be delinquent if not paid by the fifteenth day after the day the bill was mailed. Any such delinquent bills shall be charged a 10%

late payment fee on the unpaid balance as an additional charge for service. If a bill remains delinquent for forty days, a notice shall be mailed to the customer notifying him of the delinquent bill. Once this notice has been mailed, the customer will be required to pay all charges, past due and current, within ten days from the date of the notice. If the bill remains unpaid ten days after the notice has been mailed, payments will be required in cash, cashier's check, or money order, and the City shall pursue means of collection. These may include, but are not limited to, disconnection, lawsuit and the use of a collection agency. Any cost incurred in the collection of a delinquent bill will be charged to the customer as an additional charge for service.

C. Disconnection.

1. Utility service may be disconnected (after proper notice and the opportunity to present evidence to a responsible official or body (designated in this section; see below) for any of the following reasons:
 - a. Failure to pay for water or sewer service or failure to comply with the terms of a deferred payment agreement.
 - b. Violation of the City's rules, regulations or ordinances pertaining to sewer service or facilities, or the operation of nonstandard equipment.
 - c. Failure to comply with deposit or guarantee arrangements..
 - d. Tampering with water or sanitary sewer equipment or bypassing the same.

2. In addition, utility service may be disconnected without notice where a known dangerous condition exists for as long as the condition exists, or where service is connected without authority by a person who has not made application for service or who has reconnected service without authority following termination of service. Unless a dangerous condition exists, or unless the customer requests disconnection, service shall not be disconnected on a day, or on a day immediately preceding a day, when personnel of the utility are not available to the public for the purpose of making collections and reconnecting service.

D. Reconnection. If service is disconnected under paragraph C, certain fees and charges are required for reconnection. See the Fees & Charges Schedule.

E. Hearing Officials. Hearings relating to disconnection or amounts due may be held by: (i) the entire Council, (ii) a committee designated by the Council, (iii) the Mayor or Mayor Pro Tem, or (iv) a hearing officer appointed by the Mayor. Each is hereby designated a responsible official or body with the authority to correct any errors in the amounts due and to make appropriate arrangements for payment, deferred payment and continued service.

- F. **Liens.** In addition to other remedies, the City shall have a lien for municipal utility service provided to property (plus penalties, interest and collection costs), to the full extent allowed by state law; see, e.g., LGC Section 552.0025. Such lien is subject to the exclusions and limitations imposed by state law. Such lien is hereby imposed, and the Mayor is authorized to sign and record notices of liens and take other action as may be required to perfect the lien as to any property.

8.08.070 Measurements Of Volumes

- A. **Generally.** All water received or used at the premises served shall be counted to determine volume charges for water and sewer services, as applicable. However, if the user demonstrates clearly to the Mayor that some part of the water was: (i) obtained from a non-City source in compliance with applicable regulations, (ii) was not co-mingled with water provided by the City, (iii) was used only for irrigation or similar outdoor purposes, and (iv) did not enter the sanitary sewer system, that part shall not be counted. This paragraph does not apply to measured-discharge service (sewer).
- B. **Measured-Discharge Service (sewer).** All discharges into the sewer system shall be counted to determine the volume charges for measured-discharge service.
- C. **Missing or Incomplete Measurements.** If actual measurements are not available for all or part of a billing period, volumes of water or discharges for the whole billing period shall be estimated based upon meter readings, weather conditions. System volumes, typical patterns and other available data.

8.08.080 Sewer Main Extensions

City sewer mains may be extended at the request of an applicant, and the cost may be shared, in accordance with this section.

- A. An applicant may submit a cash deposit to the City to cover the estimated cost of extending a City sewer main, as estimated by the City, including a reasonable contingency. The cost must include provisions for necessary engineering, inspection, construction and miscellaneous costs. If the City chooses to participate in the cost of the extension, the amount of participation is subtracted from the cost the applicant would otherwise pay.
- B. After receiving the deposit, the City Council or Temporary Receiver may authorize the necessary work and may elect to participate in the cost, but the City's participation will not ordinarily exceed \$1,500 per extension. The City Council or Temporary Receiver may also elect to "oversize," extend, improve or enlarge the required project so that it can serve additional properties or provide system benefits. In this case, the increased cost would normally be borne by the City.

- C. Upon completion of the construction, the actual cost (less any City participation) shall be compared to the deposit. The applicant shall pay any shortfall, or receive back any overrun. The applicant's property may be connected to the new line, if all other requirements are met.
- D. Lines constructed under this section are City sewer lines for all purposes, and the City shall have the right to extend, enlarge, replace and remove them, just as it may do so with other City facilities.

8.08.090 Funding Of The Extension Of Sanitary Sewer Lines

- A. It shall be the policy of the City of Arcola to assist in the funding of extensions to the sanitary sewer lines. The cost of funding shall be as set out in this section:
 - 1. The first \$2,000.00 of the cost of a sanitary sewer line extension shall be paid by the customer requesting the extension.
 - 2. Any amount beyond the initial \$2,000.00 paid by the customer requesting the extension up to and including the amount of \$5,000.00 shall be paid by the City.
 - 3. Any amount that exceeds \$5,000.00 shall require the approval of the City Council.
 - 4. The City's total annual expenditure under this policy shall be capped at \$30,000.00 per year, aggregate of all extension projects.

8.08.100 Special Provisions Relating To Sewer Discharges

- A. **Discharge Regulations; Grease.** All discharges and uses must comply with AMC 8.20 and all other applicable regulations. In addition, customers must comply with the "Model Standards for a Grease Ordinance (House Bill 1979 - 78th Legislative Session)" adopted by the Texas Commission on Environmental Quality in 2004 (a copy of which is on file in the office of the City Secretary), and such grease standards are hereby adopted by the City. In case a regulation or standard conflicts with another regulation or standard, the more stringent shall control.
- B. **Measurement of Certain Discharges.** The Mayor is authorized to require users and premises which pump discharges into the System (and any other users and premises with potentially-abnormal or high sewage discharges) to install equipment and facilities to measure directly the discharges into the System, as a condition of receiving (or continuing to receive) sewer service. The equipment and facilities may include meters, recorders, pump run-time counters and similar installations, as may be determined by the Mayor to be practical and reasonably accurate. The Mayor is authorized to prescribe and approve such equipment and

facilities as well as procedures for gathering and recording discharge data from them. Each user required to have such facilities or equipment shall maintain them in good working order and calibrate them at least once during March of each year (and at other times when requested by the Mayor, based on reasonable doubt about accuracy). Each such user must provide written proof of maintenance and calibration to the Mayor upon request. It shall be unlawful for any person to bypass, disable or otherwise impair the accuracy or completeness of any such measurement equipment or facilities. It shall be a condition of receiving (or continuing to receive) sewer service that the City get reasonable access to read, inspect, calibrate, repair and replace measurement facilities and equipment.

- C. **Certain Remedies.** If any user fails or refuses to comply with this chapter (or fails or refuses to make the user's premises, equipment or facilities comply with this chapter), the City may: (i) obtain goods and services reasonably necessary to bring the user into compliance, and the costs incurred by the City shall be added to the user's account as an additional charge for sanitary sewer service, or (ii) suspend or terminate service (after notice and an opportunity for a hearing), or (iii) both. The City shall also have the other remedies provided by law, rule, regulation or ordinance.

D. **Harmful Discharges.**

1. If, on two or more days out of any period of 180 consecutive days, discharges from any premises seriously impair the functioning of the System (or cause a backup, an overflow, a excursion from state or federal permit parameters or pollution of the waters of the state), the City may:
 - a. Suspend or terminate service to those premises, or
 - b. Physically restrict or limit the discharges (e.g., by installing flow control devices or restrictors).
2. An "extreme event," as defined in the Fees & Charges Schedule, is presumed to seriously impair the functioning of the System (this presumption is rebuttable). However, service may not be suspended or terminated unless, after notice and an opportunity for a hearing, the Mayor determines that it is impractical for the City to restrict or limit the discharges (physically, but without trespassing on private property) to prevent the impairment. If service is suspended or terminated, it may be resumed if it is demonstrated clearly to the Mayor that the cause of the harmful discharges has been corrected and that there will be no further discharges that might impair the functioning of the System. The Mayor may authorize restrictions or limitations on discharges as provided in this paragraph D, and the costs of any goods and services incurred by the City for that purpose shall be an additional charge for sanitary sewer service to the premises. The City shall also have the other remedies

provided by law, rule, regulation or ordinance.

8.08.110 Wastewater Discharge Equivalency Table

1 Service Unit = 315 Gallons/day

Type of Development	Service Unit Equivalency
Bakery	0.000700 per Sq. ft.
Barber Shop, General	0.480000 per Bowl
Barber Shop, Supercuts	0.240000 per Bowl
Beauty Shop	0.480000 per Bowl
Bowling Alley	0.635000 per Lane
Car Repair	0.000160 per Sq. ft.
Carwash, Tunnel, Self Serve	6.350000 per Carwash
Carwash, Tunnel, w/attendants	31.430000 per Carwash
Carwash, Hand Type, Self Serve	1.220000 per Car wash Bay
Church	0.003200 per Seat
Club, Tavern, or Lounge	0.031700 per Occupant
Convenience Store	0.000200 per Sq. ft.
Country Club	0.320000 x Members, .08 x Guest
Day Care Center	0.031700 per Occupant
Dormitory	0.286000 per Bed
Fire Station	0.286000 per Capita
Funeral Home	2.140000 per Service
Gas Station with Carwash	9.350000 per Station
Gas Station without Carwash	1.750000 per Station
Grocery Store, 5,000-28,999 sq. ft.	0.000260 per Sq. ft.
Grocery Store, 29,000+ sq. ft.	0.000700 per Sq. ft.
Health Club	0.001210 per Sq. ft.
Homeless Shelter	0.105000 per Bed
Hospital	0.635000 per Bed

Hotel, Motel w/Kitchenettes	0.430000 per Room
Hotel, Motel	0.251000 per Room
Manufacturing	0.000160 per Sq. ft.
Mobile Home Park	0.880000 per Space
Modeling Studio	2.890000 per Studio
Nursing Home	0.286000 per Bed
Office	0.000335 per Sq. ft.
Photo Store, One-hour Processing	3.175000 per Store
Post Office, Excluding Dock	0.000254 per Sq. ft.
Prison	0.290000 per Capita
Racquetball Club	0.510000 per Court
Recreational Vehicle Park	0.238100 per Vehicle
Residence, Apartment w/Washer/Dryer	0.714000 per Unit
Residence, Apartment w/o Washer/Dryer	0.635000 per Unit
Residence, Condominium	0.714000 per Unit
Residence, Duplex	1.000000 per Unit
Residence, Single Family	1.000000 per Unit
Residence, Townhouse	1.000000 per Unit
Restaurant, Fast Food	0.006000 per Sq. ft.
Restaurant, Full Service	0.003000 per Sq. ft.
Retail	0.000223 per Sq. ft.
School, High	0.047600 per Seat
School, Others, Non-Residential	0.031700 per Seat
School, Others, Residential	0.317000 per Capita
Service Center	0.333000 per Employee
Shopping Center; Mixed Tenants (>150,000 Sq. ft.)	0.000900 per Sq. ft.
Skating Rink	0.015900 per Capita
Stadium	0.010000 per Seat
Swimming Pool	0.015900 per Swimmer

Theater, Drive-In	0.015900 per Space
Theater, Indoor	0.015900 Seat
Toilet	0.254000 per Toilet
Transportation Terminal	0.015900 per Passenger
Warehouse	0.000096 per Sq. ft.
Washeteria	0.517500 per Washing Machine

8.12 Electric Utilities

8.12.010 Charges On Electric Utilities

8.12.010 Charges On Electric Utilities

- A. **Charge Imposed.** Pursuant to Texas Utility Code §33.008(a) and §33.008(b), the City imposes on each electric utility and each transmission and distribution utility, that provides distribution service within the City's boundaries, a KWH charge as authorized by Texas Utility Code §33.008. Such charge shall be paid quarterly as prescribed by the Mayor and in accordance with any applicable franchise ordinance. The same per-KWH charge shall also apply, as a minimum charge, with respect to each customer making arrangements with a non-franchisee under the state's "pilot" program for customer-choice electricity, whether before or after January 1, 2002.
- B. **Report.** Upon payment of the per kilowatt hour charge, as authorized by the Texas Utility Code §33.008 each electric utility and each transmission and distribution utility shall also file a report with the City's Mayor evidencing the kilowatt hours delivered within the City during the applicable period, and other reasonable information as requested in writing by the Mayor to verify the accuracy of that report.
- C. **Misrepresentation.** It shall be unlawful for any person to knowingly make a material misrepresentation of any information required to be reported under this section.

8.16 Garbage And Trash

8.16.010 Garbage And Trash In General

8.16.020 City Collection System

8.16.030 Private Haulers

8.16.040 Garbage And Trash Fees And Charges Schedule

8.16.010 Garbage And Trash In General

- A. **Definitions.** Unless the context requires a different meaning, the following terms,

when used in this chapter, have the meanings indicated below:

"Alley" shall mean a paved asphalt or concrete drive of sufficient width to provide easy access for collection equipment.

"Approved bag" shall mean a bag meeting the most recently published specifications for the type of garbage or trash it contains. The Solid Waste Coordinator shall establish the specifications within these standards: (i) the specified bags must be readily available in the area, at a reasonable cost, (ii) the bags must allow efficient collection and handling, (iii) there may be different types of bags for different types of garbage or trash, and (iv) there may be distinctive tags or markings required for bags containing certain types of garbage or trash. The Solid Waste Coordinator is specifically authorized to specify recyclable bags for yard waste or other materials.

"Curbside" shall mean the area between the sidewalk and the roadway portion of a street or alley, or if there is no sidewalk, the area within ten feet of the roadway.

" Dwelling" shall mean a living unit such as a building or any part thereof used exclusively as living quarters for any number of individuals living together as a single housekeeping unit, including apartments, duplexes and multi-apartments.

"Garbage" and "trash" shall be defined by the Solid Waste Coordinator to include those materials eligible for collection under the City's current contract.

"Residential unit" shall mean a dwelling place within the City limits occupied by a person or group of persons consisting of not more than four families. A residential unit shall be deemed occupied when either domestic drinking water or domestic light and power service are being supplied thereto by a public utility. A condominium dwelling, whether or single or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any such residential unit shall be billed separately as a residential unit.

"Solid Waste Coordinator" shall mean the Mayor or other City officer or employee designated as such by the Mayor.

- B. Role of Solid Waste Coordinator.** To the extent provided in this chapter, the Solid Waste Coordinator shall have jurisdiction over garbage and trash accumulated in the City, including collection. The Solid Waste Coordinator shall establish regulations consistent with this Code including the schedules for regular collections, specifications of the types of recycling materials (if applicable), approved bags and other containers and other regulations for preparation and placement. However, no change in such regulations takes effect until published in the City's newsletter or utility bills.

C. Certain Deposits Prohibited.

1. **In General.** It shall be unlawful for any person to: (i) scatter, throw or deposit any garbage, trash, or other rubbish, refuse or litter upon any street area or alley, or (ii) place, sweep, deposit or throw garbage, trash or other rubbish, refuse or litter within the City in such a manner that it may be carried or deposited by the elements upon or into any street area or any other premises different from the premises where it is placed, swept, deposited or thrown.

Exception: This paragraph C does not apply to garbage or trash prepared and placed as required for basic collection by a person at his or her own dwelling, for which fees under this chapter are non-delinquent.

2. **Responsibility of Owner, Etc.** When prohibited material is found in a street area, it shall be the duty of each person who owns or controls adjacent premises to remove it, if the person knows that the material is present. In this paragraph, "prohibited material" means material prohibited to be placed in the street area by paragraph C,1. It is an affirmative defense to prosecutions under this paragraph that the material: (i) did not originate on the adjacent premises and (ii) was placed in the street area without the consent of any person in control of the adjacent premises.
3. **Affirmative Defenses.** The following are affirmative defenses to prosecutions under this section:
 - a. Because of hurricane or other calamity, it was not practicable to remove the material or to store it somewhere else.
 - b. The time and manner of placement of the material was specifically directed by an authorized representative of the City or its collection contractor.
 - c. The material was eligible for City collection under this chapter, it was intended to be collected by the City as a special service, and it was in fact collected by the City and paid for as a special service.

- D. **Vacated Premises to be Cleaned.** It shall be unlawful for any person who owns, occupies or controls premises which are vacated, or from which the occupant moves: (i) to fail or refuse to remove all garbage, trash and other rubbish from such premises or (ii) to fail or refuse to place the premises in a thoroughly sanitary condition within 24 hours after the premises are vacated or moved from.

8.16.020 City Collection System

- A. **Collection System Established; Application.** A City system of collecting

garbage and trash at curbside or in alleys is hereby established. City collection applies to residential units but does not apply to schools, churches, business establishments, commercial, industrial or other premises used for business or non-dwelling purposes.

B. Preparation, Placement, Etc.; Basic and Special Services.

1. **Basic Collections.** The basic fee covers basic collection of garbage and trash prepared and placed as follows:

Type	Preparation	Placement (location)	Placement (time)
Recycling materials (if any) designated by the Solid Waste Coordinator	Recycling materials (if any) designated by the Solid Waste Coordinator Sorted by type, in paper bags or other containers designated by the Solid Waste Coordinator, not to exceed 50 pounds per bag. Curbside Not sooner than 6:00 PM on the day before a regular collection day for this type of material, nor later than the actual time of collection.	Curbside	Curbside adjacent to the dwelling unit of origin
Tree and hedge trimmings and limbs two to four feet long and not more than three	Untied bundles or stacked.	Curbside adjacent to the dwelling unit of origin	Tree and hedge trimmings and limbs two to four feet long and not more than three inches in diameter. Untied bundles or stacked. Curbside adjacent to the dwelling unit of origin Not sooner than the sixth day

inches in diameter.			before a regular collection day for this type of material, nor later than the actual time of collection. (Normally one day per week.)
Leaves, grass clippings, and small tree and hedge trimmings (up to one foot long and up to 0.25 inch in diameter)	In approved bags or containers, not to exceed 50 pounds each. Note: The Solid Waste Coordinator may require recyclable bags.	Curbside adjacent to the dwelling unit of origin	Not sooner than 6:00 PM on the day before a regular collection day for this type of material, nor later than the actual time of collection. (Normally one day per week.)
All other garbage and trash.	In closed and secured approved bags or containers, not to exceed 50 pounds each.	Curbside adjacent to the dwelling unit of origin	All other garbage and trash. In closed and secured approved bags or containers, not to exceed 50 pounds each. Curbside adjacent to the dwelling unit of origin Not sooner than 6:00 PM on the day before a regular collection day for this type of material, nor later than the actual time of collection. (Normally one day per week.)

In addition, the basic fee covers special pick-ups of heavy trash and other items for "community cleanup" as may be designated and announced from time to time by the Solid Waste Coordinator.

2. **Special Services.** The Solid Waste Coordinator may arrange for collection of garbage, trash or other material not covered by the basic fee, but shall charge special services fees as established by the City Council. A person desiring any such special service may notify the Solid Waste Coordinator, and the Solid Waste Coordinator may make reasonable efforts to provide the service within the limits of available resources. If garbage or trash is found at curbside, but not prepared or not placed as

required for basic collection, the Solid Waste Coordinator may collect it and charge a special service fee to the occupant and person in control of the adjacent dwelling. A person desiring that material be collected or hauled by someone other than the City (or City contractor) may not place it in the street area.

3. **Other Materials.** Other materials, including paint, insecticides, chemicals, etc. may be collected under special programs established by the Solid Waste Coordinator from time to time. These may be handled as an adjunct to regular collections or as a special service.

C. Fees.

1. **Established.** A basic fee shall be charged each month for each dwelling to cover basic collections. Additional fees are charged for special services. The basic fees and special services fees shall be established from time to time by the City Council. The occupant of a residential unit and any other person who controls that that place are jointly responsible for the basic fees and any other fees for collection of garbage or trash from curbside adjacent to that dwelling.
2. **Delinquent Accounts.** All delinquent accounts are subject to suspension of garbage and trash collection and other services as may be applicable. Service shall be resumed after suspension only on payment of accumulated fees for the period of collection and the period of non-collection.
3. **Disputes; Waivers.** The Solid Waste Coordinator is authorized to investigate any disputed fee and to make corrections. The Solid Waste Coordinator is authorized to waive a special services fee if: (i) the circumstances causing the fee were not under the control of the person charged or of any occupant or person in control of the dwelling in question, or (ii) other good cause shown. However, no waiver is effective unless described in a written memorandum from the Solid Waste Coordinator to the City's bookkeeper. The memorandum must identify the account name, account address, amount waived and reason.

D. **Accumulation of Garbage and Trash.** Any unauthorized accumulation of rubbish, refuse, garbage or trash on any premises is hereby declared to be a nuisance and is prohibited. A person in control of the premises shall be given adequate warning to dispose of such accumulation, after which the City may cause the removal of the accumulation at the expense of the property owner.

E. **Arrangement for Service Required.** It shall be unlawful for any person to occupy a dwelling or residential unit in the City without having current arrangements with the City for basic collection service to that place, for which fees under this chapter are non-delinquent. It is an affirmative defense to

prosecution under this section that the owner or person in control of the place in question made a contract or other arrangement with another person or entity for the collection and lawful disposal of the garbage and trash from that place at least once per week.

- F. **Programs to Encourage Recycling, Etc.** From time to time, the City Council, by motion or resolution, may approve special programs to encourage recycling, mulching, composting and similar techniques to reduce the waste handled conventionally. A program may be in effect indefinitely or only for a limited time. As part of a program, the City Council may: (i) grant a credit against the City's solid waste fee for a user who participates in the program, which shall be an exception to the generally-applicable fee schedule and (ii) make available devices and equipment to users of the City's waste collection system, at a reduced cost or no cost. In each case, the benefits of the program to the City must be designed to equal or exceed the costs borne by the City, including both expenditures and fee credits.

8.16.030 Private Haulers

- A. **When Permit Required.** It shall be unlawful for any person, other than duly authorized employees and representatives of the City or City contractors, to collect garbage or trash at curbside from any dwelling unit within the City, unless authorized to do so by a current and valid private hauler permit. It is an affirmative defense to prosecution under this section that the owner or person in control of the dwelling unit in question made a contract or other special arrangement for the collection of the garbage or trash in question.
- B. **Application; Public Convenience, Etc.** A person desiring a private hauler permit must apply in writing to the Solid Waste Coordinator and pay the prescribed fee. The Solid Waste Coordinator shall investigate each application and determine if the public convenience and necessity require the issuance of the permit, taking into account the existing services, the proposed service, the needs of the public, the costs of service and other related matters.
- C. **Issuance of Permit; Duration.** If the Solid Waste Coordinator determines that public convenience and necessity require the issuance of a permit and that the applicant complies with applicable regulations (as to equipment, disposal, etc.), the Solid Waste Coordinator shall issue the applicant the appropriate permit. No permit shall be transferable, and each permit shall expire at midnight on the second day of May following the date on which the permit was issued. If permit is denied-or not granted within 30 days following a complete application-the applicant may appeal to the City Council.
- D. **Revocation; Appeal.** Any permit issued under this chapter may be revoked or suspended by written notice from the Solid Waste Coordinator for any violation of this Code, other ordinance of the City, traffic law or state law, by the permittee or

the operator of any vehicle of such permittee. Before issuing such a notice, the Solid Waste Coordinator shall make a reasonable attempt to contact the permittee and provide an opportunity for the permittee to respond to the allegations. Within five days after receiving such a notice, an appeal may be made to the City Council for reinstatement. The City Council shall give the appellant a hearing, and after the hearing, the City Council may reverse, affirm or modify the action taken.

E. Commercial Collections; Containers.

1. **In General.** Commercial collection rules shall apply to any school, church, business establishment, commercial, industrial or other premises not used exclusively for residential purposes in the City (collectively referred to below as "non-residential premises"). The City will not provide commercial collection of garbage or trash. Collection of commercial garbage and trash is the responsibility of the property owner or other person in control of the premises, who must provide adequate collection to prevent the unauthorized accumulation of garbage and trash. This may require a "dumpster" or other container for garbage or trash with a capacity larger than 95 gallons (referred to below as a "large container").

2. Container Regulations.

- a. It shall be unlawful for any person owning or controlling any non-residential premises to maintain or allow the outdoor accumulation of garbage or trash on (or adjacent to) the premises, except within a container that is:
 - (1) Made of metal or other rigid material;
 - (2) Designed, constructed and maintained to completely enclose garbage or trash and prevent the entry of vermin; and
 - (3) Kept completely closed at all times, except when being filled, emptied or cleaned.
- b. It shall be unlawful for any person owning or controlling any non-residential premises to place, use, maintain or allow any large container on those premises, if it does not comply with the additional criteria for large containers set out in paragraph E,3.
- c. It shall be unlawful for any person to own any large container, or to place, lease, rent, control, empty or service it, if the container is:
 - (1) Located on non-residential premises, and
 - (2) Does not comply with the additional criteria for large containers set out in paragraph E,3.

d. It shall be unlawful for any person to empty, clean or service any large container on any day after 7:00 PM or before 7:00 AM, or to knowingly cause or allow it to occur.

3. **Additional Criteria for Large Containers.** Large containers on non-residential premises must: (i) be located at least five feet from any property line or street area, and (ii) have a conspicuous notice reading as follows:

"UNLAWFUL TO EMPTY THIS CONTAINER AFTER 7:00 PM OR BEFORE 7:00 AM IN THE CITY OF ARCOLA. THIS CONTAINER MUST BE KEPT CLOSED EXCEPT WHEN BEING FILLED, EMPTIED OR CLEANED."

The notice must be printed with red letters at least two inches high on a white background, and it must be permanently affixed (or painted) in a location where it is plainly visible to any person filling or emptying the container.

8.16.040 Garbage And Trash Fees And Charges Schedule

City-Provided Garbage and Trash Service.

Deposits	\$20 for each applicant. Neither a deposit nor application is required for current, non-delinquent customers of the sewer system at the time garbage and trash service is started. The deposit is waived for property declared as homestead by applicants who are 65 years of age or older, or who are totally and permanently disabled, unless the applicant has an outstanding, delinquent account balance with the City or another utility which accrued within the last two years.
Periodic Rates	Residential rates per residential unit per month: \$10.00 (Basic Fee)
Special services fees	Actual cost to the City, plus 20% for administration and overhead, as calculated by the Solid Waste Coordinator.
Disconnection	Garbage and trash service, sewer service, or both may be suspended for failure to pay for garbage and trash service until the claim is fully paid. Garbage and trash service may also be suspended for failure to follow applicable regulations. Standard suspension procedures shall apply in each case. If service is suspended, there is a fee for resumption of \$5.00. In addition, all other amounts due for service to the same user at that location must be paid in full, plus a deposit of \$30. These fees and charges do not apply to a new user who: (1) was not receiving service,

	either directly or indirectly, at the location previously, and (2) is not acting on behalf of, or in concert with, a person who was receiving service at the location previously.
Private Hauler	The fee for private haulers applications is \$50.

8.20 Waste Discharge

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8.20.010 Definitions: Waste Discharge

- A. "B.O.D." (Biochemical Oxygen Demand) means the quantity of biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees centigrade;
- B. "Building Sewer" means the extension from the building drain to the public sewer on other place of disposal (also called the house lateral and house connection);
- C. "City" means the City of Arcola, Texas, or any authorized person acting in its behalf;

- D. "C.O.D." (Chemical Oxygen Demand) means measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand;
- E. "Control Manhole" means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer;
- F. "Control Point" means point of access to a course of discharge before the discharge mixes with other discharges in the public sewer;
- G. "Garbage" means animal and vegetable wastes and residue from preparation, cooking and dispensing of food; and from the handling, processing, storage and sale of food products and produce;
- H. "Industrial Waste" means waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater;
- I. "Industrial Waste Charge" means the charge made on those persons who discharge industrial wastes into the city's sewerage system;
- J. "Milligrams Per Liter" (mg/l) means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water;
- K. "Natural Outlet" means any outlet into a watercourse, ditch, like, or other body of surface water or groundwater;
- L. "Normal Domestic Wastewater" means wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 225 mg/l and BOD is not more than 225 mg/l;
- M. "Overload" means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity;
- N. "Person" means any individual and includes any corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership association, or other legal entity;
- O. "pH" means the logarithm (Base 10) of the reciprocal of the hydrogen ion concentration;
- P. "Public Sewer" means pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the City of Arcola, Texas;

- Q. "Sanitary Sewer" means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which storm water, surface water, groundwater, and other unpolluted wastes are not intentionally passed;
- R. "Slug" means any discharge of water, wastewater or industrial waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four hour concentration or flows during normal operation;
- S. "Standard Method" means the examination and analytical procedures set forth in the latest edition, at the time of analysis, or "Standard Methods for the Examination of Water and Wastewater" as prepared, approved, and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation;
- T. "Storm Sewer" means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed;
- U. "Storm Water" means rainfall or any other forms of precipitation;
- V. "Suspended Solids" (SS) means solids measured in mg/l that either float on the surface of, or are in suspension in, water, wastewater, or other liquids, and which are largely, removable by a laboratory filtration device;
- W. "To Discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions;
- X. "Trap" means a device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances;
- Y. "Unpolluted Wastewater" means water containing:
1. no free or emulsified grease or oil;
 2. no acids or alkalis;
 3. no phenols or other substances producing taste or odor in receiving water;
 4. no toxic or poisonous substance in suspension, colloidal state, or solution;
 5. no noxious or otherwise obnoxious or odorous gases;
 6. not more than an insignificant amount in mg/l each of suspended solids and BOD, as determined by the Texas Water Commission; and
 7. color not exceeding fifty (50) units as measured by the Platinum-Cobalt method of determination as specified in Standard Methods;

- Z. "Waste" means rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural or industrial activities;
- AA. "Wastewater" means a combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments, together with any ground, surface, and storm water that may be present;
- AB. "Wastewater Facilities" includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes;
- AC. "Wastewater Treatment Plant" means any City-owned facilities, devices, and structures used for receiving, processing and treating wastewater, industrial wastes, and sludges from the sanitary sewers;
- AD. "Wastewater Service Charge" means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater; and
- AE. "Watercourse" means a natural or man-made channel in which a flow of water occurs, either continuously or intermittently.

8.20.020 Prohibited Discharges

- A. No person may discharge to public sewers any waste which by itself or by interaction with other wastes may:
 - 1. injure or interfere with wastewater treatment processes or facilities;
 - 2. constitute a hazard to humans or animals; or
 - 3. create a hazard in receiving waters of the wastewater treatment plant effluent.
- B. All discharges shall conform to requirements of this ordinance.

8.20.030 Chemical Discharges

- A. No discharge to public sewers may contain:
 - 1. cyanide greater than 1.0 mg/ 1;
 - 2. fluoride other than that contained in the public water supply;
 - 3. chlorides in concentrations greater than 250 mg/1;
 - 4. gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; or
 - 5. substances causing an excessive Chemical Oxygen Demand (C.O.D.).
- B. No waste or wastewater discharged to public waters or public sewers may

contain;

1. strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not;
 2. fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (0 and 65 degrees Centigrade).
 3. objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater treatment works exceeds the limits established by the Approving Authority for such materials; or
 4. obnoxious, toxic or poisonous solids, liquids, or gases in quantities sufficient to violate the provisions of AMC 8.20.020(A).
- C. No waste, wastewater, or other substance may be discharged into public sewers which has a pH lower than 5.5 or higher than 9.5, or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel at the wastewater facilities.
- D. All waste, wastewater, or other substance containing phenols, hydrogen sulfide, or other taste-and-odor producing substances shall conform to concentration limits established by the Approving Authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters.

8.20.040 Hazardous Metals And Toxic Materials

- A. No discharges may contain concentrations of hazardous metals other than amounts specified in paragraph (B).
- B. The allowable concentrations of hazardous metals, in terms of milligrams per liter (mg/l), for discharge to inland waters, and determined on the basis of individual samplings in accordance with "Standard Methods" are:

Metal	NOT TO EXCEED		
	Average	Daily Composite	Grab Sample
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0

Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

NOTE: These concentration parameters and rules governing same are promulgated under authority of Sections 5.131 and 5.132, Texas Water Code - HAZARDOUS METALS and in accordance with Texas Water Commission Rule 329.41-49.

- C. No other hazardous metals or toxic materials may be discharged into public sewers without a permit from the City specifying conditions of pretreatment, concentrations, volumes, and other applicable provisions.
- D. Prohibited hazardous materials include but are not limited to:
 1. Antimony
 2. Beryllium
 3. Bismuth
 4. Cobalt
 5. Molybdenum
 6. Uranyl ion
 7. Rhenium
 8. Strontium
 9. Tellurium
 10. Herbicides
 11. Fungicides
 12. Pesticides.

8.20.050 Particulate Size

- A. No person may discharge garbage or other solids into public sewers unless it is

shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half (1/2) inch in any dimensions are prohibited.

- B. The City is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater.

8.20.060 Storm Water And Other Unpolluted Drainage

- A. No person may discharge to public sanitary sewers:

1. unpolluted storm water, surface water, groundwater, roof runoff or subsurface drainage;
2. unpolluted cooling water;
3. unpolluted industrial process waters;
4. other unpolluted drainage;

- B. In compliance with the Texas Water Quality Act and other statutes, the Approving Authority may designate storm sewers and other watercourses into which unpolluted drainage described in paragraph (A) may be discharged.

8.20.070 Temperature

No person may discharge liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (65 degrees Centigrade), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten (10) degrees Fahrenheit or more per hour, or a combined total increase of plant influent to one hundred ten (110) degrees Fahrenheit.

8.20.080 Radioactive Wastes

- A. No person may discharge radioactive wastes or isotopes into public sewers without the permission of the City.
- B. The city may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

8.20.090 Impairment Of Facilities

- A. No person may discharge into public sewers any substance capable of causing:
 1. obstruction to the flow in sewers;
 2. interference with the operation of treatment processes of facilities; or

3. excessive loading of treatment facilities.

B. Discharges prohibited by paragraph (A) include, but are not limited to, materials which exert or cause concentrations of:

1. inert suspended solids greater than 250 mg/1 including, but not limited to:

- a. Fuller's earth
- b. lime slurries; and
- c. lime residues;

2. dissolved solids greater than 1,500 mg/1 including, but not limited to:

- a. sodium chloride; and/or) not to exceed 500 ppm + fresh water supply
- b. sodium sulfate;) (not on stream)

3. excessive discoloration including, but not limited to:

- a. dye wastes; and
- b. vegetable tanning solutions; or

4. BOD, COD, or chlorine demand in excess of normal plant capacity.

C. No person may discharge into public sewers any substance that may:

- 1. deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
- 2. overload skimming and grease handling equipment;
- 3. pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or
- 4. deleteriously affect the treatment process due to excessive quantities.

D. No person may discharge any substance into public sewers which:

- 1. is not amenable to treatment or reduction by the processes and facilities employed; or
- 2. is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

E. The City shall regulate the flow and concentration of slugs when they may:

1. impair the treatment process;
2. cause damage to collection facilities;
3. incur treatment costs exceeding those for normal wastewater; or
4. render the effluent unfit for stream disposal or industrial use.

F. No person may discharge into public sewers solid or viscous substances which may violate paragraph (A) if present in sufficient quantity or size including, but not limited to:

1. ashes
2. cinders
3. sand
4. mud
5. straw
6. shavings
7. metal
8. glass
9. rags
10. feathers
11. tar
12. plastics
13. wood
14. unground garbage
15. whole blood
16. paunch manure
17. hair and fleshings
18. entrails
19. paper products, either whole or ground by garbage grinders
20. slops
21. chemical residues
22. paint residues; or
23. bulk solids.

8.20.100 Compliance With Existing Authority

- A. Unless exception is granted by the City of Arcola, the public sanitary sewer system shall be used by all persons discharging:
 - 1. wastewater
 - 2. industrial wastes
 - 3. polluted liquids.

- B. Unless authorized by the Texas Natural Resource Conservation Commission, no person may deposit or discharge any waste included in paragraph (A) on public or private property or into or adjacent to any:
 - 1. natural outlet
 - 2. watercourse
 - 3. storm sewer
 - 4. other area within the jurisdiction of the city.

- C. The City shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment orders of federal, state and local governments.

8.20.110 City Of Arcola Requirements

- A. If discharges or proposed discharges to public sewers may:
 - 1. deleteriously affect wastewater facilities, processes, equipment, or receiving waters;
 - 2. create a hazard to life or health; or
 - 3. create a public nuisance;the City shall require:
 - 1. pretreatment to an acceptable condition for discharge to the public sewers;
 - 2. control over the quantities and rates of discharge; and
 - 3. payment to cover the cost of handling and treating the wastes.

- B. The City is entitled to determine whether a discharge or proposed discharge is included under paragraph (A).

- C. The City shall reject wastes when it determines that a discharge or proposed discharge does not meet the requirements of paragraph (A).

8.20.120 Proposed Discharge

- A. If pretreatment or control is required, the City shall review and approve design and installation of equipment and processes.
- B. The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.
- C. Any person responsible for discharges requiring pretreatment, flow equalizing, or other facilities shall provide and maintain the facilities in effective operating condition at his own expense.

8.20.130 Requirements For Traps

- A. Discharges requiring a trap include:
 - 1. grease or waste containing grease in amounts that will impede or stop the flow in the public sewers;
 - 2. oil;
 - 3. sand;
 - 4. flammable wastes; and
 - 5. other harmful ingredients.
- B. Any person responsible for discharges requiring a trap shall at his own expense and as required by the City:
 - 1. provide equipment and facilities of a type and capacity approved by the Approving Authority;
 - 2. locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and
 - 3. maintain the trap in effective operating condition.

8.20.140 Requirements For Building Sewers

- A. Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense and as required by the Approving Authority:
 - 1. install an accessible control manhole;
 - 2. install meters and other appurtenances to facilitate observation sampling and measurement of the waste; and

3. install safety equipment and facilities (ventilation, steps ...) where needed;
 4. maintain the equipment and facilities.
- B. Any person responsible for discharges through a building sewer shall at his own expense and as required by the City design and install the building sewer and the connection to the public sewer. (Exception: Initial connection by City.)
- C. All sewers shall be designed and installed in accordance with state and local criteria and requirements.
- D. All sewers shall be inspected by the City prior to backfill of the trench. No sewer service shall be covered until it has been so inspected and approved.

8.20.150 Sampling And Testing

- A. Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb, and property.
- (**NOTE:** The particular analysis involved will determine whether a twenty-four (24) hour composite sample from all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls. Where applicable, 16-hour, 8-hour or some other period may be required. Periodic grab samples are used to determine pH and oil and grease.)
- B. Examination and analyses of the characteristics of waters and wastes required by the ordinance shall be:
1. conducted in accordance with the latest edition of "Standard Methods" ;
and
 2. determined from suitable samples taken at the control manhole provided or other control point authorized by the Approving Authority.
- C. BOD and suspended solids shall be determined from composite sampling, except to detect unauthorized discharges.
- D. The City shall determine which users or classes of users may contribute wastewater which is of greater strength than normal domestic wastewater. All users or classes of users so identified shall be sampled for flow BOD, TSS and pH at least annually.
- E. City may select an independent firm or laboratory to determine flow, BOD, and suspended solids, if necessary. Flow may alternately be determined by water meter measurements if no other flow device is available and no other source of

raw water is used.

8.20.160 User Charge System

- A. Persons making discharges of industrial waste into the City of Arcola system shall pay a charge to cover all costs of collection and treatment.
- B. When discharges of any waste into the City of Arcola system are approved by the City or its authorized representative, the discharger and the City shall enter into an agreement or arrangement providing:
 - 1. terms of acceptance by the City;
 - 2. payment by the person making the discharge, in accordance with the User Charge System as established in paragraph (E);
 - 3. new sewer construction and sewer connection procedures and requirements shall be in accordance with the "Uniform Plumbing Code" as promulgated by the International Association of Plumbing and Mechanical Officials;
 - 4. a sewer application approved with connection fee paid; and
 - 5. construction of sewer connections shall be approved by the City inspectors prior to sewer use.
- C. Each user of the wastewater treatment system will be notified, at least annually, in conjunction with a regular sewer bill, of the rate and that portion of user charges or ad valorem taxes which are attributable to the Operation and Maintenance of the wastewater treatment system.
- D. The City will apply excess revenues collected from a class of users to the cost of operation and maintenance attributable to that class for the next year and adjust the rates accordingly.
- E. Sewer Ordinance No. 93-810-4 establishes the minimum use charges for sewer service from the City; however, any costs incurred by the City for treating other than normal, domestic sewage shall be billed to the discharger in addition to those charges.

8.20.170 Conditions Or Permits

- A. The City may grant a permit to discharge to persons provided that the person:
 - 1. submits an application on forms supplied by the City;
 - 2. secures approval by the City of plans and specifications for the facilities when required; and

3. complies with all requirements for agreements or arrangements including, but not limited to, provisions for:
 - a. payment of charges;
 - b. installation and operation of the facilities and of pretreatment facilities, if required, and
 - c. sampling and analysis to determine quantity and strength when directed by the City; and
4. provides a sampling point, when requested by the City, subject to the provisions of this ordinance.

B. A person applying for a new discharge shall:

1. meet all conditions of paragraph (A); and
2. secure a permit prior to discharging any waste.

8.20.180 Power To Enter Property

- A. The City, and its designated representatives, bearing proper credentials and identification, are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this ordinance.
- B. Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.
- C. Except when caused by negligence or failure of person(s) to maintain safe conditions, the City shall indemnify the person(s) against loss or damage to their property by City employees and against liability claims and demands for personal injury or property damage asserted against the person(s) and growing out of the sampling operation.
- D. Authorized representatives of the City bearing proper credentials and identification are entitled to enter all private properties through which the City holds a negotiated easement for the purposes of:
 1. inspection, observation, measurement, sampling or repair;
 2. maintenance of any portion of the sewerage system lying within the easements; and
 3. conducting any other authorized activity. All activities shall be conducted

in full accordance with the terms of the negotiated easement pertaining to the private property involved.

- E. No person acting under authority of this provision may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers.

8.20.190 Authority To Disconnect Service

- A. The City may terminate water or wastewater disposal service and disconnect a customer from the system when:

- 1. acids or chemicals which may damage the sewer lines or treatment process are released to the sewer potentially causing accelerated deterioration of these structures or interfering with proper conveyance and treatment of wastewater;
- 2. a governmental agency informs the City that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer is delivering wastewater to the City's system that cannot be sufficiently treated or requires treatment that is not provided by the City as normal domestic treatment; or
- 3. the customer:
 - a. discharges waste or wastewater that is in violation of the permit issued by the Approving Authority;
 - b. discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;
 - c. fails to pay monthly bills for water and sanitary sewer services when due; or
 - d. repeats a discharge of prohibited wastes to public sewers in violation of AMC 8.20.020 through 8.20.090 as stated above.

- B. If service is discontinued pursuant to paragraph (A)(2), the City shall

- 1. disconnect the customer;
- 2. supply the customer with the governmental agency's report and provide the customer with all pertinent information; and
- 3. continue disconnection until such time as the customer provides pretreatment/additional pretreatment or other facilities designed to remove

the objectionable characteristics from his wastes.

8.20.200 Notice

The City shall serve persons discharging in violation of this ordinance with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory compliance.

8.20.210 Continuing Prohibited Discharges

No person may continue discharging in violation of this ordinance beyond the time limit provided in the notice.

8.20.220 Penalty

- A. A person who continues prohibited discharges is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 for each act of violation and for each day of violation.

It shall be unlawful for any person to: (1) knowingly or intentionally suffer, permit, cause or allow any substance to enter a public sewer, if the substance does not comply with this ordinance or would cause a violation of this ordinance, or (2) knowingly or intentionally violate any provision of this ordinance. A violation of this paragraph is a misdemeanor punishable by a fine not to exceed \$500. Each separate act of violation is a separate offense. Each day a violation continues is a separate offense.

- B. In addition to proceeding under authority of paragraph (A), the City is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person continuing prohibited discharges.

8.20.230 Failure To Pay

In addition to sanctions provided for by this ordinance, the City is entitled to exercise sanctions provided for by the other ordinances of the City for failure to pay the bill for water and sanitary sewer service when due.

8.20.240 Penalty For Criminal Mischief

The City may pursue all criminal and civil remedies to which it is entitled under authority of statutes and ordinances against a person negligently, willfully or maliciously causing loss by tampering with or destroying public sewers or treatment facilities.

10 Public Health And Safety

10.04 Certain Nuisances

10.08 Excavation Nuisances

10.12 Noise

10.16 Sewage And Sanitation

10.20 Fires And Explosives

10.04 Certain Nuisances

10.04.010 Definitions: Certain Nuisances

10.04.020 Presumption Of "Discarded"

10.04.030 Prohibited Conditions

10.04.040 Abatement By The City

10.04.050 Procedure For Affixing Liens

10.04.060 Remedies Not Exclusive

10.04.070 Smoking In Or Near City Hall

10.04.010 Definitions: Certain Nuisances

In this chapter:

"Act" means Chapter 342 of the Texas Health & Safety Code, as amended.

"Developed area" means an area within the City divided into lots, blocks, reserves, streets, etc. by map or plat duly recorded in the Fort Bend County Real Property Records.

"Open sewage facility" means, on any real property within the City, a sewer line, channel, cesspool, septic tank or other sewage facility that is: (i) cracked, (ii) crushed, (iii) broken, (iv) uncovered or (v) otherwise not securely enclosed so that sewage cannot escape and rainwater cannot enter. If smoke testing of a public sanitary sewer line reveals smoke escaping from any real property (except through a properly-installed vent), there shall be a presumption that there is an open sewage facility on that property.

"Rubbish" means trash, garbage and debris of all kinds. Without limiting the generality of this definition, the following are specifically included in this definition: (i) worn or discarded tires (or parts of tires) or parts of motor vehicles; (ii) discarded trailers or other discarded vehicles, except abandoned motor vehicles regulated by AMC Title 14; (iii) discarded furniture, discarded appliances, discarded fixtures, discarded carpets or rugs, (iv) discarded bedding, or other discarded furnishings; (v) other discarded personal property; and (vi) rubble or debris from any construction, remodeling, demolition or moving activity, except while a permit authorizing such work is in effect (for the place in question) and for a period of ten days thereafter.

"Weeds" means grasses and other ground-growing plants that have grown to a height of ten inches or more above the ground.

10.04.020 Presumption Of "Discarded"

For purposes this chapter, an item of personal property is presumed to be discarded in either of the following two circumstances:

- A. The item (or an accumulation of similar items) is allowed to remain in one place outside and exposed to the elements (and not actively employed), for three consecutive days or more.
- B. The item (or an accumulation of similar items) is spoiled, corroded, rotted, broken, or inoperable and allowed to remain in one place outside for three consecutive days or more.

10.04.030 Prohibited Conditions

- A. **Filth, Rubbish, Etc.** It shall be unlawful for any person owning, claiming, occupying, supervising or controlling any real property within the City to cause, allow or permit any of the following upon such property:
 - 1. Filth, carrion or other impure or unwholesome matter of any kind; or
 - 2. Rubbish or any other objectionable, unsightly or unsanitary matter of whatsoever nature; or
 - 3. Weeds; or
 - 4. Any open sewage facility.
- B. **Declared Nuisances.** The conditions prohibited by this section are hereby found and declared to be public nuisances.
- C. **Tires (affirmative defense).** It is an affirmative defense in any proceeding to enforce this chapter regarding worn or discarded tires that either:
 - 1. The tires were inside a building (or container) constructed, maintained; and operated so that: (i) neither rain nor rats could reach the tires inside, and (ii) no more than 500 tires were inside the building (or container); or
 - 2. The tires were filled with air (or solid material) and mounted on an operable vehicle or a junked vehicle subject to regulation and abatement under AMC Title 14.
- D. **Weeds (affirmative defense).** It is an affirmative defense in any proceeding to enforce this chapter regarding weeds that the weeds in question were not located in any developed area or within 100 feet of a developed area.

10.04.040 Abatement By The City

- A. **Generally.** If the owner of property in the City does not comply with this chapter within seven days of notice of a violation, the City may:
1. Do the work or make the improvements required (to abate the nuisance); and
 2. Pay for the work done or improvements made and charge the expenses to the owner of the property in accordance with the Act.
- B. **Notice.** Notice must be given in accordance with the Act, e.g., Section 342.006 thereof.
- C. **Mayor's Authority.** Subject to the variance and appeal procedures prescribed by this AMC 2.16.010, the Mayor is authorized to: (i) cause notices of violation to be given and determine, on behalf of the City, if an owner of property does not comply with this chapter within the time allowed; (ii) determine what work or improvements are required (to abate the nuisance); and (iii) make contracts and take other action necessary to do such work or make such improvements, provided the City Council has budgeted or appropriated sufficient funds for that purpose.

10.04.050 Procedure For Affixing Liens

The City Council may assess expenses incurred under AMC 10.04.040 against the real estate on which the work is done or improvements made, in accordance with the Act. The assessment shall be based upon a statement of expenses presented by the Mayor. To obtain a lien against the property, the mayor, municipal health authority, or municipal official designated by the mayor must file the statement of expenses, as approved and assessed by the City Council, with the County Clerk of the Fort Bend County, as provided in the Act.

10.04.060 Remedies Not Exclusive

The remedies prescribed by this chapter are separate, and the City may avail itself of one or more without precluding any of the others. Under no circumstances will a prosecution for a violation affect the right of the City to pursue summary abatement or liens, or both.

10.04.070 Smoking In Or Near City Hall

It shall be unlawful for any person to smoke tobacco or to possess any burning tobacco product within the City Hall building of the City or within 25 feet of any entrance to that building.

10.08 Excavation Nuisances

- [10.08.010 Definitions: Excavation Nuisances](#)
- [10.08.020 Nuisance; Remedies](#)
- [10.08.030 Abatement](#)
- [10.08.040 Remedies Not Exclusive](#)

07-13-10

10.08.010 Definitions: Excavation Nuisances

In this chapter:

"Deficient roadway" means a roadway that is not part of the state or federal highway system, and:

- A. If is surfaced with asphalt, it has one or more of the following deficiencies: (i) paved width narrower than 22 feet, not counting shoulders, (ii) stabilized sub-grade thinner than eight inches or narrower than 26 feet, (iii) base material thinner than eight inches or narrower than 24 feet, (iv) surface pavement thinner than 2.5 inches; (v) another defect or deficiency which makes it non-compliant with current County minimum standards for public roadway construction; see, e.g., Drawing No. FBC-077; or
- B. If it is surfaced with concrete, it has one or more of the following deficiencies: (i) surface pavement width narrower than 22 feet, not counting shoulders, (ii) pavement thickness less than six inches, (iii) reinforcement less than #4 steel bars (each way), spaced no farther than 24-inches apart, (iv) tensile strength less than 40,000 PSI, or (v) another defect or deficiency which makes it non-compliant with current County minimum standards for public roadway construction.

"Earthen bulk materials" includes soil, earth, clay, sand, gravel, rock, loam, caliche, dirt, humus and similar materials.

"Large excavation" means a hole created by the removal or relocation of earth bulk materials from the ground, with an area larger than 5.000 square feet and a depth greater than four feet at any point.

10.08.020 Nuisance; Remedies

- A. **What Constitutes Nuisance.** A large excavation within the City limits is defined and declared a nuisance if:
 - 1. It is created, deepened or enlarged in connection with: (i) producing or selling earthen bulk materials or (ii) processing or disposing of garbage, foliage, biomass, trash, debris, earthen bulk materials, rubbish or discarded materials; and
 - 2. One or more of the following aggravating conditions is present: (i)

vehicular traffic to or from the excavation uses, or must use, a deficient roadway; (ii) all or part of the excavation is located within 1,000 feet of a pre-existing water well used to supply water for human consumption; (iii) all or part of the excavation is located within 500 feet of a pre-existing house or other dwelling; (iv) the excavation area is not enclosed by an opaque fence or wall at least six feet high; (v) the excavation holds any standing water after the expiration of 24 hours following the end of any rainfall event, or (v) the excavation does not comply with applicable requirements of state law, see, e.g., Chapter 133, TEX. NAT. RES. CODE.

B. Declared Unlawful. It shall be unlawful for any person to: (i) create, deepen or enlarge an excavation that is a nuisance, as defined in this chapter, or (ii) own or control any real property where such an excavation is created, deepened or enlarged.

C. Affirmative Defenses.

1. It is an affirmative defense in any proceeding to enforce this chapter that:
 - a. The excavation in question is made for the principal purpose of constructing a building, lake or drainage facility (including conveyance, detention or retention); such facility is or will be completed and placed in service within one year following the day that excavation begins; and all reasonable steps to mitigate the impact of the work upon nearby properties and roadways are taken; or
 - b. The excavation in question is enclosed within a building, with full roof and walls;
 - c. The excavation is made to install utilities or other underground facilities and is promptly backfilled; or
 - d. The excavation in question was in existence on the effective date of this chapter and not thereafter deepened or enlarged.
2. It is an affirmative defense in any criminal prosecution under this chapter that the same conduct is a criminal offense under state law.

10.08.030 Abatement

A. When Authorized. When there is a nuisance as defined and declared by this chapter, the Mayor is authorized to abate such nuisance if all the following circumstances are present:

1. A reasonable effort has been made to contact an owner or person in control of the property to request voluntarily abatement of the nuisance, to

give notice that the City is considering abatement and to provide an opportunity to respond, if desired.

2. The nuisance has not been abated within a reasonable time, not less than 45 days following the notice, and there is no appeal pending.
3. The City Council has approved the work necessary for abatement, and there are sufficient funds budgeted for such purpose.

B. Expenses, Lien. Any expenses incurred by the City in connection with such abatement shall be a personal obligation of each person owning or controlling any part of the property where the excavation is located. Such obligation shall be joint and several. Until the expenses are paid, they shall constitute a lien upon such property. The Mayor is authorized to: (i) send statements of such expenses to owners and persons in control of the property, and (ii) file such statements, together with a copy or summary of this chapter, with the county clerk.

10.08.040 Remedies Not Exclusive

The remedies prescribed by this chapter are separate, and the City may avail itself of one or more without precluding any of the others. Under no circumstances will a prosecution for a violation affect the right of the City to pursue abatement or liens, or both.

10.12 Noise

[10.12.010 Unreasonable Noise Prohibited](#)

[10.12.020 Enumeration Of Specific Noises](#)

[10.12.030 Affirmative Defense](#)

[10.12.040 Injunction As Additional Remedy](#)

[10.12.050 Loudspeakers And Other Sound Amplifying Equipment](#)

10.12.010 Unreasonable Noise Prohibited

Causing unreasonable loud, disturbing and unnecessary noise in the City is hereby prohibited and shall constitute an offense. Noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of any ordinary reasonable person are hereby prohibited. This chapter applies to noise heard within the City, regardless of the point of origin.

10.12.020 Enumeration Of Specific Noises

The following noises, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter (this enumeration is neither exhaustive nor exclusive of other noises, and other provisions of this chapter may also apply to any

given noise or source of noise):

- A. The noise of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control; the same noise made while in motion, except as a danger signal after, or as, brakes are being applied and deceleration of the vehicle is intended; any unreasonably loud or harsh sound created by means of any such signal device; and the sound of such device made for any unnecessary and unreasonable period of time.
- B. The sound of any radio, phonograph, disc player, tape player or any musical instrument made in such manner, or with such volume, particularly during the hours from 11:00 PM to 7:00 AM, as to create a noise reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling, or other type of residence in the vicinity. The sound of any stationary loudspeaker or amplifier on any week day between the hours of 11:00 PM and 7:00 AM or on any Sunday between the hours of 7:00 AM and 1:00 PM (and it shall additionally be unlawful to operate any such stationary loudspeaker or amplifier outdoors during such hours).
- C. The sound of any automobile, motorcycle or other vehicle so out of repair, so loaded or operated in such manner that it creates loud or unnecessary noises such as spinning or squealing tires, grating, grinding, rattling or other noise.
- D. The sound of a steam whistle attached to any stationary boiler, unless made to give notice of the time to begin or stop work or as a warning of danger.
- E. The sound of a discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- F. The sound of any mechanical device operated by compressed air, except pneumatic drills, unless the noise thereby created is effectively muffled and reduced.
- G. Loud and excessive noise resulting from the erection (including excavation), demolition, alteration or repair of any structure, except from 7:00 AM to 9:00 PM Monday, Tuesday, Wednesday, Thursday, Friday or Saturday and from 12:00 noon to 6:00 PM on Sunday, unless the noise is made in case of urgent necessity in the interest of public safety, and then only with a permit from the City Secretary, which permit may only be renewed for a period of three days or fewer while the emergency continues.
- H. Any excessive noise made on any street adjacent to any school, institution of learning or court while the same is in session, or adjacent to any hospital at any time, which noise unreasonably interferes with the working of any such institution, provided conspicuous signs are displayed in such street indicating

that the same is a school, hospital or court street.

- I. Any loud and excessive noise resulting from the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates or containers.
- J. The sound of any bell or gong attached to any building or premises which is reasonably calculated to disturb a person of ordinary disposition if such person were in the vicinity thereof.
- K. The shouting and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.
- L. The sound of any drum, loudspeaker or other instrument or device used to attract attention to any performance, show or sale of merchandise.
- M. The sound made by loudspeakers or amplifiers on trucks or other vehicles.

10.12.030 Affirmative Defense

It shall be an affirmative defense in any prosecution under AMC 10.12.010 or AMC 10.12.020 that a request to cease causing the noise in question was given neither to the person charged nor to any officer, agent, employee or representative of the person charged. All peace officers and other City employees and officers are hereby authorized to request that persons cease causing noises that are apparently in violation of this chapter. Nothing herein limits the right of others to make such requests.

10.12.040 Injunction As Additional Remedy

As an additional remedy, the noise made by any activity, device, instrument, vehicle or machinery in violation of this chapter and which causes discomfort or annoyance to reasonable persons of normal sensitivity, or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed, and is declared to be, a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

10.12.050 Loudspeakers And Other Sound Amplifying Equipment

A. Generally.

1. Operating any mechanical or electronic loudspeaker or other sound amplification equipment within the City is hereby prohibited and shall constitute an offense, if such conduct:
 - a. Occurs between 8:00 PM of one day and 8:00 AM of the following day and generates sound audible from within any building used as a dwelling;
 - b. Causes loud and raucous noises to be emitted which interfere with the enjoyment of life or property or with the public peace and

comfort;

- c. Causes traffic congestion or the congregation of persons that obstructs any public sidewalk, street, alley or highway;
- d. Generates sound audible from within any building used as a hospital, nursing home or licensed adult personal care facility or any school or children's day care that is in session;
- e. Occurs on or within a motor vehicle and generates sound audible from a point 50 feet or more from the vehicle; or
- f. Occurs on or within a motor vehicle and generates sound that causes vibrations in any object or person which are noticed by a person outside of the vehicle.

2. Causing any such equipment to be so operated—or allowing it to be so operated at premises (or from a vehicle) controlled by the person charged—is also prohibited and shall also constitute an offense. A culpable mental state is not required for the commission of an offense under this section.

B. Certain Defenses. If conduct that would otherwise violate this section consists of speech or other communication, of gathering with others to hear or observe such speech or communication, or of gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political or religious questions, it shall be an affirmative defense that the person charged was not first requested to cease or remedy the violation. All peace officers and other City employees and officers are hereby authorized to make such requests. Nothing herein limits the right of others to make such requests. It shall also be an affirmative defense that, if such a request is made, the violation is promptly ceased or remedied.

C. Additional Defenses. It shall also be an affirmative defense to a violation of this section that the sound generated by the equipment was: (i) not audible beyond the property line of the premises on which the equipment was operated; (ii) made by a law enforcement officer, a member of a fire department or other emergency worker in the performance of official duties; (iii) made for the purpose of alerting persons to the existence of an emergency or danger; (iv) made in the performance of emergency work necessary to restore public utilities, to restore property to a safe condition, or to protect persons or property from imminent danger following a fire, accident or natural disaster; or (v) authorized by a permit issued under this section.

D. Permits. Any person desiring a permit may apply to the Mayor (c/o the City Secretary) on a form prepared for such purpose. Such application shall show the date, place, time, and location where the equipment is to be operated, together

with the name of the applicant and type of equipment to be operated, and it shall be accompanied by a non-refundable application fee of \$25.00. The Mayor shall either grant or deny the permit on or before the tenth day following the date the application is received. The standards for granting a permit shall be as follows: (i) the equipment will be used for a lawful purpose, (ii) the sound will be no louder than reasonably necessary to achieve the purpose, (iii) the sound will be mitigated as much as practicable to prevent disturbance of any person in a dwelling place, (iv) the equipment will not be operated between 12:00 midnight and 8:00 the next morning; and (v) no more than two permits may be issued for any premises (or vehicle) within any 12-month period. A permit is only effective for a single period of time not exceeding 12 hours.

10.16 Sewage And Sanitation

10.16.010 Health Authority

10.16.020 Mandatory Sewage Disposal; Connection To Public Water

10.16.030 Adoption Of County OSSF Regulations

10.16.010 Health Authority

The City's health authority, who is also the "local health authority," is designated by AMC 4.08. However, the appropriate County health officer is considered the local health authority for purposes relating to on-site sewage facilities (referred to in this chapter as "OSSF"s"), to the extent provided in an intergovernmental contract. The Mayor is authorized to enter into an interlocal agreement with the County authorizing the appropriate County officials to enforce this chapter as well as applicable County and state regulations, within the City. Such a contract may allocate fees and inspection charges to the County.

10.16.020 Mandatory Sewage Disposal; Connection To Public Water

A. General.

1. It shall be unlawful for any person to use, own, rent (as landlord or tenant), occupy, reside in or control any building, if the building does not comply with all the following regulations:
 - a. If any part of the building site lies within 300 feet of a sewer that is part of an organized sanitary sewer system served by a state discharge permit, the building (and all of its sinks, commodes and drains) must be connected to and served by the sanitary sewer system, and the sanitary sewer service may not be subject to disconnection. Otherwise, the building (and all of its sinks, commodes and drains) must be connected to and served by an OSSF that complies with all applicable regulations (see below)

and that is authorized by a permit that is not subject to suspension or termination.

b. If any part of the building site lies within 300 feet of a water line that is part of a public water supply system (which system is subject to regulation by the Texas Commission of Environmental Quality and subject to federal and state safe drinking water standards), the building and all of its sinks, commodes and other water-using facilities must be connected to and served by the public water supply system.

2. An official notice indicating that sanitary sewer service is subject to disconnection creates a presumption that service is subject to disconnection. if accompanied by proof that the reason for disconnection has not been resolved or cured.

B. Defense, Vacancy, Etc. It is an affirmative defense to prosecution under this section that both of the following circumstances are present:

1. The building is used only for storage or similar purpose not requiring any use of plumbing facilities, indoors or out; and
2. Any plumbing facilities in the building are not supplied with water from any source, and all commodes, sinks and drains are physically disconnected, so that no leak or discharge can escape the building.

C. Defense, Service Not Available. It is an affirmative defense to prosecution under paragraphs A,1 or A,2, that the owner of the system in question (sewer or water) refuses to allow a connection to be made to that system (or refuses to provide service to the building in question), for a reason other than non-payment of applicable rates and charges or non-compliance with applicable regulations.

D. Other. The City Council retains its jurisdiction over interpretations, appeals, variances, etc., as provided in AMC Title 2 and other applicable regulations. A decision by the Council on an interpretation, appeal or variance may constitute a defense to strict compliance with the provisions of this section, but only to the extent provided in the decision.

10.16.030 Adoption Of County OSSF Regulations

All OSSF's must comply with all of the following regulations:

- A. The regulations prescribed by the County for OSSF's, a copy of which is on file in the office of the City Secretary and incorporated into this chapter by reference.
- B. All applicable general standards prescribed by the state or any department, agency or political subdivision of the state, including but not limited to. 30 Tex.

Admin. Code ch. 285 (relating to OSSF's).

C. All applicable state, City or County permits, including conditions.

10.20 Fires And Explosives

[10.20.010 Flammable Liquids; Explosives](#)

[10.20.020 Disposal Fires And Incinerators](#)

[10.20.030 Occupancy Loads, Certain Public Rooms](#)

[10.20.040 Fireworks Sales](#)

10.20.010 Flammable Liquids; Explosives

Within the City limits, it shall be unlawful for any person to store any of the following:

- A. Flammable or combustible liquids in any above-ground tank that is not within a building; or
- B. Explosives or blasting agents, except for: (i) items used by the armed forces or government public safety official, (ii) up to 20 pounds of smokeless powder in bulk, up to 20 pounds of black powder in bulk and up to 2,000 small arms primers used for hand loading of small arms ammunition for personal use, or on the premises of a licensed gun dealer, (iii) temporary use for blasting operations, (iv) wholesale or retail stocks of small arms ammunition, (v) explosive bolts or rivets, (vi) cartridges for power tools in quantities of 500 pounds of explosive or less, or (vii) fireworks for personal use or offered for sale under a City fireworks permit.

10.20.020 Disposal Fires And Incinerators

It shall be unlawful for any person to start or allow to burn any disposal fire or incinerator unless it is attended by a person capable of controlling the fire.

Exception: This section does not apply to fires within a UL-approved incinerator designed for unattended operation.

10.20.030 Occupancy Loads, Certain Public Rooms

- A. **Establishment.** For each assembly room, auditorium or room used for a similar purpose in a City-owned building, the Mayor may:
 - 1. Establish or modify the occupancy load in accordance with the applicable provisions of the Standard Building Code, most recent edition; and
 - 2. Determine the number of occupancy load signs to be posted in such room.
- B. **Signs.** The signs required by this section shall be at least twelve by eighteen inches in size. They shall have a white background with red letters not less than

one inch in height. They shall be conspicuously located in the area regulated. They shall read substantially as follows:

WARNING, MORE THAN _____ PERSONS WITHIN THIS AREA IS UNSAFE AND PROHIBITED BY LAW. [s/Fire Official]

- C. **Order to Vacate.** If any such room is occupied by more people than the established occupancy load, the Mayor is hereby empowered to order all persons to vacate the room. It shall be unlawful for any person to fail or refuse to do so when so ordered.

10.20.040 Fireworks Sales

- A. **Generally.** Within the City limits, it shall be unlawful for any person to sell fireworks unless authorized to do so by a fireworks permit.
- B. **Applications.** To obtain a fireworks permit, a person must apply in writing to the City Secretary and provide the following: (i) full identification of the seller, (ii) the point of sale, (iii) proof that public liability insurance, with limits of at least \$100,000 per person, is in effect for the sale of fireworks by the seller at the point of sale, (iv) proof that the seller has a state sales tax permit for the point of sale, clearly indicating that the point is within the City limits, and (v) a permit fee of \$550 (\$650 if sales commence before a permit is issued).
- C. **Term.** Each permit has a term concurrent with the term of the liability insurance submitted with the application, but in no event longer than one year.
- D. **Partial Refund of Fee.** If, within six months following the end of a permit term, the permittee submits a request for a permit fee refund, together with proof that no fire incident occurred at the point of sale during the permit term, the City will refund \$450 of the permit fee to the permittee. The permittee may direct that the refund be applied to a renewal permit. In this paragraph, "fire incident" means an actual fire (or circumstances that a reasonable person would believe to indicate an actual fire) that resulted in a response by emergency firefighting personnel.
- E. **Reduced Fee.** If an applicant submits proof that there is a sprinkler system (or similar automatic fire suppression system) installed at the point of sale that is capable of automatically suppressing a structural fire, the permit fee is reduced by \$450 (and there is no refund).

12 Animal Services And Control

12.04 Animals In General

12.04 Animals In General

12.04.010 Definitions: Animals In General

12.04.020 Enforcement

12.04.030 General Regulations: Care, Keeping Etc.

12.04.040 Cleanliness Of Enclosures

12.04.050 Maintenance Of Poultry Houses And Yards

12.04.060 Animals Not To Be At Large

12.04.070 Shooting Or Catching Wild Birds

12.04.080 Keeping Certain Animals

12.04.090 Prohibited On Parks And Playgrounds

12.04.100 Dangerous Dogs

12.04.010 Definitions: Animals In General

Unless the context requires a different meaning, the following terms, when used in this chapter, have the meanings indicated below:

"At large." An animal is "at large" if it is: (i) free, (ii) outside a secure enclosure, and (iii) without a tether or leash either securely attached to prevent the animal from leaving or held by a person of sufficient strength to hold and control the animal.

"Harbor" shall mean to keep and care for an animal or to provide premises to which the animal returns for food, shelter or care for a period of seven days or more.

"Owner" shall mean any person who has right of property in an animal or who harbors an animal or allows an animal to remain about the person's premises for a period of seven days or more.

"Wild animal" means a lion, tiger, ocelot, cougar, leopard, cheetah, jaguar, hyena, bear, emu, ostrich, lesser panda, binturong, wolf, ape, elephant or rhinoceros and includes any species, subspecies, or hybrid of any of those animals.

12.04.020 Enforcement

The Police Chief and other authorized employees of the City shall have the power and authority to enforce the provisions of this chapter.

12.04.030 General Regulations; Care, Keeping Etc.

Every owner, caretaker or user of any animal within the City shall observe the following provisions in connection with care, keeping and using of such animal, and any person

violating any provisions hereof shall be deemed guilty of a misdemeanor:

- A. All stables or other enclosures in which an animal is kept and the ground upon which the same is situated shall be kept and maintained in a clean and sanitary condition, and all stables and fences surrounding the lot where the animal is kept and the feed troughs and water troughs, from which the animal is fed or watered, shall be free from any projection or thing that could injure the animal.
- B. All animals shall be fed with a quantity of good, wholesome food sufficient to keep them in a good well-nourished condition, and such food shall be served to such animals in a clean, sanitary manner.
- C. No animal shall be used or worked where there are any sores upon the animal's body, legs, head or shoulders.
- D. All harnesses used on any work animal shall be fitted to such animal and be free from any wire, rivets, break, tear or anything else that will irritate or make sores on such animal.
- E. All animals shall be provided with plenty of pure, clean water in sufficient quantities at all times.

12.04.040 Cleanliness Of Enclosures

Pens, hutches, houses or any enclosure in which any animals or fowl are kept shall be clean and disinfected daily and must be kept in a clean and sanitary condition at all times.

12.04.050 Maintenance Of Poultry Houses And Yards

All poultry houses and yards within the City must be kept in a clean sanitary manner.

12.04.060 Animals Not To Be At Large

It shall be unlawful for the owner of any of the following animals to cause or allow the animal to be at large in the City:

- A. Geese, ducks, turkeys, chickens or other domestic fowl;
- B. Horses, cattle, pigs or other livestock; or
- C. Dogs or cats, except cats which: (i) have current anti-rabies vaccinations (must be within the preceding 365-day period) and (ii) are tagged with the most-recent vaccination date, the veterinarian who administered the vaccine and an identifying number.

12.04.070 Shooting Or Catching Wild Birds

It shall be unlawful for any person to shoot or kill, or attempt to shoot or kill, with any air rifle, bow and arrow, slingshot or any firearm (or by other means), or to ensnare or catch by any means, any wild bird, old or young, within the City.

12.04.080 Keeping Certain Animals

- A. **Pigs, Wild Animals, Etc.** It shall be unlawful for any person to keep or harbor any of the following animals within the City:
1. Any pig;
 2. Any wild animal; or
 3. Any animal which causes frequent (or long-continued) excessive or unusual noise which disturbs the comfort or repose of persons of ordinary temper, sensibility or disposition.
- B. **Bovines, Equines.** After June 01, 2008, it shall be unlawful for any person to keep any of the following within the City, regardless of size: (i) any bovine (examples: cattle, oxen), or (ii) any equine (examples: horses, ponies, mules, donkeys, asses, jacks, jennets). It shall also be unlawful for any person to cause or allow any such animal to be kept on premises the person owns or controls. It is an affirmative defense to prosecution under this paragraph that a person routinely keeps the animals at premises the person owns or leases, and the premises include at least 0.5 acres of land, plus 0.33 acres of land per animal in excess of one animal, all contiguous.
- C. **Pens, Corrals.** It shall be unlawful for any person to construct, maintain or operate any pen, corral or similar structure for keeping any bovine or equine within 200 feet of any building, if the building is located on another person's premises and used for habitation. It shall also be unlawful for any person to allow any such pen, corral or structure to remain on premises the person owns or controls. It is an affirmative defense to prosecution under this paragraph that the pen, corral or other structure was in existence on March 11, 2008 and not subsequently enlarged. It is also an affirmative defense to prosecution under this paragraph that the pen, corral or other structure was in existence before the building used for habitation.
- D. **Temporary Period.** It is an affirmative defense to prosecution under this section that: (i) the animals in question are brought into the City for a party, carnival or theatrical production and only for a temporary period, not exceeding 72 hours, and (ii) notice of the arrival of the animals and their departure date is given to the mayor at least 24 hours in advance.
- E. **Maximum Fine.** Notwithstanding Section 1.007 of this Code, the maximum fine for a violation of paragraphs B or C, is \$200 per offense.

12.04.090 Prohibited On Parks And Playgrounds

No animal shall be permitted to run at large on any City park or playground.

12.04.100 Dangerous Dogs

Chapter 822 of the Texas Health & Safety Code shall define and govern "dangerous dogs." The Chief of Police is the animal control officer of the City and is authorized to take all actions of the "animal control authority" under Chapter 822. The following regulations apply to dangerous dogs, to the extent they are more stringent than Chapter 822:

- A. The applicant for registration must be at least 18 years old.
- B. The driver's license number or state identification number of the owner must be permanently tattooed on the inner surface of one ear of the dog
- C. It shall be the duty of the registrant, owner and harbinger of a dangerous dog to keep the dog restrained, at all times, by one of the following three methods:
 - 1. **Fenced and Chained.** Keeping the dog both enclosed within fences or walls at least six feet high (on property from which the general public is excluded) and tethered with a chain and well-fitted collar, each having a minimum tensile strength of 300 pounds. The chain must be either securely fastened to an immovable object or held by a person with sufficient strength to restrain the dog, and it may not exceed 20 feet in length.
 - 2. **Chained and Muzzled.** Keeping the dog both tethered with a chain and well-fitted collar (each having a minimum tensile strength of at least 300 pounds) and muzzled with a device which makes it impossible for the dog to bite a person or domestic animal. The chain must be held by a person with suitable strength to restrain the dog, and it may not exceed three feet in length.
 - 3. **Fully Enclosed.** Keeping the dog within a fully-enclosed cage or pen, or within a building from which the general public is excluded, which is so designed and maintained that it is virtually impossible for the dog to escape by leaping, digging or other means.

Unless restrained as required by this section, a dangerous dog shall be considered "at large" and subject to state law remedies and the other provisions of this chapter governing dogs at large.

- D. It shall be the duty of each person registering, owning or harboring a dangerous dog to display a sign on the premises where the dog is kept for any period of time exceeding 12 hours. The sign must read "WARNING: BAD DOG" and must be plainly legible from each street area adjacent to the premises.

14 Motor Vehicles And Traffic

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14.04.100 Records Of Traffic Violations

14.04.110 One-Way Streets And Alleys

14.04.120 Signs Prima Facie Evidence

14.04.130 Ratification Of Existing Devices

14.04.140 Traffic Diversion Devices

14.04.150 Speed Zones, Specific Streets

14.04.010 Definitions: Motor Vehicles And Traffic

- A. **Certain Words and Phrases.** Unless the context requires a different meaning, "traffic control officer" means the Chief of Police.
- B. **Transportation Code.** Words or phrases defined in the Texas Transportation Code have the same meanings when used in this chapter in the same or similar context.

14.04.020 Adoption Of State Transportation Laws

Any act, the commission of which constitutes a misdemeanor under the motor vehicle or traffic laws of the state, including the Texas Transportation Code, is prohibited within the City, and if committed within the City, is hereby declared to be an offense; provided, however, that the penalty therefor shall not exceed the penalty prescribed in AMC Title 1.

14.04.030 Traffic Control Officer, In General

- A. **Responsibilities.** The traffic control officer shall have the responsibility and authority to determine the installation and proper timing and maintenance of

traffic-control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions, to plan the operation of traffic on the streets of this City, and to cooperate with other City officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed or authorized by ordinances of this City or state law.

- B. **Expenditures.** The traffic control officer must obtain approval by the City Council (and, if applicable, the Temporary Receiver) of any expenditures under this chapter.

Exception: The Mayor (joined by the Temporary Receiver, if applicable) may authorize such expenditures in case of emergencies or other circumstances when it is not practicable to delay action until a City Council meeting.

14.04.040 Traffic Control Officer, Tests, Regulations

- A. **In General; Tests.** The traffic control officer is hereby empowered to make regulations necessary to make effective the provisions of this chapter and other traffic ordinances. The traffic control officer is hereby empowered to make temporary traffic regulations to cover emergencies or special conditions. No such temporary regulation shall remain in effect for more than 180 days. The traffic control officer may test traffic control devices under actual conditions of traffic.
- B. **In Writing.** Every regulation, designation, delineation or determination promulgated by the traffic control officer pursuant to the authority granted in this chapter shall, unless otherwise provided herein, be described in writing and filed with the City Secretary. Such writing shall constitute a public record, and all persons shall be charged with notice of the contents of the same.

14.04.050 Duty To Enforce Traffic Laws

It shall be the duty of the officers of the police department or such officers as are assigned by the Chief of Police to enforce all street traffic laws of this City and all of the state vehicle laws applicable to street traffic in this City.

14.04.060 Authority To Direct Traffic

Officers of the police department or such officers as are assigned by the Chief of Police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws. In the event of fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws. Officers of any fire department serving the City, when at the scene of a fire, may direct or assist the police in directing traffic there at or in the immediate vicinity.

14.04.070 Accident Investigations, Studies, Etc.

It shall be the duty of the police department to investigate traffic accidents and to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents. Whenever the accidents at any particular location become numerous, the police department may conduct a study of such accidents and determine remedial measures which should be taken.

14.04.080 Annual Traffic Report

The police department shall annually prepare a traffic report which shall be filed with the City Council. The report shall contain information on traffic matters in the City as follows:

- A. The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data.
- B. The number of traffic accidents investigated and other pertinent data on the safety activities of the police.
- C. The plans and recommendations of the department for future traffic safety activities.

14.04.090 Drivers' Records To Be Kept

The police department shall maintain a suitable record of all traffic accidents, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned. Such records shall be kept for the time required by the City's records management program, or such longer period as may be required by state law.

14.04.100 Records Of Traffic Violations

The police department and the municipal court shall keep a record of all violations of this chapter and other traffic ordinances of the City and of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses and the other data required by Chapter 543 of the Texas Transportation Code. The records shall be submitted as required by that Chapter. Such records shall show all types of violations and the total of each. Such records shall be kept for the time required by the City's records management program, or such longer period as may be required by state law. All forms for records of traffic violation and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.

14.04.110 One-Way Streets And Alleys

The City Council may designate streets or portions of streets and alleys upon which vehicles shall proceed and move in one direction only and to designate the direction in

which movement is permitted. The traffic control officer shall install official signs and markings designating such one-way movement.

14.04.120 Signs Prima Facie Evidence

Proof, in any prosecution for any violation of this Code or state law, that any traffic-control device, sign, signal or marking was actually in place on or about any street area in the City shall constitute prima facie evidence that the same is: (i) official, (ii) installed by the authority of the traffic control officer and (iii) authorized by the City, pursuant to the powers and authority granted herein and by state law.

14.04.130 Ratification Of Existing Devices

All traffic-control signs, signals, devices and markings placed or erected prior to the adoption of this Code and in use for the purpose of regulating, warning or guiding traffic are hereby affirmed, ratified and declared to be official traffic-control devices, provided such traffic control devices are not inconsistent with the provisions of this chapter or state law.

14.04.140 Traffic Diversion Devices

- A. **Placement.** The traffic control officer, with the approval of the City Council, may place and maintain traffic diversion devices at those locations where, in the judgment of the officer, the overall level of traffic safety would be improved by such devices. Such devices may be designed to require that traffic make a certain designated turn or that through traffic not be allowed upon or over certain streets, and they may be designed in such a way that they apply to pedestrians and vehicles or only to certain classes of traffic such as motor vehicles.
- B. **Items Included.** Traffic diversion devices may include curbs, lane indications, signs, railings and other such facilities. Either the traffic control officer or the City Council may seek public comment on a proposed installation of traffic diversion devices, if such comment would be helpful to the matter under consideration.
- C. **Other Departments.** The City Council may direct that other departments of the City assist the traffic control officer in connection with the consideration, installation or maintenance of traffic diversion devices.
- D. **Other Amenities; No Abandonment.** Traffic diversion devices may be installed in coordination with public conveniences and amenities as authorized by state law. Neither the installation and maintenance of traffic diversion devices nor the installation of public conveniences and street amenities shall ever cause an abandonment or relinquishment of alley, street or public place.

14.04.150 Speed Zones. Specific Streets

The following streets or portions thereof are designated as special speed zones, which

shall have reasonable and safe prima facie speed limits as follows:

Street	Extent or limits of special speed zone	Reasonable and Safe Prima Facie Speed Limit (Maximum Speed)
South Post Oak Road	From the south right-of-way SH 6 to the north right-of-way line of McKeever Road	35 MPH

As provided in the Texas Transportation Code, a speed in excess of such a speed limit is prima facie evidence that the speed is not reasonable and prudent and that the speed is unlawful.

14.08 Certain Regulations

[14.08.010 Use Of Roller Skates, Coasters, Etc., On Roadway](#)

[14.08.020 Glass, Nails, Etc.](#)

[14.08.030 Heavy Truck Regulations](#)

[14.08.040 Parking On Roadway](#)

[14.08.050 Trucks Prohibited From Using Certain Streets](#)

[14.08.060 Loading And Unloading Generally](#)

[14.08.070 Presumption From Parking](#)

14.08.010 Use Of Roller Skates, Coasters, Etc., On Roadway

No person upon skate boards, roller skates, or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by resolution or ordinance of the City.

14.08.020 Glass, Nails, Etc.

No person shall throw or deposit upon any street or alley any glass bottle, glass, nails, wire, cans or any other substance likely to injure any person, animal or vehicle upon such street or alley. Any person who drops or permits to be dropped or thrown upon any street or alley any destructive or injurious material shall immediately remove the same or cause it to be removed. Any person removing a wrecked or damaged vehicle from any street or alley shall remove any glass or other injurious substance dropped upon such street or alley from the vehicle.

14.08.030 Heavy Truck Regulations

- A. **Truck Routes & Restricted Street Areas.** State Highway 6 and FM 521 are designated as truck routes through the City. As provided in this section, the City Council may designate restricted street areas. Restricted street areas shall be

marked with signs stating "No Thru Trucks" or "Thru Trucks Prohibited."

B. Definitions.

1. In this section:

"Truck" means a motor vehicle used primarily to transport cargo;

"Heavy truck" includes any truck with: (i) an actual gross weight or gross vehicle weight of 26,000 pounds or more, or (ii) registered or required to be registered (by the State of Texas) in a gross vehicle weight classification of 26,000 pounds or more (see Section 502.253 of the Texas Transportation Code); and

2. Words and phrases have the same meanings as in the Texas Transportation Code, unless the context clearly indicates a different meaning is intended.

C. Offenses. It shall be unlawful for any person to operate any heavy truck over, on or within:

1. Any restricted street area marked with signs as specified in this section, unless: (i) the operation is authorized by a permit issued by the traffic control officer under this section, and (ii) the permit is displayed inside the windshield of the vehicle and is plainly legible from outside the vehicle; or
2. Any street area, other than a truck route, if the truck has a total gross weight in excess of the total gross weight for which the truck is licensed or registered under state law; or
3. Any truck route, if the truck has a total gross weight in excess of that total gross weight allowed by state law for such a truck when operated upon state highways outside the limits of incorporated cities and towns.

D. Defenses. It shall be an affirmative defense to any violation of this section that a special permit issued by the State of Texas authorized the operation in question. It shall be an affirmative defense to any violation of paragraph C,1 (relating to restricted street areas) that:

1. The purpose of the operation was to load or unload at a location accessible only via restricted street areas, and the vehicle was operated over the shortest feasible route to and from the nearest truck route; or
2. The vehicle in question was a firefighting vehicle, a vehicle responding to an emergency, a vehicle owned or operated by the City or a vehicle used to collect garbage, trash or debris; or
3. The vehicle in question was used in connection with a City construction project, and the City engineer or the traffic control officer determined that

use of the vehicle was necessary and reasonable; or

4. The operation was directed over an authorized detour.

E. **Permits.** The traffic control officer may issue permits to authorize heavy trucks to operate within restricted street areas. Before issuing a permit, the officer must determine that: (i) there is a legitimate need for the operation (and, for this purpose, a person residing in the City who operates a heavy truck to make a living is deemed to have a legitimate need to operate that truck while going to or from the person's residence); (ii) there is no feasible alternative route or vehicle, (iii) there will not be an unreasonable safety hazard and (iv) there will not be an unreasonable adverse impact upon roadways. The fee for a permit is \$50 (for permits limited to one week or less) or \$100 (for permits with terms longer than one week). The maximum term of a permit is one year. Each permit must show the license plate number of the vehicle authorized, the authorized route and the term authorized. The traffic control office (after attempting to notify the permit holder and providing the holder an opportunity to be heard) may suspend or terminate any permit if it was mistakenly issued or affected by a misrepresentation, or if the vehicle is operated, parked or stored in violation of this section or state law.

F. **Additional Regulations for Permitted Trucks.** It shall be unlawful for any truck authorized by a permit under this section to be parked or stored within any street area. When a permit has been issued to a permittee residing in the City who operates a heavy truck to make a living and is in effect, it shall be unlawful for:

1. Any person to operate such truck within a restricted street area while it is loaded; or
2. Any person in control of the permittee's residence to allow: (i) more than two heavy trucks to be parked or stored at or around such residence, or (ii) any heavy truck without a current permit (whether operable or inoperable) to be parked or stored at or around such residence.

G. **Designation of Restricted Street Areas.** The street areas marked with signs stating "No Thru Trucks" or "Thru Trucks Prohibited" as of July 10, 2012 are: (i) found and determined to be unsuitable for heavy truck traffic, and (ii) designated as restricted street areas. Changes to such designation (additions, deletions and modifications) may be made from time to time by the City Council, by ordinance. The traffic control officer shall make recommendations to the City Council from time to time. The City Secretary shall keep and maintain maps showing truck routes and restricted street areas designated by the City Council. The maps shall be made available to the public.

14.08.040 Parking On Roadway

It shall be unlawful for any person to stop, park or leave standing a vehicle upon any

roadway (completely or partially) without leaving a width of roadway of at least 12 feet unobstructed and open for the passage of other vehicles. Defenses: It is an affirmative defense to prosecution under this section that: (1) the vehicle was lawfully stopped upon a designated state highway, including a farm-to-market highway; (2) the vehicle was attended and stopped only momentarily to pick up or discharge a passenger; or (3) the vehicle was being used for moving, construction or other work, as authorized by a temporary parking permit issued by the traffic control officer, with proper warning (either a flagger or approved signs).

14.08.050 Trucks Prohibited From Using Certain Streets

The traffic control officer is hereby authorized to designate certain streets or portions of streets which shall not be used by trucks traveling in the City and to install official signs stating the prohibited use thereof. When signs are erected stating "No Thru Trucks" or "Thru Trucks Prohibited," it shall be unlawful for any person to operate any truck with a gross vehicle rating of 26,001 pounds or more upon any of the streets or parts of streets so signed.

Exception: Such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter. When signs are erected stating "No Trucks," no person shall operate any truck at any time upon any of the streets or parts of streets so signed, without a permit from the traffic control officer. This section does not apply to vehicles owned and controlled by the City.

14.08.060 Loading And Unloading Generally

All freight trucks shall be, and are hereby required to be loaded and unloaded from an alley entrance, parking area or service drive, if practicable. Where conditions are such as to make the loading or unloading thereof from an alley, parking area or service drive impracticable, such trucks may be parked on the street in accordance with all applicable provisions of this chapter.

14.08.070 Presumption From Parking

In any prosecution charging a violation of any provision of this chapter, another ordinance or law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

14.12 Abandoned Vehicles

[14.12.010 Definitions: Abandoned Vehicles](#)

[14.12.020 Purpose And Application](#)

[14.12.030 Procedures And Administration](#)

14.12.010 Definitions: Abandoned Vehicles

In this chapter, "AMV Law" means Chapter 683, Texas Transportation Code. Unless the context requires a different meaning, words and phrases used in this chapter have the same meanings as in the AMV Law.

14.12.020 Purpose And Application

- A. **Purpose.** The purpose of this chapter is to adopt procedures for the removal and abatement of junked vehicles (and parts of vehicles) declared to be public nuisances by the AMV Law. The City Council also finds, determines and declares that such vehicles are public nuisances.
- B. **Procedures.** The procedures in this chapter apply to vehicles in all places allowed by the AMV Law, but they do not apply to those vehicles (and parts of vehicles) excepted by the AMV Law.
- C. **Other Remedies.** Abatement and removal procedures under this chapter do not preclude other available remedies, both civil and criminal, all of which may be pursued by the City. Removal and abatement ordered by a court under the AMV Law shall be an independent alternative to this chapter.

14.12.030 Procedures And Administration

- A. **Notice, Hearing.** After notice and an opportunity for a public hearing, a junked vehicle (or part of a vehicle) may be ordered removed. The City Council is designated to hold such hearings. All of the procedures and other provisions of the AMV Law are hereby adopted. They shall be observed in connection with removal proceedings under this chapter.
- B. **Officers, Etc.** The Chief of Police and all other paid employees in the police department are authorized to administer the procedures authorized by this chapter. The Chief of Police may authorize other persons to remove vehicles or parts of vehicles.

14.16 Street Events

[14.16.010 Residential Picketing](#)

[14.16.020 Defense For Speech Or Expression](#)

14.16.010 Residential Picketing

- A. **Focused Picketing Prohibited.** It shall be unlawful for any person to engage in

picketing before or about the residence or dwelling of any individual in the City. The intent of this section is to prohibit only focused picketing taking place solely adjacent to a particular residence.

B. Presumption. A person is presumed to be engaged in focused picketing solely adjacent to a particular residence if the person is picketing and does one or more of the following: (i) stops adjacent to a particular residence longer than one minute, or (ii) stops adjacent to a particular residence more than twice in any one-hour period, or (iii) passes by a particular residence more than twice in any 15-minute period. Presumptions are rebuttable; see Texas Penal Code.

14.16.020 Defense For Speech Or Expression

The affirmative defenses for speech or expression enumerated in Section 42.04 of the Texas Penal Code shall also be available in any prosecutions for violations of this chapter.

16 Buildings And Development

[16.04 Buildings And Development In General](#)

[16.08 Dangerous Structures](#)

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16.04 Buildings And Development In General

[16.04.010 Standard Codes](#)

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[16.04.070 Driveways, Culverts, Etc.](#)

[16.04.080 Work In Street Areas](#)

[16.04.090 Flood Regulations](#)

16.04.010 Standard Codes

A. **Adoption.** The standard codes listed below are adopted, ordained and incorporated into this chapter by reference, but subject to the provisions of this section.

1. International Building Code, 2015 Ed., International Code Council, Inc.
2. International Energy Conservation Code, 2015 Ed., International Code Council, Inc.
3. International Residential Code, 2015 Ed., International Code Council, Inc.
4. International Mechanical Code, 2015 Ed., International Code Council, Inc.
5. International Plumbing Code, 2015 Ed., International Code Council, Inc.
6. National Electrical Code, 2017 Ed., National Fire Protection Association, ("NEC").
7. Fort Bend County Fire Code, Fourth Edition, which incorporates the 2012 International Fire Code with local amendments, as amended by Fort Bend County on June 27, 2017, a copy of which is on file with the City Secretary of the City ("FBC Fire Code").

B. **Administration, Hearings.** Except as provided below, for each standard code, the administrative officer is the Mayor, and all hearings, appeals,

variances etc. are handled by the City Council.

- C. **Permits, Inspections.** Except as provided below, permits and inspections are required only at those times when the City has: (i) established a permit office, (ii) made arrangements for qualified inspections, and (iii) established permit fees for such purposes. At other times, a person who would otherwise be required to obtain a permit shall, instead, register the work with the City Secretary and acknowledge that all work must comply with this code, as applicable. The fee for registration is 1% of the cost of the work or \$50, whichever is smaller.
- D. **Certificate of Independent Inspector.** When a plan review or an inspection is required, the Mayor may accept, in lieu of review or inspection by a City representative, a written certification that the plan or work meets or exceeds code requirements, but the certification must be: (i) signed by a code-certified inspector (as defined in Section 388.02, TEX. HEALTH & SAFETY CODE) not employed by the city, and (ii) accompanied by an approved inspection checklist, properly completed, signed and dated by the inspector. Plumbing inspectors must have required state plumbing licenses.
- E. **Climatic and Geographic Design Criteria.** The following climatic and geographical design criteria shall apply, as contemplated by such standard codes:

GROUND SNOW LOAD	0
AIR FREEZING INDEX	50 BF DAYS
WIND SPEED (MPH)	110
MEAN ANNUAL TEMP	68 DEG F
SEISMIC DESIGN CATEGORY	A
WINTER DESIGN TEMPERATURE	32 DEGREES F
ICE SHIELD UNDERLAYMENT	NOT REQUIRED
SUBJECT TO DAMAGE FROM WEATHERING	NEGLIGIBLE
FROST LINE	6"
TERMITE	VERY HEAVY
DECAY	MOD TO SEVERE
FLOOD HAZARDS MAP EFFECTIVE DATE	JANUARY, 1997

- F. **Amendments, Updates, Etc.** The procedure for adopting new codes, updated codes, local amendments and provisions for administration and enforcement of these codes is as follows: (1) proposal by the Mayor or other appropriate City

official, (2) referral to the Council for study and public comment, after giving required meeting notices, and (3) consideration and adoption by the City Council.

- G. **Fire Code.** The FBC Fire Code, adopted above, shall be a supplement to the other adopted standard codes, and in case of any conflict, the FBC Fire Code shall control. At all times when there is an appropriate interlocal agreement in effect with Fort Bend County, the FBC Fire Code shall be administered by the County Fire Marshal, and all applications, plans, fees, permits and inspections shall be handled by the County Fire Marshal. The same fees, standards and procedures applicable to unincorporated areas shall also apply in the City, subject to appeals and other administrative remedies specified in AMC Title 2. No application, permit or inspection under the FBC Fire Code is required for a one or two-family residential building or when other exemptions from the FBC Fire Code apply (e.g., improvement of multi-family residential buildings with fewer than four units).

16.04.020 Permit For Installing, Constructing Or Enlarging Structures, Etc.

- A. **Sanitation Permit Required.** It shall be unlawful for any person to install, construct or enlarge any structure, trailer or building generating sewage within the City, or to connect it to sewage facilities of any kind, unless the installation, construction or enlargement is authorized by a sanitation permit issued by the City Secretary. Applications for sanitation permits must be signed by the owner of the property in question, and they must be delivered to the City Secretary with a non-refundable application fee of \$50 (or \$100 if work on the structure begins before a permit is issued).
- B. **Terms of Permits.** It shall be unlawful for any person or entity to fail or refuse to comply with the terms of a sanitation permit. Each sanitation permit shall contain the following terms, as applicable:
1. **Public Sanitary Sewer.** If there is a public sanitary sewer available, the permit shall contain terms requiring that a connection be made to the sewer, and it shall state the location of the connection and regulations for the connection.
 2. **No Public Sanitary Sewer.** If there is no public sanitary sewer available, the permit shall so state, and there shall be permit terms requiring that any private sewage system be designed, installed and operated under a duly-issued County or State permit and in strict compliance with applicable State and County regulations. The City sanitation permit shall expire unless a copy of the County or State permit is filed with the City Secretary within 90 days following the date of the City permit.
- C. **Violations.** Violations of this section shall be punished by a fine not exceeding \$500. Each day a violation continues shall be a separate offense. Structures

constructed in violation of this chapter may not be connected to the City's sanitary sewer system until this chapter is complied with. It shall also be unlawful for any person or entity to use or occupy any structure, trailer, building or sewage facility installed, constructed, enlarged or connected in violation of this chapter.

16.04.030 Other Permits And Approvals

Other permits or approvals may be required for installation, construction or enlargement of buildings or related activities. See, for example:

- A. **Sewer Service.** AMC 8.08.050 requires permits and approvals for connecting to the City's sanitary sewer system.
- B. **Waste Discharges.** AMC 8.20 regulates industrial waste and other waste discharges.
- C. **Flood Damage Prevention.** AMC 16.04.090 requires permits and approvals for flood damage prevention.
- D. **Certifications, Etc.** The City Secretary is authorized to provide certain certifications, reviews and approvals required by the state, the County or another agency.
- E. **Wells.** See the regulations applicable to private water wells, below.
- F. **Septic Systems.** All septic systems and other private waste disposal systems must meet County and other standards. See below.
- G. **Subdivision or Development of Land.** Land may not be divided or developed except as authorized by a plat or replat approved by the City Council. See LGC Chapter 212 and AMC Title 20.
- H. **Drainage, Culverts, Conduits, Wires, Etc.** See AMC 16.04.070.

16.04.040 Street Address Numbers Required

It shall be the duty of each person who owns, occupies or controls a building to post and maintain the address number on the building, as follows:

- A. The number must be officially assigned by the U.S. Postal Service or the City.
- B. The number must be clearly visible from the street on which the number was assigned.
- C. At least part of the number must be located within 24 inches of the main entrance to the building. If the principal entrance does not face the street on which the number was assigned, or if the principal entrance is not visible from the street, an additional address number must be posted and maintained on a main wall of the building clearly visible from the street on which the number was assigned.

- D. Each address number must be: (i) permanently affixed to the building, (ii) at least three inches tall, and (iii) of a color that contrasts with its background.

16.04.050 Site Plan For Installing, Constructing Or Enlarging, Etc.

A. Site Plan Required.

1. It shall be unlawful for any person to: (i) install, construct or enlarge any trailer or building within the City, or (ii) connect or reconnect any utility service to any trailer, vehicle or building (or site) within the City, except in accordance with a current site plan, approved by the Mayor in accordance with this section, showing the site and each trailer, vehicle or building to be served.

In this section:

- a. "Utility service" includes water, sewer, gas, electrical, cable and any other public utility service; and
 - b. A site plan is "current" if it was approved by the Mayor within the one-year period preceding the day when the regulated work is done (i.e., work to install, construct or enlarge or to connect, reconnect or activate); however, upon request of the owner and a showing of good cause, the Mayor (in writing) may extend the one-year period for up to one additional year;
 - c. "Manufactured housing," "mobile home" and "HUD-code manufactured home" have the meanings given those terms in the Chapter 1201, TEX. OCC. CODE; and
 - d. "Manufactured housing community" means a parcel of land that is either: (i) separated into two or more spaces or lots that are rented, leased, or sold (or offered for rent, lease or sale) for the installation (or storage) of manufactured housing units, for any type of occupancy, or (ii) used for installation (or storage) of three or more manufactured housing units, for any type of occupancy.
2. If there is no such current, approved site plan, or if a site plan approval is revoked or suspended, it shall be unlawful to control, own, operate, occupy or lease (as landlord or as tenant) any such trailer, vehicle or building (or site) where any such work is done.

- B. Applications.** An application for site plan approval must be signed by the owner of the property in question and delivered to the City Secretary. If the site plan includes any mobile home or HUD-code manufactured home (existing or proposed), the owner of that home (if different from the owner of the property)

must also sign the application. The application must include:

1. A sealed survey drawing of the site not more than one year old showing: (i) all boundaries, (ii) all existing utilities, vehicular facilities, trailers, buildings and other structures and (iii) all easements.

Exceptions: For projects costing less than \$15,000 and that do not add more than 50 square feet of building or trailer area, the Mayor may accept a non-surveyed drawing of the site. The Mayor may also accept an older survey drawing if any changes since the drawing was made are clearly disclosed. The Mayor may also accept a plat approved as required by AMC Title 20, if it shows all items required by this section;

2. A sketch (which may part of the survey drawing) indicating: (i) the exact location of proposed utilities, vehicular facilities, trailers, buildings and other structures, (ii) connection(s) to public roads or streets and all work and facilities in street areas, (iii) connections to all utilities and (iv) plans and specifications for any new connections to city utilities;
3. Written proof that an application for new city utility service (with deposit) has been made, if required by a sanitation permit; or, in case there is existing service, proof that the service is not subject to termination for non-payment, non-compliance with applicable regulations or other reason;
4. Written proof that all other permits and approvals have been obtained (Examples: Sanitation permit, water well permit, health permit, subdivision plat approval, flood plain approval, drainage permit, installation certificate for mobile home or HUD-code manufactured home, sales and use tax permit showing point of sale in the "City of Arcola," etc.

Exception: The Mayor may allow such a permit or approval to be submitted later, if it is not practicable to obtain it at the time of application, and failure to submit will be grounds for the Mayor to revoke or suspend the site plan approval.);

5. If the site plan includes any mobile home or HUD-code manufactured home (existing or proposed), a copy of the current statement of ownership and location for the home indicating that it has been inspected and approved for habitability under applicable State rules within the preceding six months (however, if no such statement is required or issued by the State, there must be other written proof of ownership and habitability of the home); and
6. A non-refundable application fee of \$400 for single family residential and \$1,300 for all others.

C. Certain Criteria. Site plans (with accompanying documents) must clearly show:

1. **Setbacks.** No new part of a building or trailer is to be located within any of the following setback areas: (i) 25 feet from any state highway or major thoroughfare right of way (including McKeever Road), existing or proposed, (ii) ten feet from any other road or street right of way, or (iii) five feet from any other property line.
2. **Vehicular Access; Roadways.** There will be direct vehicular access to the site from an adjacent public road or street (where there is at least 20 feet of frontage), and the curb cut, culvert or driveway, as well as all work and facilities in street areas, will: (i) be located in a reasonably safe location and (ii) comply with current City and County regulations and guidelines for similar facilities (see AMC 16.04.070 and AMC 16.04.080). The road or street must be paved and must have been dedicated to public use and accepted by the public.
3. **Easements.** There are sufficient easements to extend all utilities and drainage to and across the site and to adjacent sites, allowing service from either direction along each easement.
4. **No Illegal Subdivision.** The site consists of one or more whole lots. In this section, a "lot" is a lot or parcel which was: (i) created or designated by plan, plat or replat approved by the appropriate governmental body as required by the Texas Local Government Code or previously applicable state law (e.g., the former Texas Revised Civil Statutes Annotated art. 974a); or (ii) in existence as a separately-owned and separately-described lot or parcel continuously since January 1, 1983.
5. **No Multiple Utility Connections.** For each physical connection to a City utility system serving the site (existing or proposed), there may only be one account, one customer and one bill. Note: one account may include more than one unit, and one customer may include two or more individuals or entities acting jointly.

Exception: For existing multiple connections, the Mayor may accept an easement or right of entry, signed by the owner of the site, that allows access for the City to disconnect each unit served, separately from any other unit on the site. The Mayor may require that there be a "cleanout" or valve socket in place for each unit, to reduce the cost of such disconnection.

6. **HUD-Code Manufactured Homes; Manufactured Housing.**
 - a. Any manufactured or portable building (or vehicle) installed, located, relocated, or used or occupied as a dwelling, in the City must: (i) be a HUD-code manufactured home (not a mobile home); (ii) have been inspected and approved for habitability under applicable State rules within the six months preceding installation,

location, relocation or first use or occupancy; and (iii) be located within an established manufactured housing community with all infrastructure in place, pursuant to an approved infrastructure plan and plat, as provided in this section.

(1) Subparagraph (iii) of paragraph C,6,a only applies to buildings or vehicles that are installed, located or relocated pursuant to a City site plan approval (with sanitation permit) that is applied-for on or after April 12, 2017, or (in case no site plan approval or other permit is required) that are first occupied or used as a dwelling after that date.

(2) However, subparagraph (iii) of paragraph C,6,a does not apply to a HUD-code manufactured home installed as a replacement for a HUD-code manufactured home or mobile home in existence in the City on April 11, 2017 if: (a) the existing home is removed from the City within seven days following installation of the replacement; and (b) the replacement is installed, on the same building site as the existing home, on or before the 90th day following removal of the existing home.

b. Any site plan that includes all or part of a manufactured housing community (existing or proposed) must comply with the applicable provisions of the Fort Bend County regulations governing infrastructure plans for manufactured housing communities, as modified for use within the City. Such provisions are included as an appendix to City of Arcola [Ordinance No. 11-10-09](#). The infrastructure plan is in addition to the required plat (see AMC Title 20).

7. **Drainage.** There must be compliance with the drainage criteria manual adopted by this chapter and the related provisions of this chapter, as applicable. The site plan must show: (i) all on-site drainage facilities required by such drainage criteria manual, (ii) on-site grading and drainage that comply with the drawing and notes shown on the "Simplified Grading Plan" drawn 3-22-16 and published by the Fort Bend County Engineering Department (a copy of which is on file with the City Secretary's office); and (iii) the quantity of any fill to be placed on the site, in cubic yards.

8. **Platting.** Any plat required by AMC Title 20 must have been duly submitted, approved and recorded.

9. **Other.** There must be compliance with other applicable regulations.

D. **Approval.** The Mayor shall approve a site plan if the Mayor:

1. Believes the application is complete, including all required forms, signatures, fees, plans, specifications, surveys, certificates, information and related matters;
2. Believes the applicant neither gave materially false or misleading information nor omitted any material information necessary to avoid misleading the City;
3. Does not detect any significant non-compliance with this chapter or any other applicable regulations; and
4. Believes the permit contains or incorporates all features and conditions required by this chapter or applicable regulations.

E. Changes, Conditions, Maintenance. The Mayor may require changes to a site plan, and may insert special conditions into a site plan, if reasonably necessary to comply with this chapter or other applicable regulations. To be effective, approval of a site plan must be in writing, and it may be included as part of a permit. It shall be the duty of each person owning or controlling a site to maintain, preserve and operate all facilities and features shown on a site plan for the site so that they function fully as intended by this chapter (and to repair, restore or reconstruct them within 30 days following the day that such person becomes aware of the need for such work).

F. Denial; Revocation or Suspension. If the standards for issuance are not met, or if there is any violation of this section, the Mayor shall decline to approve a site plan and may revoke or suspend an approval previously granted. The Mayor shall attempt to notify the current owner of the site, in case of non-approval, revocation or suspension.

G. Finality; Administrative Remedies. Decisions of the Mayor under this section are subject to appeal to the City Council, and they do not become final until acted upon by the City Council, or the time for appeal has run out. See AMC Title 2, which also provides for variances in certain circumstances. As an additional administrative remedy, any person may request that the City Council amend this section. Applications for amendment should be in writing and submitted to the City Secretary. They should include the exact wording that is requested.

H. Affirmative Defenses. It shall be an affirmative defense in any proceeding to enforce this section that one or more of the following sets of circumstances was present:

1. **Reconnection of Previous Utility Service.** (i) the work in question is only for the transfer, re-connection or re-activation of service through an existing utility connection, (ii) the connection was active within the preceding 180 days, (iii) no trailer or building is installed, constructed or enlarged without an approved site plan after August 1, 2006, and (iv)

before starting the work the owner notified the Mayor in writing.

2. **Small Remodeling of Existing House.** (i) the work in question is only to enlarge an existing single-family house or add a small accessory building (less than 50 square feet) on the same lot; (ii) no part of the enlargement or accessory building is within 30 feet of any public road or street or within 10 feet of any property line; (iii) there is existing service from all necessary utilities; and (iv) before starting the work, the owner notified the Mayor in writing and filed an affidavit confirming that any other required permits and approvals were obtained (e.g., sanitation permit, water well permit, flood plain approval).
3. **Airport Internal Building.** (i) the work in question involves a building inside an airport boundary; (ii) no part of the building is within 30 feet of any public road or street or within 10 feet of the airport boundary; (iii) the building site was not illegally subdivided; (iv) there is direct access to all necessary utilities; and (v) before starting the work, the owner notified the Mayor in writing and provided the owner provides copies of any other required permits and approvals (e.g., flood plain approval, drainage permit, water well permit, sales and use tax permit showing point of sale in the "City of Arcola," etc.).

16.04.060 Drainage Criteria

A. Adoption, Projects Covered, Etc.

1. The City Council officially approves and adopts the "Drainage Criteria Manual, Fort Bend County Drainage District, Revised 2011" ("drainage criteria manual"), subject to the provisions of this Code. The drainage criteria manual applies to each project to: (i) install, construct or enlarge any trailer or building within the City, (ii) connect or reconnect any utility service to any trailer, vehicle or building (or site) within the City, or (iii) increase the area covered by impervious surfaces (like roofs or pavement) by more than 400 square feet within the City.

Exceptions: The drainage criteria manual does not apply to:

- a. A site composed of one or more whole lots and containing only one dwelling unit (but an approved site plan may still be required by this Code, and site plans must show on-site grading, drainage, fill, etc. that comply with applicable provisions of AMC 16.04.050);
or
- b. A project on a site composed of one or more whole lots, if the project does not involve an increase in the total area covered by impervious surfaces (like roofs and pavement).

2. In this section, a "lot" is a lot or parcel which was: (i) created or designated by plan, plat or replat approved by the appropriate governmental body as required by the Texas Local Government Code or previously applicable state law (e.g., the former Texas Revised Civil Statutes Annotated art. 974a); or (ii) in existence as a separately-owned and separately-described lot or parcel continuously since January 1, 1983.

B. Duties to Submit, Construct, Maintain, Etc. For each project that the drainage criteria manual applies to, it shall be the duty of the owner, construction contractor, developer and each person controlling the site to: (i) submit plans and specifications for drainage facilities and features required by the drainage criteria manual or this Code, in addition to any required site plan, (ii) obtain a drainage permit for the project from the Mayor, and (iii) construct or provide all facilities and features required by the permit or the drainage criteria manual so that they function fully as intended by the drainage criteria manual or the permit, before the project is used or occupied. For each such project, it shall be the duty of each person owing or controlling the site to maintain, preserve and operate all such facilities and features so that they function fully as intended by the drainage criteria manual (and to repair, restore or reconstruct them within 30 days following the day that such person becomes aware of the need for such work).

C. Administration, Changes, Conditions. The Mayor shall administer this section and may obtain assistance from the City's engineer, the Fort Bend County Drainage District and other agencies. The Mayor may delegate functions under this section. The non-refundable fee for permit applications is \$100 plus (if applicable) the estimated cost of engineering review. The Mayor may require changes to plans and specifications and may insert special conditions, if reasonably necessary to comply with this chapter or other applicable regulations. The Mayor may require payment of additional permit review costs as a condition of further review or issuance of a permit. The following shall govern the application of the drainage criteria manual:

1. The Mayor shall determine whether facilities or features may be (or must be) dedicated or conveyed to the City, the Fort Bend County Drainage District or other agency, based on established patterns of ownership and operation of similar facilities and features (or based upon the location, function and service area of the facilities or features).
2. For any facilities or features to be dedicated or conveyed, the Mayor or City Council may require a maintenance bond, to be in effect for one year following acceptance. Only the City Council may accept facilities or features offered for dedication or conveyance to the City.
3. The Mayor may allow the use of alternative facilities, methods and techniques for achieving compliance with the drainage criteria manual, if the alternatives will function as well or better than those that would

otherwise be required by the drainage criteria manual. Example: Use of a landscaped area or parking lot that also provides some detention.

- D. **Denial; Revocation or Suspension.** If the standards for issuance of a permit are not met, or if there is any violation of this section, the Mayor shall decline to approve a permit and may revoke or suspend a permit previously granted. The Mayor shall attempt to notify the current owner of the site, in case of non-approval, revocation or suspension.
- E. **Finality; Administrative Remedies.** Decisions of the Mayor under this section are subject to appeal to the City Council, and they do not become final until acted upon by the City Council, or the time for appeal has run out. See AMC Title 2, which also provides for variances in certain circumstances. As an additional administrative remedy, any person may request that the City Council amend this section. Applications for amendment should be in writing and submitted to the City Secretary. They should include the exact wording that is requested.
- F. **Conduct Unlawful.** It shall be unlawful for any owner, developer, construction contractor or person in control of a site to refuse or omit to carry out a duty imposed by this section. Duties imposed by this section on more than one person are joint and several.

16.04.070 Driveways, Culverts, Etc.

- A. **Adoption, Projects Covered, Etc.** The City Council officially approves and adopts the Fort Bend County regulations manual entitled "PERMITS FOR THE CONSTRUCTION OF DRIVEWAYS AND CULVERTS ON COUNTY EASEMENTS AND RIGHT OF WAYS IN FORT BEND COUNTY, TEXAS," as revised through October 5, 2004 ("driveway/culvert manual"), subject to the provisions of this Code. The driveway/culvert manual shall apply inside the City to each project to: (i) install, construct or enlarge any driveway, parking area, trailer or building, or any connection to a roadway designed, intended or used for access to the roadway by motor vehicles, (ii) connect or re-connect any utility service to any trailer, vehicle or building (or site), or (iii) increase the area covered by impervious surfaces (like roofs or pavement) by more than 400 square feet.
- B. **Duties to Submit, Construct, Maintain, Etc.** For each project that the driveway/culvert manual applies to. it shall be the duty of the owner of the affected site and each construction contractor, developer and person controlling the adjacent site or the work to: (i) submit plans and specifications for driveway/culvert facilities and features required by the driveway/culvert manual or this Code, in addition to any required site plan, (ii) obtain a permit for the project from the Mayor (or, if allowed by the Mayor, the permit may be obtained from the County Engineer), (iii) construct or provide all facilities and features required by the permit or the driveway/culvert manual so that they function fully as intended by the driveway/culvert manual and the permit, before the project is

used or occupied, and (iv) arrange for and obtain prompt inspections and written approval of the work by the Mayor (or the County Engineer, if allowed by the Mayor). For each such project, it shall be the duty of each person owning or controlling the affected site to maintain, preserve and operate all such facilities and features so that they function fully as intended by the driveway/culvert manual and the permit (and to repair, restore or reconstruct them within 30 days following the day that such person becomes aware of the need for such work).

C. Administration, Changes, Conditions. The Mayor shall administer this section and may obtain assistance from the City's engineer, the County Engineer and other agencies. The Mayor may delegate functions under this section. The non-refundable fee for permit applications, and other fees, are the same as charged by the County for the same items (subject to a minimum of \$50 plus, if applicable, the estimated cost of engineering review), and the Mayor may require that they be paid directly to the County (in those cases where the permit would be issued by the County). If applicable, the Mayor may add the estimated cost of engineering or legal review likely to be incurred by the City to the fee that would otherwise apply. The Mayor may require changes to plans and specifications and may insert special conditions, if reasonably necessary to comply with this chapter or other applicable regulations. The Mayor may require payment of additional permit review costs as a condition of further review or issuance of a permit. The following shall govern the application of the driveway/culvert manual:

1. The Mayor shall determine whether facilities or features may be (or must be) dedicated or conveyed to the City, the Fort Bend County Drainage District or other agency, based on established patterns of ownership and operation of similar facilities and features (or based upon the location, function and service area of the facilities or features).
2. For any facilities or features to be dedicated or conveyed, the Mayor or City Council may require a maintenance bond, to be in effect for one year following acceptance. Only the City Council may accept facilities or features offered for dedication or conveyance to the City.
3. The Mayor may allow the use of alternative facilities, methods and techniques for achieving compliance with the driveway/culvert manual, if the alternatives will function as well or better than those that would otherwise be required by the drainage criteria manual. Example: Use of bridge sections or storm sewers in lieu of culverts.

D. Denial; Revocation or Suspension. If the standards for issuance of a permit are not met, or if there is any violation of this section, the Mayor shall decline to approve a permit and may revoke or suspend a permit previously granted. The Mayor shall attempt to notify the current owner of the adjacent site, in case of non-approval, revocation or suspension.

E. Finality; Administrative Remedies. Decisions of the Mayor under this section

are subject to appeal to the City Council, and they do not become final until acted upon by the City Council, or the time for appeal has run out. See AMC Title 2, which also provides for variances in certain circumstances (Section 6 of the [driveway/culvert manual](#) does not apply). As an additional administrative remedy, any person may request that the City Council amend this section. Applications for amendment should be in writing and submitted to the City Secretary. They should include the exact wording that is requested.

- F. **Conduct Unlawful.** It shall be unlawful for any owner, developer, construction contractor or person in control of a site to refuse or omit to carry out a duty imposed by this section. Duties imposed by this section on more than one person are joint and several. It shall also be unlawful for: (i) any person to construct, install or use any connection to a roadway designed, intended or used for providing access by motor vehicles, unless the connection complies with all applicable provisions of this Code, or (ii) any person owning or controlling a site within the City to cause or allow any such connection to be constructed, installed, used or maintained, if the connection does not comply with all applicable provisions of this Code.

16.04.080 Work In Street Areas

- A. **Adoption, Projects Covered, Etc.** The City Council officially approves and adopts "A REVISED ORDER REGULATING THE LAYING, CONSTRUCTION, MAINTENANCE AND REPAIR OF CABLES, CONDUITS, AND POLE LINES IN UNDER, ACROSS OR ALONG ROADS, STREETS, HIGHWAYS AND DRAINAGE DITCHES IN FORT BEND COUNTY, TEXAS, UNDER THE JURISDICTION OF THE COMMISSIONERS COURT OF FORT BEND COUNTY, TEXAS," as amended through August 3, 1987 ("ROW manual"), subject to this section. The ROW manual applies to each project to install, alter, construct, re-construct, enlarge or change the use of any cables, conduits, pole lines or similar equipment or facilities in any street area. In case of conflict with any franchise ordinance, the franchise ordinance shall control, but only to the extent of the conflict.
- B. **Duties to Submit, Construct, Maintain, Etc.** For each project that the ROW manual applies to, it shall be the duty of the owner, construction contractor, developer and each person controlling the equipment, facilities or site to: (i) submit plans and specifications for the project including all facilities and features required by the ROW manual or this Code, in addition to any required site plan, (ii) obtain a permit for the project from the Mayor (or, if allowed by the Mayor, the permit may be obtained from the County Engineer), (iii) construct or provide all facilities and features required by the permit or the ROW manual so that they function fully as intended by the ROW manual and the permit, before the project is used or activated, and (iv) arrange for and obtain prompt inspections and written approval of the work by the Mayor (or the County Engineer, if allowed by the Mayor). For each such project, it shall be the duty of each person owing or

controlling the equipment, facilities or site to: (i) maintain, preserve and operate all such facilities and equipment so that they function fully as intended by the ROW manual and the permit; (ii) to repair, restore or reconstruct them within 30 days following the day that such person becomes aware of the need for such work; and (iii) to relocate them within 30 days following a determination by the Mayor that relocation is necessary because of street, drainage or utility facilities or other public work (and written notice).

C. Administration, Changes, Conditions. The Mayor shall administer this section and may obtain assistance from the City's engineer, the County Engineer and other agencies. The Mayor may delegate functions under this section. The non-refundable fee for permit applications, and other fees, are the same as charged by the County for the same items (subject to a minimum of \$100 plus, if applicable, the estimated cost of engineering review), and the Mayor may require that they be paid directly to the County (in those cases where the permit would be issued by the County). If applicable, the Mayor may add the estimated cost of engineering or legal review likely to be incurred by the City to the fee that would otherwise apply. The Mayor may require changes to plans and specifications and may insert special conditions, if reasonably necessary to comply with this chapter or other applicable regulations. The Mayor may require payment of additional permit review costs as a condition of further review or issuance of a permit. The following shall govern the application of the ROW manual:

1. The Mayor shall determine whether facilities or features may be (or must be) dedicated or conveyed to the City, the Fort Bend County Drainage District or other agency, based on established patterns of ownership and operation of similar facilities and features (or based upon the location, function and service area of the facilities or features).
2. For any facilities or features to be dedicated or conveyed, the Mayor or City Council may require a maintenance bond, to be in effect for one year following acceptance. Only the City Council may accept facilities or features offered for dedication or conveyance to the City.
3. The Mayor may allow the use of alternative facilities, methods and techniques for achieving compliance with the ROW manual, if the alternatives will function as well or better than those that would otherwise be required by the ROW manual.

D. Denial; Revocation or Suspension. If the standards for issuance of a permit are not met, or if there is any violation of this section, the Mayor shall decline to approve a permit and may revoke or suspend a permit previously granted. The Mayor shall attempt to notify the current owner of the equipment, facilities or site, in case of non-approval, revocation or suspension.

E. Finality; Administrative Remedies. Decisions of the Mayor under this section are subject to appeal to the City Council, and they do not become final until acted

upon by the City Council, or the time for appeal has run out. See AMC Title 2, which also provides for variances in certain circumstances (any provision for appeals to County officials in the ROW manual does not apply). As an additional administrative remedy, any person may request that the City Council amend this section. Applications for amendment should be in writing and submitted to the City Secretary. They should include the exact wording that is requested.

- F. **Conduct Unlawful.** It shall be unlawful for any owner, developer, construction contractor or person in control of equipment, facilities or a site to refuse or omit to carry out a duty imposed by this section. Duties imposed by this section on more than one person are joint and several. It shall also be unlawful for any person to construct, install or use any equipment or facilities subject to the ROW manual unless all the work complies with all applicable provisions of this Code.

16.04.090 Flood Regulations

- A. **Adoption.** Model flood damage prevention regulations ("flood regulations") are adopted, ordained and incorporated into this chapter by reference, as set out in the [Flood Damage Prevention Ordinance](#) passed and approved March 11, 2008 (and such regulations are also adopted and promulgated as rules under V.T.C.A., Water Code §16.001 et seq.).
- B. **Violations; Fees.** It shall be unlawful for any person to: (i) construct, install, modify or develop any structure, trailer, building, facility or property in violation of the flood regulations, (ii) fail or refuse to comply with any permit issued to that person, (iii) allow any such conduct to occur on premises the person owns or controls, or (iv) use, occupy or rent (as lessor or lessee) any structure, trailer, building, facility or property constructed, installed, modified or developed in violation of the flood regulations. The fee for each permit under the flood regulations is \$75 (or \$150 if work starts before a permit is issued).

16.08 Dangerous Structures

16.08.010 General Provisions

16.08.020 Minimum Standards Established

16.08.030 Notice; Hearing; Decisions

16.08.040 Violations

16.08.050 Other Remedies

16.08.010 General Provisions

- A. **Adoption of State Law.** The City hereby adopts LGC Chapter 214 Subchapter A as heretofore or hereafter amended ("Dangerous Structures Law"), to the full extent allowed by its terms and applicable to the City. The City may take each action authorized by the Dangerous Structures Law.
- B. **Administration.** The Mayor is authorized to administer this chapter and take

each action the Dangerous Structures Law allows the City to take, except those expressly required to be taken by the City Council. The Mayor may delegate such responsibility to the City Administrator or others, in whole or in part.

- C. **Dangerous Buildings Defined.** In this chapter, "dangerous building" means a building for which the City may require vacation, relocation of occupants, securing, repair, removal or demolition under the Dangerous Structures Law.

16.08.020 Minimum Standards Established

The following minimum standards are hereby established for the use and occupancy (and the continued occupancy) of all buildings, regardless of the date of their construction:

- A. A building may not be occupied if it is deteriorated or damaged through exposure to the elements, including, without limitation, flood, wind, hail or rain, or damage through fire, or damage by any other cause, to the extent that either the roof, windows or doors, or portions of the house, building or structure which protect from the weather, will no longer reasonably protect from the weather.
- B. A building may not be occupied if it is so structurally deteriorated or damaged that it is in danger of collapse or cannot be expected to withstand the reasonably anticipated storms or hurricanes.
- C. A building may not be occupied if it is not connected to an approved public sanitary sewer or does not provide connection to a properly installed and approved on-site sanitation system.
- D. A building may not be occupied if it is not constructed or maintained in conformity with any of the standard codes (building code, electrical code, plumbing code, fire code, etc.) adopted by this Code, when such nonconformity constitutes a serious hazard to the safety of persons or property.
- E. A building may not be occupied if it is constructed or maintained with conditions that constitute a menace to health or safety, including, but not limited to: (i) conditions conducive to the harboring of rats, snakes, mice, other disease-carrying animals or insects reasonably calculated to spread disease; (ii) conditions hazardous to the safety of persons or property, such as inadequate bracing, structural support or construction, or the presence of deteriorated materials; or (iii) conditions constituting an attractive nuisance creating a hazard to the health or safety of minors.
- F. A building may not be occupied if it violates the Dangerous Structures Law, any provision of this chapter or another ordinance of this city, if the violation is of such a nature that the building constitutes a danger to its occupants and to others.
- G. A building may not be occupied if it is otherwise a dangerous building, as defined in this chapter.

16.08.030 Notice; Hearing; Decisions

- A. **Notice.** Proper notice shall be given in writing to the owner of a building as required by the Dangerous Structures Law and this chapter. Notice shall be given for each public hearing required by this chapter and for each other step for which notice is required under the Dangerous Structures Law.
- B. **Hearing.** To determine whether a building complies with the minimum standards set out in this chapter, there shall be a public hearing conducted by the City Council. All hearings shall be conducted under rules consistent with the nature of the proceedings; provided, however, the following rules shall always apply to such hearings:
1. All parties shall have the right to representation by a licensed attorney, although an attorney is not required.
 2. Each party may present witnesses in his own behalf.
 3. Each party has the right to cross-examine all witnesses.
 4. Only evidence presented at such hearing may be considered in rendering the order.
- C. **Decisions.** A decision requiring vacation, relocation of occupants, securing, repair, removal or demolition of a building shall be made by ordinance. Such an ordinance may declare a building to be a public nuisance.

16.08.040 Violations

It shall be unlawful for:

- A. Any person owning or controlling a building to fail or refuse to comply with an order issued under this chapter requiring such person to repair, vacate, demolish or secure such building;
- B. Any occupant or lessee in possession of a building to fail or refuse to comply with an order issued under this chapter requiring such person to vacate such building;
- C. Any person having an interest in a building (as shown by the Real Property Records of Fort Bend County) to fail or refuse to comply with an order issued under this chapter requiring such person to repair or secure such building, if the person is under a legal duty to repair; or
- D. Any person to remove any notice posted under this chapter or the Dangerous Structures Law.

16.08.050 Other Remedies

- A. **Generally.** Nothing in this chapter shall preclude the City's pursuit of any and all other remedies allowed under the civil and criminal statutes, or in equity, to address conditions described in this chapter, including remedies under the theory of public nuisance and abatement of dangerous structures or buildings. Neither shall the City be required or prohibited, to issue criminal citations before, after, or during any proceeding prescribed in this chapter.
- B. **LGC Chapter 54 Remedies.** Specifically, in addition to provisions of this chapter and remedies afforded under the Dangerous Structures Law, the City asserts full authority to exercise remedies under all provisions of the Texas Local Government Code, including, but not limited to LGC Chapter 54 Subchapter B, including prosecution of civil suits for enforcement, injunctive relief, and civil penalties.

16.12 Private Water Wells

16.12.010 Drilling Restricted

16.12.020 Restrictions

16.12.030 Approval Of Others

16.12.040 Abandoned Wells

16.12.010 Drilling Restricted

It shall be unlawful for any person to drill, undertake to drill or cause to be drilled or undertaken to be drilled a water well upon any privately owned property within the City, except as provided in this chapter. Private water wells may be drilled if authorized by a permit issued by the City Secretary, but only for the following purposes:

- A. Non-consumptive heat exchange systems for environmental control units; or
- B. Domestic and other purposes, but only on premises not served by a public water supply system.

16.12.020 Restrictions

Any well drilled pursuant to chapter must comply with the following regulations:

- A. It may not be integrated with nor connected to any City or community water supply system or with any system used for a purpose not authorized by this chapter.
- B. It may not be located within 150 feet of any part of a septic system or other sewage disposal facility of any kind.

16.12.030 Approval Of Others

Any well drilled pursuant to this chapter must be approved by all other governmental

regulatory agencies as to their requirements, and such approval must be provided in writing before issuance of a City permit.

16.12.040 Abandoned Wells

If any well is abandoned, the manner of abandonment and plugging of the well shall be as prescribed by the state water well driller's regulatory body.

16.16 Septic Systems, Etc.

16.16.010 Standards, Regulations, Etc.

16.16.010 Standards, Regulations, Etc.

A. **General Standards.** It shall be unlawful for any person to construct, install, operate, modify or maintain a septic system or other private sewage disposal system unless it meets all of the following standards:

1. All standards prescribed by the County and applicable to such systems either inside or outside municipal limits.
2. All applicable general standards prescribed by the State or any department, agency or political subdivision of the State, including but not limited to, 30 TEX. ADMIN. CODE ch. 285 (relating to on-site wastewater systems).
3. All State or County permits required by such standards must be in full force and effect, and all permit conditions must be complied with.

B. **County Enforcement.** The Mayor is authorized to enter into an interlocal agreement with the County authorizing the appropriate County officials to enforce this chapter as well as applicable County and State regulations, within the City, provided that there is not out-of-pocket cost to the City.

16.20 Oil And Gas Wells

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[16.20.390 Administrative Remedies](#)

16.20.010 Definitions: Oil And Gas Wells

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

The term "administrative official" means the city administrator, or, if such office is vacant, the mayor.

"Gas" means natural gas including all of its constituent elements, which elements include (but not by way of limitation) gasoline, condensate, distillate, butanes, propanes and other lighter hydrocarbons.

A "gas well" is a well producing gas, as herein defined, and which produces no oil as herein defined, or less than one barrel of oil to each 100,000 cubic feet of

gas.

The term "hearing board" means a special or standing hearing board designated by the city council to hear matters under this chapter, if such a board is designated, appointed and serving; otherwise, the hearing board is the city council.

The word "oil" means any liquid hydrocarbon, regardless of gravity, capable of being produced from a drilling unit in liquid form at the well by ordinary production methods and which is not the result of the condensation of gas after it leaves the reservoir.

An "oil well" is any well which produces one barrel or more of oil, as herein defined, to each 100,000 cubic feet of gas, as herein defined.

The word "permittee" shall mean the person to whom is issued a permit for the drilling or operation of a well under this chapter, and includes that person's administrators, executors, heirs and successors.

The words "regulated area," subject to the provisions of this chapter, shall include and mean all areas within the corporate limits or extraterritorial jurisdiction of the city.

The word "well" shall include and mean any hole or holes, bore or bores, to any sand, formation, strata or depth, which is or are drilled, bored, sunk, dug or put down for the purpose of either exploring for or ascertaining the existence of any oil, gas, liquid hydrocarbon, or any of them, or for the purpose of producing and recovering any oil, gas, liquid hydrocarbon, or any of them.

- B. **Other Terms.** Technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have the meanings customarily attributable thereto by prudent operators in the oil and gas industry.

16.20.020 Location Near Buildings Or On Public Property

- A. **Generally.** No well shall be drilled and no permit shall be issued for any well to be drilled within 500 feet from any residence or building, unless there is a variance or special exception. The hearing board may grant a special exception if it finds and determines that: (i) no adverse effect upon the public, or the owners or occupants of the residence or building, is likely to occur as a result of drilling or operating the well in question, and (ii) there is no reasonable and feasible alternative to drilling in that location.
- B. **Public Property.** No well shall be drilled within any of the streets or alleys, parks or other public property unless authorized by an ordinance duly passed by the city council.

- C. **Multiple Horizons.** The provisions of this section shall not prevent a well from being completed in more than one producing horizon. Multiple completions in the same well bore are expressly authorized.

16.20.030 Existing Wells

This chapter does not require a permit for any producing oil or gas well which was drilled and completed on or before January 10, 2006, or for the continued operation, re-working, sidetracking, plugging back or abandonment, or deepening through the deepest productive reservoir to which any such well was previously drilled. Plugging and abandonment provisions and operating provisions of this chapter shall apply.

16.20.040 Permit Required; Scope

- A. **Well Permit.** It shall be unlawful and an offense for any person, acting either for himself or as agent, employee, independent contractor, or servant of any other person, to commence to drill or to operate any oil or gas well within the regulated area, or to work upon or assist in any way in the prosecution or operation of any such well, without a permit for the drilling and operation of such well having first been issued in accordance with the provisions of this Code.
- B. **Separate Permits Required.** In the event a well is completed in one or more oil zones and one or more gas zones through the one-well bore, a well permit must be secured for both an oil well and a gas well. In the event a well is drilled under an oil well drilling permit and the permittee for any reason wishes to complete the well as a gas well, he must first secure a gas well drilling permit. In the event a well is drilled under a gas well drilling permit and the permittee for any reason wishes to complete the well as an oil well, he must first secure an oil well drilling permit.
- C. **Regulated Area.** This chapter applies only within the regulated area, and, as to areas outside the corporate limits of the city, it only applies to the extent allowed by law. Should any provision of this chapter for any reason be ineffective as to any part of the regulated area, such ineffectiveness as to any such part or parts of the regulated area shall not affect the effectiveness of the remainder of this chapter as to all the remainder of the regulated area.
- D. **Other Permits.** Other permits may be required by this Code or other applicable regulations.

16.20.050 Application Generally; Filing Fee

- A. **Filing and Content.** Any person desiring to drill, complete or operate a well for oil or gas shall present an application in duplicate therefore to the administrative official. The application must be in writing, signed by the applicant or some

person duly authorized to sign the same for the applicant, and shall state: (i) date of the application; (ii) name and address of the applicant and, if the applicant is not a natural person, the state of incorporation or organization; (iii) if the applicant is a partnership or trust, the names and addresses of the general partners and trustees; (iv) the location of the proposed well by address, legal description and proposed well is to be located and the exact location by Lambert Coordinates; (v) type of well, oil or gas; (vi) proposed depth of the well; (vii) proposed complete casing program of the well. Attached to the application there must be

1. A plat prepared by a duly licensed surveyor showing the exact location of the proposed well with respect to boundaries of each lot and parcel within 500 feet of the location where the applicant proposes to drill, a designation of lots, blocks, or tracts owned or controlled by the applicant and the distances from the well location to all parks, streets, alleys or other public property, residences, commercial buildings and other structures situated within 500 feet of the well location.
2. A copy of Railroad Commission Form 1 and any approvals required by applicable regulations of the state or federal government.

B. **Fee.** Each application shall be accompanied by a cashier's check in the amount set by the city council, made payable to the city, which shall be a filing fee.

16.20.060 Notice Of Application

- A. **Generally.** Notice of the filing of each application under this chapter shall be given by the applicant, at its own expense, at least ten days prior to the granting or refusal of the application.
- B. **Form of Notice.** Such notice shall be in substantially this form: "Notice is hereby given that _____ [applicant] has filed an application with the City of Arcola, Texas to drill, complete and operate a well for [oil or gas] upon Lot No. _____, Block No. _____ of _____ according to a map or plat of record in Volume _____, Page _____, Map Records of Fort Bend County Texas [or other appropriate legal description], and located by Lambert Coordinates for the South Central Zone of Texas at the intersection of X = _____ and Y = _____, such location sometimes being known as [address]."
- C. **Mail and Publication.** The notice shall be given to each owner and each occupant of any lot or parcel located in whole or in part within 500 feet of the well location, by USPS certified mail. Ownerships shall be as indicated in them most recent appraisal district records. The notice shall also be published in at least three different editions of a newspaper of general circulation in the city. Proof of such publication shall be made by the printer or publisher of the newspaper by affidavit.

16.20.070 Surety Bond

- A. **Drilling Bond.** If the issuance of a permit under this chapter is authorized, the same shall not be issued until the applicant files with the administrative official a bond, executed by the permittee as principal and by a good and sufficient corporate surety company licensed to do business in this state as surety, and whose name appears on the current list published by the United States Treasury Department of accepted sureties on federal bonds, conditioned that the principal will drill and operate the well in strict accordance with the terms of this chapter, and that the principal will remedy any and all damages to streets, curbs, gutters, water lines, fire hydrants and other public property, occasioned in any manner by his drilling of the well. Such bond shall inure to the benefit of the city, shall be in a form to comply herewith and shall be in the amount of \$50,000.
- B. **Post-drilling Bond.** If the issuance of a permit to operate a well currently producing oil or gas after all drilling operations have ceased is authorized, the same shall not be issued until the applicant files with the administrative official a bond in the amount of \$15,000 in accordance with and for the purposes set out in paragraph A, except that said security may be in the form of a bond, letter of credit, or other acceptable security approved by the administrative official. Any permittee who initially posted a \$50,000 bond, and whose well is in the producing stage and all drilling operations have ceased, may submit an application to the administrative official to reduce the existing \$50,000 bond to comply with the lower security provisions of this paragraph.
- C. **Keeping in Effect.** Failure of a permittee to keep the bond or alternative security in full force and effect, in accordance with the terms hereof, shall be unlawful.

16.20.080 Release From Bond

- A. **Authority to Release.** The administrative official is hereby authorized upon request of the surety to release the surety on a bond required herein from future liability on such bond upon the conditions hereinafter provided and as further limited by paragraph B:
1. If the permit has terminated and become inoperative as herein provided.
 2. If the permittee has filed with the administrative official notice of his intention to surrender the permit and abandon the premises covered thereby.
 3. After receipt of written notice from the surety advising of cancellation no sooner than 15 days after being mailed or delivered to the city.
- B. **Effect of Release.** Such release of future liability shall in no manner impair any liability which may have accrued prior to the release of future liability herein authorized. Such release shall not be issued until the permittee shall have first

complied with all requirements of this chapter relating to the abandoning and plugging of a well. The bond shall be retained by the city in its custody and will not be returned to the surety.

16.20.090 Liability Insurance

- A. **Proof of Insurance.** No permit shall be issued under this chapter until the applicant has filed with the administrative official a memorandum copy or certificate of a policy of public liability and property damage insurance, issued by an insurance company authorized to do business in this state, the limits of which policy shall not be less than \$1,000,000 per occurrence (\$2,000,000 annual aggregate). Such policy must cover personal injury or death as well as property damage and shall contain a provision obligating the insurer to notify the city not less than 15 days prior to the date of cancellation. The applicant shall, upon request of the administrative official, submit the original or a certified copy of any policy for inspection at any time.
- B. **No Waiver.** Irrespective of the requirements as to insurance to be carried, the insolvency, bankruptcy or failure of any insurance company carrying insurance for any applicant or permittee hereunder, or the failure of any such company to pay claims accruing shall not be held to waive any of the provisions of this chapter. The applicant shall pay promptly all premiums for such insurance in strict accordance with the obligations to the carrier and maintain the above described coverage in full effect so long as the permit is valid and alive.
- C. **Keeping in Effect.** Failure of a permittee to keep such policy in full force and effect, in accordance with the terms hereof, shall be unlawful.

16.20.100 Supplemental Permit To Deepen Well

- A. After any well has either been completed as an oil or gas producer or abandoned as a dry hole, it shall be unlawful for any person to drill such well to a greater depth than that reached in the prior drilling operations without the permittee, as to such well, obtaining a supplemental permit after filing a supplemental application with the administrative official specifying:
 - 1. The then condition of the well and the casing therein.
 - 2. The depth to which it is proposed such well be deepened.
 - 3. The proposed casing program to be used in connection with proposed deepening operations.
- B. In any deeper drilling or any deeper completion, or any deeper production operations, the permittee shall comply with all other provisions contained in this chapter and applicable to the drilling, completion and operation of a well or wells, but only the supplemental filing fee shall be required.

16.20.110 Issuance Or Denial Generally; Revocation, Etc.

If, after an application or supplemental application is filed pursuant to this chapter, it is found by the administrative official to comply in all respects with the terms of this chapter, and the drilling and operation or deepening and operation of a well is not prohibited by the terms of this chapter, the administrative official shall issue a permit for the drilling and operation or deepening and operation of the well applied for. Otherwise, the administrative official shall deny the application. In the event the administrative official should deny the applicant a permit to drill or deepen a well, an appeal to the city council may be made by such applicant by filing written notice of appeal with the city council. Such appeal shall be heard by the city council within 30 days after the filing date, if at all practicable. Unless otherwise prescribed by ordinance, the permit term extends until the well is plugged and abandoned; however, the city council may revoke or suspend a permit for failure to comply with applicable regulations and may delegate this responsibility.

16.20.120 Contents; Signing; Effect

Each permit issued under this chapter shall: (i) by reference have incorporated therein all provisions of this chapter with the same force and effect as if this chapter were copied verbatim in the permit; (ii) specify definitely the location of the well; (iii) specify that drilling shall begin within 90 days from the date of the permit or the permit expire, provided, how-ever, such expiration shall not affect the right of the applicant to apply for another permit; (iv) specify that such permit shall remain in full force and effect until the well is abandoned, unless revoked or suspended. Such permit, in duplicate originals, shall be signed by the administrative official and, prior to delivery to the permittee, shall be signed by the permittee. One original of the permit duly executed, shall be delivered to the permittee and one original of the permit, duly executed, shall be retained and filed by the administrative official, and, when so filed, shall constitute the permittee's drilling and operating license and evidence of the permittees obligations to comply with this chapter as well as its bond and other documents.

16.20.130 Permit Not Required For Remedial Well Work Operations

Any person operating any well for oil or gas may perform remedial well work operations, except drilling deeper, without a prior permit, provided the operator complies with all safety rules set forth in this chapter and other applicable regulations. No additional filing fees will be required for such work.

16.20.140 Chapter Does Not Authorize Trespass, Etc.

Neither this chapter nor any permit issued hereunder shall be interpreted to grant any right or license to the permittee to enter upon, use or occupy in any respect any premises, which right or license must be obtained by the permittee from the owner or persons in control thereof.

16.20.150 Compliance With Code, Etc.

It shall be the duty of all persons engaged in the drilling or operation of any oil or gas well to comply with this Code and with other applicable regulations.

16.20.160 Installation Of Pipelines On, Under, Etc., Public Property

A permittee may apply to the city council for a franchise or other permission to use city streets, sidewalks, alleys and other city property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines.

16.20.170 Letters Relative To Fresh Water Sands

Before drilling or setting casing in any well, the permittee must contact the engineer for the city and the state water well regulatory body and obtain letters stating where the fresh water sands are to be found in the area or field in which the well is to be drilled. A copy of such letters must be filed with the administrative official before drilling or setting of casing, and the permittee must set sufficient casing as required to protect such sands, as provided below.

16.20.180 Permitted Hours For Delivery Or Removal, Etc.

Material, equipment, tools or pipe used for either drilling or producing operations at a well shall not be delivered to or removed from the well site except between the hours of 7:00 AM and 7:00 PM of any day, except in case of emergency.

16.20.190 Derrick And Rig

It shall be unlawful for any person to use or operate, in connection with the drilling or re-working of any well any wooden derrick or steam powered rig, or to permit any drilling rig or derrick to remain on the premises or drilling site for a period longer than 60 days after completion or abandonment of the well. All internal combustion motors and engines shall be equipped with effective mufflers.

16.20.200 Drilling Fluid

No well shall be drilled or re-worked without the bore hole at all times being filled with drilling fluid of such weight and viscosity as a reasonably prudent operator would use to keep the well under control at all times.

16.20.210 Swabbing Operations And Drill Stem Tests

It shall be unlawful for any person, in connection with the drilling or re-working operations of any well to conduct any swabbing operations or to take or complete any drill stem test except during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate oil and gas separator to storage tanks, and the effluent remaining in the drill pipe at the time the tool is closed is

flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.

16.20.220 Casing

- A. **Generally.** The permittee and operator of any well shall set and cement a sufficient amount of casing to properly protect all fresh water sands as specified by the state water well regulatory body and the administrative official. The casing shall be of new or reconditioned casing and shall be set and cemented in accordance with the rules, regulations and orders of the state railroad commission for the field or area in which the well is to be drilled and other applicable regulations. Unless otherwise required by applicable regulations, cementing shall be by the pump and plug method, sufficient cement shall be used to fill the calculated annular space back of the casing to the surface of the ground, and the cement shall be allowed to stand for a period of 12 hours before drilling plug.
- B. **Multi-stage Process.** In lieu of setting the full amount of casing required to protect fresh water sands, and if allowed by applicable regulations, the permittee may use the multi-stage cementing process. In using the multi-stage cementing process, sufficient cement shall be used in the stage cement job that is equivalent to the volume of the annulus from the cementing tool to the surface of the ground. Should the cement not reach the surface of the ground, a temperature survey must be conducted and if the survey shows that the top of the cement is less than one-third of the distance from the shoe of the surface casing to the surface, then corrective measures must be taken. Any permittee using the multi-stage process must file with the administrative official a copy of the state railroad commission letter granting such permission and an affidavit from the company performing the cementing that describes the work done, all within ten days following completion of the cementing. Failure to file either of these shall be unlawful and shall be punishable as such.
- C. **Producing Casing.** In any well drilled, the producing string of casing shall be of new or reconditioned pipe which has been tested and withstood the maximum anticipated pressures to be encountered and in accordance with applicable regulations. Unless otherwise required by applicable regulations: (i) cementing shall be by the pump and plug method, (ii) sufficient cement shall be used to fill the calculated annular space back of the casing to a point at least 600 feet above the shoe or the highest productive zone, whichever is applicable, (iii) the cement shall be allowed to stand for a period of 12 hours before drilling plug; (iv) after cementing, the casing shall be tested at a pressure in pounds per square inch calculated by multiplying the length of the producing string by two-tenths, being the maximum test pressure required; and (v) if, at the end of 30 minutes, the pressure shows a drop often percent or more of the above required test pressure, the casing shall be condemned, and after correction, the casing shall again be tested in the same manner.

16.20.230 Blowout Preventers

Two dual controlled, fluid operated blowout preventers with working pressures equal to the maximum anticipated wellhead pressures shall be used for all drilling or completion operations involving the use of drill pipe or tubing after the surface casing has been set. The mechanical operation of the preventers shall be checked in accordance with applicable regulations and at least every 24 hours with pump pressure with enough frequency to insure good working order at all times.

16.20.240 Christmas Tree Fittings, Well-Head Connections

All completed wells shall be equipped with Christmas tree fittings and well-head connections in accordance with applicable regulations and with a rated working pressure equal to or greater than the surface shut-in pressure of the well. All wellhead connections shall be assembled and tested prior to installation by in accordance with applicable regulations and by fluid pressure equal to the test pressure of the fitting employed.

16.20.250 Flaring And Burning Of Escaping Gas

No person engaged in drilling or operating any well shall permit gas to escape or be vented into the air unless such gas is flared and burned in accordance with applicable regulations. All gas flared or burned from a torch, pipe or other burning device must be done in such manner so as not to constitute a fire hazard to any property, and the location of the torch, pipe or other burning device, and the construction, maintenance and operation thereof shall at all times be in full compliance with applicable regulations.

16.20.260 Disposal Of Salt Water And Other Impurities

Any person drilling or operating a well shall make adequate provisions for the disposal of salt water or other impurities which may be produced along with the oil or gas in such a manner as not to contaminate any water supply or destroy vegetation.

16.20.270 Escape Of Waste Matter Onto Adjoining Property Prohibited

It shall be unlawful for any person to permit to escape any mud, water, oil, slush or other waste substances related to the drilling or operating of any oil or gas well onto any premises upon which the permittee does not have leases or other contractual rights to deposit such substances or onto or into the alleys, streets, public property, gutters or sewers of the city.

16.20.280 Slush Tanks For Mud Or Water

Only portable steel slush tanks for mud or water shall be permitted in connection with the drilling and re-working operations of any well.

16.20.290 Crude Oil Storage Tanks; Separators; Etc.

It shall be unlawful for any person to use, construct or operate in connection with any producing well any crude oil storage tanks except in accordance with applicable regulations, and limited to two steel tanks for oil storage, not exceeding 500-barrel capacity each, so constructed and maintained as to be vapor tight and each surrounded with an earthen fire wall at such distance from the tanks as will, under any circumstances, hold and retain at least one and one-half times the maximum capacity of such tank. A permittee may use, construct and operate a steel conventional separator, and such other steel tanks and appurtenances as are necessary for treating oil with each of such facilities to be so constructed and maintained as to be vapor tight, all in accordance with applicable regulations. Each oil and gas separator shall comply with applicable regulations and must be equipped with both a regulation pressure relief safety valve and a bursting head.

16.20.300 Equipment For Secondary Recovery, Etc.

A permittee may install and operate equipment for the purpose of secondary recovery or pressure maintenance operations or for automatic lease operations, if it complies with applicable regulations.

16.20.310 Fired Vessel Or Open Flame

It shall be unlawful for any person to install any fired vessel or open flame nearer than 150 feet to any well or storage tank.

16.20.320 Fencing

All wellheads, tank batteries, pumping units and equipment appurtenant thereto shall be adequately protected by a fence so constructed that it will prevent easy entry.

16.20.330 Maintenance Of Premises

The premises of each well shall be kept in a clean and sanitary condition, free from rubbish of every character, at all times during drilling and other operations thereon. All of the premises shall be kept clear of high grass, weeds and combustible trash and any other rubbish or debris that might constitute a fire hazard within a radius of 100 feet around each tank and well, or to the limits of the premises, whichever is the lesser.

16.20.340 Prime Movers

No prime movers shall be permitted for the purpose of pumping wells, except electric motors.

16.20.350 No Smoking Signs

Printed signs reading "DANGER, NO SMOKING ALLOWED" or similar words shall be posted in conspicuous places on each well, storage tank or battery of tanks.

16.20.360 Abandonment Generally

Whenever any well is abandoned, it shall be the duty of the permittee to plug such well in accordance with applicable regulations and to take any and all additional provisions or precautionary measures recommended or prescribed by any state agency in connection with abandonment and plugging. It shall be the further duty of the permittee of the well to cut the surface casing off at least six feet below the surface of the ground and to place at least a 25 foot cement plug in the top of the casing and to weld the top of the casing completely shut. The resulting hole in the ground must be completely filled to the surface of the ground and duly tamped.

16.20.370 Removal Of Mud And Similar Materials

Within 15 days after the completion or abandonment of any oil or gas well, the mud and other similar matter and materials used in connection with the drilling or operations thereon shall be removed from the premises by the permittee.

16.20.380 Violation Of Law Or Rules

Any violation of the law of the state or any rules, regulations or requirements of any state or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, maintaining or abandoning an oil or gas well or related appurtenances, equipment or facilities, or in reference to fire walls, fire protection, blow-out protection, safety protection or convenience of persons or property, shall also be a violation of this chapter and shall be punishable as such.

16.20.390 Administrative Remedies

In addition to the provisions for a special exception mention in this chapter, the city council may grant (or provide for granting) variances from the provisions of this chapter and may amend the provisions of this chapter.

16.24 Hotels

16.24.010 Hotel Regulations

16.24.010 Hotel Regulations

A. In this section:

1. Cooking facility includes a conventional oven, convection oven, stove top burner, grill, hibachi or hotplate that does not serve an integral part of an appliance designed solely to produce coffee, sink with a drain one inch or larger in diameter, garbage disposal, dishwasher, counter space for cooking, preparing, or serving food, but does not include a microwave, miniature refrigerator or freezer, or coffee maker.
2. Hotel has the same meaning given in Texas Tax Code, Section 156.001,

as amended or replaced from time to time (including, e.g., a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn or rooming house), but for purposes of this section, "hotel" does not include a bed and breakfast or short-term rental facility operated in an ordinary residential house by the person or persons who reside in that house full-time.

B. It shall be unlawful for any person to construct, own, operate, manage or control a hotel within the City limits, unless the hotel complies with all of the following requirements:

1. Each guest room must be accessible only through an interior corridor.
2. Entry through exterior doors must be secured and accessible only to guests and employees.
3. At least one person with management authority must be on-site at all times when the hotel is in operation.
4. There may be no overnight parking of trucks with more than two axles or recreational vehicles on the hotel site, and there must be signs posted on the site that comply with Chapter 2308 of the Texas Occupations Code and give notice that such vehicles will be towed from the site.
5. No guest room may contain a cooking facility.

Exception: Up to 5% of the rooms in a hotel may contain a cooking facility, if all guest rooms in the hotel are offered at nightly rates only, and the hotel has and makes available all of the following: (i) at least one restaurant accessible through the interior of the hotel that offers a full-menu, table service and seating for at least 50 patrons during standard dining hours; (ii) full-menu room service; (iii) a minimum of 10,000 square feet of dedicated meeting and event facilities; (iv) a fitness center; (v) a swimming pool; and (vi) a lounge area containing a counter, tables or seating area where alcoholic beverages are sold for consumption in that area.

6. Delivery service areas and waste storage facilities must be screened from view from any street area, and from any residence, by masonry walls.

18 Public Places, Facilities And Buildings

18.04 City Hall Building And Grounds

18.08 Streets And Other Public Places

18.04 City Hall Building And Grounds

18.04.010 Community Center

18.04.010 Community Center

- A. **Generally.** This section applies to the City's community center, which includes the large room and adjoining kitchen area located in the rear portion of the City Hall ("Community Center").
- B. **Requests, Permits, Etc.** Any group or individual may request to use part of the Community Center, on a first come, first-reserved basis, after completing and signing a permit form provided by the City. A separate permit for each use is required. Each person who signs must be over 25 years of age and must agree to be responsible for the Community Center and to be present during the use of the Community Center. Use fees and the deposit must be paid at the time the permittee signs. Permits do not take effect until signed by the City and returned to the user. The Mayor is authorized to sign permits on behalf of the City. Arrangements for obtaining the key and returning it must be made with the City Secretary's office.
- C. **Certain Terms.** Occupancy will be limited to the maximum capacity posted or prescribed by permit, whichever is lower. No user shall allow any group or individual to use the Community Center other than those authorized in the permit signed by the City. Each user is limited to the specific area approved for its use and may not use any other area. Exterior banners or signs are forbidden, except for temporary poster-sized signs placed as approved by the City to announce the event. The City reserves the right to terminate any user's occupancy at any time, with no liability in excess of fees and deposits paid. The City may require a permittee to provide one or more peace officers to be present when the permittee uses the Community Center, with the expense to be paid by the permittee. Permits (and other documents) may require users to pay additional fees for any unauthorized or prohibited use or any violation of City rules, regulations, permits or terms of use. Any such additional fees may be deducted from the deposit and shall also be personal obligations of the user.
- D. **Fees and Deposits.** Fees and deposits for use of the Community Center depend upon the length of use, as follows:

Deposit	\$75.00

Hourly fee	\$25.00
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Fees and deposits must be paid by check or money order payable to the City; cash will not be accepted. No refunds will be made unless: (i) the City terminates the use or the Community Center cannot be used, for no fault of the user, or (ii) the user gives the City advance notice of cancellation, in writing at least 30 days before the day of use.

- E. **Condition.** Each permittee must accept the Community Center--with all equipment and decorations---in such condition as the permittee finds it at the beginning of the use and must clean and return it to the City in the same condition. Permittee may arrange joint inspections with a City representative before or after the use. No refund is allowed for any condition or circumstance unless permittee arranges such a joint inspection and brings the condition or circumstance to the attention of the City's representative at that time. Any refund is limited to the portion of the fee that corresponds to the portion of the space that the permittee cannot use, as a practical matter.
- F. **Deposit.** Users must pay deposits as provided above. The City may apply a deposit to cover damage, lost or stolen items, re-keying, cleanup, higher applicable rates, additional fees, penalties, and any other additional charges. If such additional charges exceed the deposit, the user will be responsible for the total amount, less the deposit. The City may provide a list of common additional charges, but the list does not limit the additional charges that may apply in a given case.
- G. **Delinquencies.** A person is not eligible for a permit to use the Community Center if the person is delinquent in either utility payments, taxes, fees, damages, or other payments to the City.
- H. **Other Regulations.** Persons using the Community Center may not throw rice (indoors or outdoors), but outdoors only--may use birdseed or liquid bubbles in lieu of rice. No firearms will be permitted in the Community Center. No smoke machines or pyrotechnical devices will be permitted in the Community Center. No animals will be allowed at the Community Center unless authorized by the permit, except service animals for disabled persons. No alcohol, smoking or tobacco is permitted at the Community Center. Users shall not use City property in such a manner as to damage the buildings or to disturb other users or people in the vicinity. The Community Center may not be used for any purpose which violates any law, rule, ordinance, or regulation.

18.08 Streets And Other Public Places

18.08.010 In General

18.08.020 Work In PROW, Permits, Etc.

18.08.030 Municipal Consents

18.08.040 Street Rental Charge (Gas)

[18.08.050 PROW Facilities, Generally](#)

18.08.010 In General

A. General.

1. **Transportation Code.** Words and phrases defined in the Texas Transportation Code have the same meanings when used in this chapter in the same or similar context, unless another meaning is given in this chapter.
2. **Certain Terms.** In this chapter, unless the context clearly requires a different meaning:

"Abutter facilities" means PROW facilities typically installed on an abutting property owner but not accepted for ownership or operation by the City, including for example, driveways, sidewalks, landscaping, utility taps and laterals and similar facilities serving only the abutting property.

"Affiliate" means a person who controls, is controlled by, or is under common control with a user.

"Certificated telecommunications provider" means the same as in LGC Chapter 283 [any entity that has been granted a certificate from the Texas Public Utility Commission under Chapter 54 of Texas Utility Code authorizing that entity to provide local exchange telephone service].

"Municipal consent" means a traditional franchise ordinance or similar measure duly adopted by the City by ordinance and duly accepted, if acceptance is required.

"Non-certificated telecommunications provider" means a person, excluding any certificated telecommunications provider, that delivers telecommunications service within the City to person(s) by way of facilities that are placed in, on or over ROW. To the extent allowed by law, this term also includes a person that does not deliver telecommunications service within the City, but who places, constructs or maintains facilities within ROW for the delivering of telecommunications service outside the City, except a certificated telecommunications provider.

"PROW facility" includes: (i) wires, cables, fibers, duct spaces, manholes, pipes, pipelines, utility facilities, valves, poles, towers, conduits, compressors, underground and overhead passageways and other equipment, lights, structures, plant and appurtenances; also including "network nodes," "transport facilities" poles and other structures mentioned in LGC Chapter 284; (ii) driveways, sidewalks, landscaping,

watering systems, utility taps and laterals, curbs, gutters, pavement and drainage facilities; (iii) fences, walls, planters and hedges; (iv) excavations affecting pavement or a public improvement, or larger than eight cubic feet; (v) piles or stacks of materials; (vi) street amenities mentioned in Chapter 316, Texas Transportation Code; and (vii) all similar structures, objects and things that could be an obstruction or impediment, including all associated and appurtenant items.

Exception: The term does not include facilities owned or operated by the City.

"Public right of way" (or "PROW") has the meaning given in the LGC Section 283.002, [i.e., the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest; the term does not include the airwaves above a public right-of-way with regard to wireless telecommunications.]. The term includes both street areas and easements owned or controlled by the City for water, sewer, drainage or similar purposes.

"PROW work" means activities to place, install, construct, maintain, alter, operate, maintain, repair, reconstruct, inspect, connect, attach to, connect to or disconnect any PROW facility.

"Superior law" includes federal and state laws, rules and regulations.

"Telecommunications service" means the providing or offering to provide transmissions between or among points identified by the user of the service, of information of the user's choosing, including voice, video or data, without change in content of the information as sent and received, if the transmissions are accomplished through PROW facilities, expressly excluding cable services or open video systems as defined in Title VI of the Communications Act of 1934, as amended, and any service that may only be offered by certificated telecommunications providers.

"User" means a person: (i) owning, claiming, controlling, operating, maintaining, leasing (as lessor or lessee), renting (as landlord or tenant) or otherwise using (or receiving the use or benefit of) any PROW facility or (ii) receiving, claiming or holding a permit, municipal consent or other approval for the PROW facility.

B. Administration, Etc.

1. **Generally.** The Mayor shall administer and enforce this chapter and may delegate responsibilities for administration of any one or more provisions.

The Mayor may promulgate and modify forms, procedures and criteria for administration of this chapter.

2. Certain Determinations.

a. Under this chapter:

(1) Determinations of reasonableness, feasibility and practicality shall take into account certain user-specific factors, in addition to other police power considerations, if a user requests that they be considered and provides the requisite supporting information. Such user-specific factors are: (i) possible service interruptions, (ii) possible accidents, (iii) possible delays in construction or availability of facilities, and (iv) unreasonable technical or economic burdens.

(2) Impacts upon ROW, residents and property are measured in terms of: (i) access requirements, (ii) disruption or displacement of other facilities or activities, (iii) visual intrusiveness or other aesthetic degradations, (iv) risk of physical impact and (v) other external effects including reduction in property values.

b. Such determinations may take into account any: (i) unreasonable failure or refusal of a user to submit and coordinate its system plans when requested by the City and (ii) unreasonable failure or refusal to participate in a common excavation, bore, etc., or allow others to do so, all as more fully described in this chapter.

3. Interpretation, Enforcement. All City officials having the duty to interpret and enforce this chapter shall do so in harmony with superior law and franchise ordinances.

4. Superior Law. The Mayor shall allow any person to submit a written request for a determination that a user or PROW facility is subject to and governed by superior law or a franchise ordinance that is in conflict with or inconsistent with this chapter. The Mayor shall review any such request and endorse it to show the following: (i) the Mayor's determination as to whether such superior law or ordinance applies to that person and that PROW facility, and if so, to what extent; and (ii) which provisions of this chapter are in conflict or inconsistent with the superior law or ordinance and will not be applied to that person or PROW facility. All City officials shall rely on such endorsements of the Mayor for purposes of applying this chapter, subject to the jurisdiction of the City Council under AMC Title 2. The Mayor may require supporting documents and information from a requestor. The Mayor may revise or revoke endorsements from time to

time, after making a reasonable effort to notify the owner of the PROW facility and provide the owner an opportunity to be heard.

5. **Effect of Other Provisions.** This chapter applies in addition to other applicable provisions in this chapter or other rules, regulations or ordinances, including, for example, building codes, technical codes and the Public Infrastructure Design Manual adopted by AMC Title 20.

C. **Administrative Remedies.** The following are all subject to the jurisdiction of the City Council under AMC Title 2, regarding appeals, interpretations, variances, etc.: (i) a Mayor's endorsement, revision or revocation regarding superior law or franchise ordinance, as provided above; (ii) a failure to grant such an endorsement, revision or revocation within 45 days after it is duly applied for (and supported by written proof, documents and information); and (iii) any other order, determination, permit, agreement, approval or other action taken by the Mayor or other designated representative of the City under this chapter. As an additional administrative remedy, any person aggrieved by this chapter or by any action taken (or not taken) under this chapter may request that the City amend this chapter or other rule, regulation, ordinance or agreement. Such requests, to be effective, must be in writing and filed with the City Secretary, and they must be accompanied by the text of the amendment requested (showing both insertions and deletions) and supporting documents and information.

D. **Certain Conduct Unlawful.**

1. **Generally.** It shall be unlawful for any person to perform, cause or allow any PROW work, or to otherwise place, install, construct, maintain, alter, own, claim, operate, control, maintain, use, rent (as landlord or tenant), lease (as lessor or lessee), own or use (or receive the use or benefit of) any PROW facility (or other structure, thing or condition for which a permit is required) in PROW, unless: (i) there is in effect a permit issued under this chapter which authorizes such work, facility, structure, thing or condition; (ii) any additional approvals or consents required by this chapter are in full force and effect, (iii) there is full compliance with applicable terms and conditions of such permits, approvals and consents; and (iv) there is full compliance with the applicable provisions of this Code.
2. **Interference, Etc.** It shall be unlawful for any person to interfere with or obstruct any work authorized by the City in PROW. This paragraph prohibits threats, coercion, duress and all other kinds of interference or obstruction, whether direct or indirect.
3. **Employees; City Activity.** In any proceeding to enforce this chapter regarding a failure to have a required permit, approval or consent, it is an affirmative defense that, at the time of the offense, the person charged was an actual employee of, and acting under the direct supervision and

control of: (i) a person holding all necessary municipal consents, permits and other approvals; (ii) the City itself; or (iii) a City contractor performing under a contract in which the City specifies the work to be done and has either direct supervision or enforcement authority.

4. **Preempted Requirements.** In any proceeding to enforce this chapter regarding failure to have a required permit, approval or consent, it is an affirmative defense that, at the time of the offense: (i) the person charged was engaged in work specifically authorized to be done, without a permit, approval or consent, by a City franchise ordinance or by superior law that preempts the requirement to have a required permit, approval or consent, (ii) written notice of the work was given to the Mayor in advance, together with an effective request for an endorsement and Mayor's determination based on the superior law or franchise ordinance, as provided above; (iii) the work had no effect, or only an insignificant effect, on public areas or facilities, and (iv) there was complete compliance with applicable regulations, specifications and procedures (including, for example, the franchise ordinance or superior law), as designated by Mayor.
5. **Emergency Action.** In any proceeding to enforce this chapter, it is an affirmative defense that all of the following circumstances are present: (i) the person charged was engaged in work urgently necessary to respond to an emergency and to protect the health or safety of the public, and (ii) compliance with this chapter was achieved as fully as practicable and as rapidly as practicable after the beginning of the emergency.

18.08.020 Work In PROW, Permits, Etc.

A. Permits, Etc.

1. **Permit Required.** A permit is required for any PROW work, in addition to any required municipal consent, as provided elsewhere in this chapter.

Exceptions: No permit is required for a fence, hedge, planter or moveable item in an ordinary utility easement located on a building site that allows shared use of the easement area, if there is no significant physical interference with utility facilities, existing or proposed.

2. **Signatures and Processing.** Applications for permits must be signed by the owner of each PROW facility and by each contractor. All persons and entities signing the application are considered permittees and co-holders of the permit, and all are jointly and severally responsible for compliance with the permit and applicable regulations, specifications and procedures. The Mayor shall promptly process each valid and administratively complete application for a permit. When necessary for a permittee to provide critical telecommunications or utility service (or for other good

cause shown), a permittee may request priority handling. In such cases, the Mayor shall make reasonable efforts to assist.

3. **Street Amenities.** The Mayor may not issue a permit for a street amenity unless, in addition to all other requirements of this chapter, the Mayor also makes the findings required by Section 316.003, Texas Transportation Code. Street amenities mentioned in subdivisions (1) and (5) of Section 2 of that statute may also be established and maintained with City funds, materials, equipment and personnel, if approved by the City Council and if the required findings are made by the Mayor or City Council.
4. **Performance Security Required.** The Mayor shall not issue a permit under this chapter unless at least one permittee provides financial security as required by this paragraph A.

Exceptions: No financial security under this chapter is required for:

- a. Minor repairs such as leveling small areas (less than four square feet), sealing, filling cracks or re-affixing loose pieces, not affecting any new roadway,
 - b. Work done under a contract with the City (including an intergovernmental agreement) which, to the extent required by state law, is also secured by a performance bond, or
 - c. Work that has no effect, or only a minimal effect, on public areas or other structures or equipment not owned by the permittee, as determined by the Mayor
5. **Type of Performance Security.** Financial security must be a surety bond or a written guarantee secured by a deposit of cash (or cash equivalent), in the amount prescribed below and in a form approved by the Mayor.

Exception: The Mayor may accept an unsecured written guarantee from a permittee which owns real property or other fixed assets in Fort Bend County having an aggregate value of \$5,000,000 or more according to the most recent tax appraisal roll.

- a. The amount of financial security shall be at least the construction cost of restoring both the affected area and affected structures not owned by the permittee, plus 25% for design, contingencies, inspections, testing, etc., all as estimated by the Mayor. However, the minimum amount of financial security is \$10,000 for work affecting pavement or public facilities, or \$1,000 for all other work.
- b. The conditions of the bond or guarantee shall be that the permittee will: (i) perform the work in accordance with applicable regulations, specifications and procedures, (ii) comply with the

permit, including the approved plans and specifications, (iii) repair, replace and restore the affected areas to their pre-existing condition (or better), (iv) repair, replace can restore any and all defects in, or damages to, the work discovered within one year from and after the date that the work is officially accepted by the Mayor, which defects result from, arise out of or relate to any activities under the permit.

B. Suspension, Revision, Revocation. For good cause (including, but not limited to, misrepresentation or mistake in the issuance process, violation of applicable regulations, violation of conditions, non-compliance, etc.), the Mayor may suspend, revise or revoke a permit or other approval (but not a municipal consent). Except in case of emergency, the Mayor should make a reasonable effort to notify the permittee and provide an opportunity to be heard.

18.08.030 Municipal Consents

A. Consents Required, Etc. All the following requirements must be met to own, maintain, operate or use a PROW facility, or to use or occupy any part of the PROW, as applicable:

1. There must be in effect a municipal consent that clearly authorizes the PROW facility itself, the location of the facility in the PROW and the use of such facility by each user.

Exceptions: This requirement does not apply to: (i) abutter facilities, or (ii) specific facilities, to the extent the user demonstrates clearly to the Mayor that it has the right, under superior law, to use PROW without such an authorization from the City Council.

2. All other permits and approvals must have been duly obtained for the PROW facility, as required by other provisions of this chapter.
3. All related PROW work must be in compliance with this chapter and with any applicable City Council authorization.
4. The PROW facility must comply with this chapter and with any applicable permits, approvals and City Council authorization.
5. Each owner and user of the PROW facility must be in compliance with all applicable provisions of paragraph A.

B. Consents in General.

1. **In General; Non-exclusivity.** Subject to this chapter, the City may consent to use of PROW for PROW facilities that are to be used to provide utilities or similar public services. All municipal consents shall be

non-exclusive.

2. **CATV, Video, Etc.** A traditional franchise ordinance is required for the following: (i) cable service or open video systems as defined in Title VI of the Communications Act of 1934 [Title 47, Chapter 5, Subchapter V-A of the United States Code (47 U.S.C. §521, et seq.)], or (ii) any other content service.
3. **Other Provisions.** Any services or facilities not specifically described in a municipal consent are prohibited, unless another municipal consent is obtained. Use of PROW shall be governed by the other provisions of this chapter as well as other applicable regulations. A municipal consent does not grant the right to use or attach to City infrastructure or facilities, unless expressly stated otherwise.
4. **PROW Fees.** Each user shall be liable for PROW use fees, whether a permit, consent, or other approval is obtained, or not, unless expressly preempted by state or federal law.

C. Procedures.

1. **Applications.** A person must submit an application to the Mayor to initiate the process to obtain a municipal consent. The application must be on a form prescribed by the City, and it must include the following:
 - a. The identity of the applicant, including all affiliates of the applicant that may have control of the PROW facilities, to the extent known at the time of the application,
 - b. A general description of the facilities and services to be provided;
 - c. A description of the effect on the PROW, including construction, post-application activity, routine maintenance, etc., including:
 - (1) The location and route required for applicant's proposed facilities;
 - (2) The location of all overhead and underground public utility, telecommunication, cable, water, sewer, drainage and other facilities at the location or along the proposed route;
 - (3) The specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to affect; and
 - (4) Additional data that the Mayor reasonably requests; and
 - d. A deposit to cover the City's costs of review and preparation of documents. Additional deposits may be required as the work progresses. Any unused part of the deposits will be refunded after

completion or abandonment of the work.

2. **Review.** The Mayor shall review an application submitted and recommend to the City Council that it grant or deny the application, with or without amendment. The Mayor shall make a recommendation to the City Council as soon as practicable, but no later than the next Council meeting occurring at least 35 days after a completed application has been filed. The Mayor may recommend the type of authorization (e.g., a traditional franchise ordinance). With an agreement between the Mayor and an applicant, action may be postponed for one or more time periods.
3. **Council Action.** Except for delay caused by the applicant, the City Council will take initial action on the Mayor's recommendation at its first regular meeting that falls 15 days or more after the date of the Mayor's recommendation. No City Council action is required to confirm a recommendation to deny, but the City Council will provide an acknowledgment of receipt of the recommendation upon request. An ordinance is ordinarily required to grant consents, and any applicable signature requirements, reconsideration requirements and referendum provisions must be observed.
4. **No Guarantee, Etc.** Nothing in this chapter requires the City to grant any consent or authorization to use PROW, and no person has any entitlement to a consent. Instead, the City retains the full governmental discretion allowed by applicable regulations. Review and approval by the City does not constitute a guarantee or representations of the sufficiency or safety of the design or adequacy of any facilities or services. The applicant retains full responsibility for such sufficiency, safety and adequacy.

D. Preparation and Contents

1. **In General.** If the Mayor finds that the application meets the requirements of this chapter, the Mayor shall request the City Attorney to prepare a municipal consent ordinance for the City Council's consideration at the time the application is before Council, if practicable.
2. **Certain Contents.** A municipal consent submitted to the City Council must include the following provisions:
 - a. A term of not more than five years (which may be longer in the case of franchises);
 - b. A requirement that the user comply with all applicable regulations;
 - c. Provisions incorporating the application, state law and this chapter, including, without limitation, this chapter; and

d. Other provisions prescribed by the Mayor.

E. Reconsideration Procedure. Any person whose application for a municipal consent is denied or whose municipal consent is terminated may petition the City Council for reconsideration, in writing. A petition for reconsideration is considered denied if the City Council does not act within 35 days after the petition is filed with the City Secretary, unless otherwise specifically stated.

F. PROW Fees.

1. **In General.** For each PROW facility, the holder of the municipal consent and each other user must pay PROW fees as provided below.

Exception: This requirement does not apply to telecommunications facilities or other facilities, to the extent fees are expressly prohibited or preempted by LGC Chapter 283 or other applicable law.

2. **Calculation.** For each month or part thereof, the PROW fee is the greater of either the access line fee (if applicable) or the physical occupancy fee, as follows:

a. **Access line fee (telecommunications).** The access line fee applies if the user has access lines in the City for which an access line fee is in effect under LGC Chapter 283. The amount is as prescribed, per access line, by the Public Utilities Commission, as provided in state law.

b. **Physical occupancy fee.** The physical occupancy includes a base fee of \$1,500 per year for each occupied location where all equipment is attached to an existing pole, or \$2,000 per year if a separate pole or ground-mounted equipment is used. If the height exceeds 40 feet, there is an additional fee of \$600 per year. There is an additional fee of \$800 per year for each carrier or other user of the facility (other than holder of the municipal consent). For purposes of this paragraph F, an "occupied location" is: (i) up to nine square feet of PROW, plus the areas above and below those nine square feet, or (ii) for wires, cables, conduits and other horizontal facilities, 300 lineal feet. For facilities that occupy more than nine square feet or 300 lineal feet, the base fee is multiplied by a fraction, the numerator of which is the area or lineal feet occupied and the denominator of which is 9 or 300, as the case may be.

3. **Adjustments.** PROW fees (except access line fees) may be adjusted by the City. Unless supported by an independent valuation study, adjustments should not exceed 3.3% per year, compounded from the date

of the last adjustment.

4. **End-Users, Franchises, Etc.** The PROW fees are used to calculate the compensation for use of PROW and are not to be construed as the setting of a charge for end-users. PROW fees are the minimum due for use of the PROW. If a franchise, another ordinance or other authorization requires a greater fee, the greater fee prevails. No permit shall authorize the transport or distribution of natural gas by a permittee or applicant whose use of PROW is subject to other city action or approval under state law. Nothing contained in this chapter shall preclude the city imposing other or additional fees or charges for the use or presence of pipelines or other facilities in PROW, if the City is required or allowed to assess such fees or charges pursuant to Texas Tax Code §182.025, or other applicable federal, state or local law, now or hereafter existing.
5. **Access Line Details.** The following apply to users with access lines:
 - a. The access line fee is due for each access line owned or used by the user, counted as of month-end, that is activated for use by an end-use customer in the City of the user or by a non-certificated telecommunications provider, by lease or otherwise.
 - b. Subject to City's agreement not to disclose this information unless required by law, each user must provide quarterly (or within a reasonable time after receipt of the City's written request), a report showing the number of access lines being owned, used, maintained or operated by the user that are serving premises within the City, on a month-end basis. The City agrees that the report shall be used solely for the purposes of verifying the number of access lines. Upon written request, each user must verify the information in the report and, upon reasonable advance notice, all non-customer specific records and other documents required for such verification shall be subject to inspection by the City, expressly excluding any records, documents or other writings the disclosure of which is prohibited by state or federal law, including the Electronic Communications Privacy Act, 18 U.S.C. §2701 et seq.
 - c. No fee is due for an access line if state law so provides.
6. **Confidential Data.** If a user notifies the City by a conspicuous written notation of the confidential nature of any information, reports, documents, or writings, the City may attempt to maintain the confidentiality of the information, reports, documents, and writings to the extent permitted by law. Upon receipt by the City of requests for confidential information, reports, documents, or writings, the City shall notify the user of the request in writing or by facsimile transmission. The City shall furnish the user with

copies of all requests for Attorney General's opinions pertaining to the information request. The City may request an Attorney General's opinion before disclosing any such confidential information, reports, documents or writings, if allowed by law.

7. **Other Fees, Etc.** Fees under this chapter are not in lieu of any generally applicable ad valorem taxes, sales taxes, business fees or other generally applicable taxes, fees, utility rates or charges, development impact fees or charges, or other statutory charges or expenses recoverable under the Texas Public Utility Regulatory Act, or other law, rule or regulation.
8. **Payment Schedule.** Each user shall remit the PROW fees on a quarterly basis. Payment shall be made on or before the 45th day following the close of each calendar quarter for which the payment is calculated and shall be paid by wire transfer, if so requested by the Mayor.
9. **Audits.** On 30 days notice to a user, the City may audit the user for a period of time to the fullest extent allowed by law. The user shall furnish information to demonstrate its compliance with the municipal consent and other provisions of this chapter.
10. **Records.** Each user shall keep complete and accurate books of accounts and records of business and operations that reflect the monthly count of all access lines, the linear feet of PROW facilities and activities at crossings, for a period of one year after the expiration of the term of its municipal consent. The Mayor may require the keeping and reporting of additional records or accounts that are reasonably necessary for purposes of identifying, accounting for, and reporting the number of access lines, PROW facilities or surface disturbances used to deliver telecommunication services or for calculation of the payments due hereunder. The City may examine each user's books and records referred to above, except for any records, documents or other writings the disclosure of which is prohibited by state or federal law, including the Electronic Communications Privacy Act, 18 U.S.C. §2701 et seq, but only to the extent such records reasonably relate to providing information to verify compliance with this chapter and the municipal consent.
11. **No Circumvention.** A person shall not circumvent payment of any fees payable hereunder or evade payment of such fees by bartering, transfer of rights, or by any other means.

G. **Furnishing Information.** Each user must make available to the City or the City's designated agent (hereinafter "agent"), for the agent to examine, audit, review and copy, its books and records referred to above, including papers, books, accounts, documents, maps, and plans that pertain to compliance with this chapter or a municipal consent. They shall be made available in the City, upon

the Mayor's reasonable written request. The user shall fully cooperate in making them available and otherwise assist the agent. The agent shall not inspect or copy or otherwise demand production of customer specific information or any records, documents or other writings the disclosure of which is prohibited by state or federal law, including the Electronic Communications Privacy Act, 18 U.S.C. §2701 et seq.

H. Transfers.

1. **In General.** Neither a municipal consent nor any related rights or privileges nor any PROW facilities covered by a municipal consent may be sold, resold, assigned, conveyed or otherwise transferred by the user, either separately or collectively, to any other person, without the prior written approval of the City granted by ordinance or resolution. The City's approval may be withheld if the transferee does not provide adequate information to the City to show that it has the ability to perform and comply with the municipal consent and this chapter. Such approval shall not otherwise be unreasonably withheld or delayed. Should a user make such a transfer without the City's prior consent, the City may revoke the municipal consent for default, in which event all rights and interest of the user under the municipal consent and this chapter shall cease. Further, any transfer in violation of paragraph H shall be null and void and unenforceable, and any continued use or occupancy of the PROW shall be prohibited, except for the obligation to remove facilities and restore the PROW, as provided elsewhere in this chapter.
2. **Change of Control.** Any change of control of a user shall constitute a transfer under this paragraph H that requires consent of the City. There shall be a rebuttable presumption of a change of control if there is a change of 25% or greater in the ownership of a user.
3. **Mortgages, Etc.** A mortgage or other pledge of assets to a bank or lending institution in a bona fide lending transaction shall not be considered a transfer, but a transfer resulting from foreclosure or similar action is a transfer.
4. **Approval by Inaction.** Notwithstanding anything else in this paragraph H, if the City has not approved or denied a request to transfer under this paragraph H at the next regular Council meeting held after the elapse of 35 days from the date of written notice of such request, it shall be deemed disapproved. Such time frame may be extended by mutual agreement of the user and the Mayor.
5. **Exempt Transfers.** A non-certificated telecommunications provider may without City approval, (i) transfer or assign the PROW facilities under a municipal consent to another non-certificated telecommunications provider which has a municipal consent under this chapter; (ii) transfer or assign the municipal consent to an affiliate that is a certificated

telecommunications provider or (iii) collaterally assign the municipal consent to its lender as security, and said lender may exercise its security interest and transfer the municipal consent to a third party that is a non-certificated telecommunications provider; however, unless there is prior consent by the City which releases the holder of the municipal consent ("assignor") from its obligations and liabilities under the municipal consent, such assignor is not released from any obligations or liabilities that arise from this chapter or the municipal consent. The non-certificated telecommunications transferring or assigning the facilities or the municipal consent must give written notice of such to the Mayor within 15 days.

I. **Renewal.** A user may request renewal of a municipal consent by making written application to the Mayor at least 90 days before the expiration of the consent.

J. **Boundary Changes.** Within 30 days following the date of the passage of any action affecting the City's corporate boundaries, users shall start including or excluding access lines within the affected area on the effective date designated by the Comptroller of Public Accounts for the imposition of local sales and use taxes.

K. **Termination.**

1. **In General.** The City shall have the right to suspend or revoke any municipal consent and any related rights or privileges in the event of a material breach or violation of the municipal consent or this chapter, but only after giving at least 30 days written notice to the user and the opportunity to cure the breach during that 30-day period. Upon written request by the user and approval by the Mayor, a longer notice and cure period will be allowed, if: (i) the breach or violation reasonably takes longer than 30 days to cure and (ii) the user acts diligently and in good faith to cure as soon as reasonably practicable.
2. **Material Breach; Excuse.** A breach or violation is not material if it occurs without the fault of a user and as a result of circumstances beyond its control. A user is not excused from performance of any obligations by economic hardship, nor misfeasance or malfeasance of contractors, officers or employees.
3. **Declaration.** A termination may be declared only by motion, resolution or ordinance of the City Council after an appropriate public proceeding before the City Council, which shall accord the user an opportunity to be heard and to respond to allegations of breach or violation. Notice of the proceeding shall be given to the user at least 15 days in advance. The notice shall state the grounds for termination alleged.

18.08.040 Street Rental Charge (Gas)

- A. **Imposed; Amount; When Payable.** Upon the first day of February of each year, every person occupying or using any street area, PROW or City easement with gas mains, pipes or other fixtures for the distribution of gas shall, as a condition to such further occupancy, pay to the City annually for such privilege, a rental equal to three percent of the gross receipts received by such person from gas sold and delivered to residential and commercial consumers at residential and commercial rates within the City for the preceding calendar year. Amounts paid under this paragraph shall be credited against amounts, if any, paid as ROW fees for a municipal consent under this chapter.
- B. **Report of Gross Receipts of Payor.** All persons using or maintaining any gas pipelines, pipes and other fixtures in any of the streets, highways, easements, alleys, parks or other places within the corporate limits of the City shall, on the first day of February of each year, file with the City Secretary a sworn report showing the gross receipts from gas sold and delivered to residential and commercial consumers at residential and commercial rates by such persons within the corporate limits of the City for the preceding year ending the last day of December.
- C. **Examinations of Books and Records of Payor.** The City Council may, when it may see fit, have the books and records of any person rendering the statement required in this section examined by a representative of the City to ascertain whether such statement is accurate, but nothing in this paragraph shall be construed to prevent the City from ascertaining the facts by any other method.
- D. **Receipt for Payment.** Upon receipt of the rental charge imposed by this section by the City, the City Secretary shall deliver to the person paying the same a receipt therefor, which receipt shall authorize such person to use and occupy the streets, highways, easements, alleys, parks and other public ways of the City in carrying on his business for twelve months from January first of such year.
- E. **Charge Additional to Taxes.** The rental charge imposed by this section is not charged as a tax but is made for the privilege now enjoyed by the persons upon whom it is imposed of using the streets, easements, alleys and other public ways of the City in the conduct of their business, and such charge is additional to all ad valorem and franchise taxes and to all taxes of every nature whatsoever against such persons.
- F. **Other Laws and Ordinances.** Nothing in this chapter is intended to relieve any person of any condition, restriction or requirement imposed by the law, this Code or other ordinance of the City.
- G. **Not a Franchise; Cancellation.** This chapter does not grant a franchise to any utility or person to use the streets, easements, alleys and other public ways and shall never be so construed by the courts or otherwise, and the City reserves the

right to cancel the privileges granted hereunder and refund the unearned rentals paid to the City.

- H. **Restrictions, Regulations, Etc.** The City hereby reserves the right to put into effect at any time other restrictions and regulations as to the erection and maintenance of gas mains, pipes and other appurtenances in the streets, easements, alleys and other public ways of the City and from time to time to require such gas mains, pipes and other property, equipment and fixtures as it may deem proper to be removed on such terms as the City may deem proper. This chapter includes many such restrictions and regulations, which apply in accordance with their terms.

18.08.050 PROW Facilities, Generally

A. General Regulations.

1. **New or Reconstructed Facilities.** An applicant and user must deliver to the City construction plans and maps showing the location and proposed routing of new (or reconstructed) PROW facilities at least 15 days before beginning construction or reconstruction. An applicant or user may not undertake construction except in accordance with complete plans and specifications approved in writing by the Mayor (in addition to other required approvals, consents, etc.) The Mayor shall either grant such approval or deny it based upon: (i) other provisions of this chapter or other applicable regulations, (ii) sound engineering practice, (iii) unnecessary or unreasonable impact upon surrounding area, (iv) availability of an alternative location or routing or (v) a combination of these factors. In addition, each applicant and user must provide, at least 72 hours before work in PROW begins:
 - a. A certificate that all proposed PROW facilities comply with applicable regulations of the Federal Communications Commission; and
 - b. Certification that any network nodes, similar telecommunications facilities and related facilities will be placed into active commercial service by or for a network provider not later than the 60th day after the date the construction and final testing of the nodes or facilities is completed
 - c. Notice to the Mayor of the times and places when the work will be done.

2. General Standards.

- a. All PROW work must be performed:
 - (1) In accordance with this chapter and other applicable

regulations, including, without limitation, building codes, technical codes and the Public Infrastructure Design Manual adopted by this Code (as well as the design manual adopted in paragraph A,11, to the extent it applies);

(2) In a manner that minimizes interference with public and private property, following all reasonable construction directions given by City officials to minimize any such interference; and

(3) Only after the required authorizations, permits, consents and approvals are obtained and the user has given the Mayor at least 48 hours advance written notice of: (i) the start of work and (ii) the specific location of the work.

b. Such authority shall apply and be exercised as land use, planning, and permitting authority applicable to PROW in the City's boundaries, including with respect to utility poles.

3. Underground Requirements. All new or reconstructed PROW facilities of a type normally located below ground in new residential developments in Fort Bend County shall be located below ground level, unless the Mayor determines that underground location is not reasonable or not feasible, in a particular location.

4. Restoration.

a. When any PROW work is completed, or when no substantial work is done at the site of any PROW work for more than three consecutive business days, a permittee or user must, beginning within two business days thereafter, restore the PROW as follows:

(1) Use properly-compacted cement-stabilized material for all backfill and provide a reasonable opportunity for City inspection before the backfill is covered, unless the Mayor approves a different backfill method;

(2) Replace and properly re-lay and repair the pavement, curb, sidewalk and gutter (including the surface and base), other structures, any irrigation system and any landscape treatment that may have been affected by the PROW work;

(3) Return the PROW and all structures therein to their pre-existing condition as nearly as practicable; and

(4) Otherwise comply with applicable regulations.

b. Such restoration must be completed as soon as practicable. Should the Mayor determine, within one year from the date of any

restoration work, that the work was ineffective, defective in materials or workmanship or otherwise not in accordance with City standards or other applicable regulations, the user must again restore the PROW as required by this paragraph A. Such work must begin within three business days following receipt of written notice and must be completed as soon as practicable thereafter, unless an appeal of the determination is pending.

5. **Emergency Action.** If the Mayor or Mayor Pro Tem declares an emergency with regard to the health and safety of the public and requests the removal, repair or alteration of PROW facilities, a user must remove, repair or alter the user's PROW facilities, at its own expense, as soon as reasonably possible after receiving notice of the request. The user and the City should cooperate to the extent reasonable and feasible to assure continuity of service. The user is not required to delay taking such action in order to comply with other provisions of this chapter (e.g., advance notice, submissions of plans, permits, etc.), if the user takes all reasonable steps to comply as soon as reasonably practicable.
6. **Temporary Moving.** A user must, at its own expense, temporarily remove, raise or lower its PROW facilities to permit the moving of houses or other bulky structures, if the Mayor gives at least 72 hours advance written notice. The user may require that its costs be reimbursed, unless the work is to accommodate construction, operation, repair, maintenance or installation of a City facility (including a change of width or grade of pavement) or another City operation. (h) Other moving or alteration. Within 90 days following receipt of notice from the Mayor, a user must, at its own expense, permanently, remove, relocate, change or alter the position of the user's PROW facilities. The Mayor may grant reasonable requests for time extensions for good cause shown. The user may require that its costs be reimbursed, unless: (i) the work is to accommodate construction, operation, repair, maintenance or installation of a City facility (including a change of width or grade of pavement), or (ii) the work is required to place PROW facilities underground as authorized by this chapter.
7. **Trees.** Permittees and users may not trim or damage trees (including their roots) unless the work is: reasonably required for the safe and reliable operation, use and maintenance of its PROW facilities and all reasonable steps are taken to minimize and mitigate tree damage. All trimmings shall be immediately removed when work is completed at any given location.
8. **Time and Manner.** Permittees and users must limit the length and size of areas under construction at any given time, and must also limit the time, place and manner of PROW work, to the extent reasonably necessary to reduce impacts upon PROW, nearby residents and properties. Permits for

PROW work may prescribe reasonable limits for this purpose, and the Mayor may add them to an existing permit.

9. **Common Use of Trenches, Etc.** Upon written request from the Mayor, each applicant and user must furnish information about PROW work planned during the upcoming five years that might provide an opportunity for common use of excavations, bores, etc. From time to time, the Mayor may propose that users participate in common excavations, bores, etc., either with other users or public agencies or with the City. If reasonable and necessary to avoid wasteful duplication of excavations, bores, etc. in PROW or to reduce impacts upon PROW (or residents or property), the Mayor's proposals may include special requests that extra or oversized excavations, bores, conduits, manholes and facilities be made or installed and then made available to the City or designees, provided that: (i) the City or designee pays a fair and reasonable share of the cost of such work and (ii) any resulting joint use will not cause significant interference with a user's operations or facilities.

10. **Removal.** Unless the Mayor approves another disposition by written permit, a user must remove all of its PROW facilities from the PROW and restore the affected areas (as required in the case of other PROW work), if: (i) any required permit or authorization expires or is terminated or (ii) the PROW facility is not used for a period of 90 days or longer. Removal and restoration must begin within 30 days following either of such occurrences and must be completed within 30 days thereafter, or such longer time as the Mayor may approve.

11. **Design Manual.**

a. The City hereby adopts a design manual for network nodes and other facilities mentioned in LGC Chapter 284. The design manual includes the documents and requirements listed below, to the extent they do not conflict with said LGC Chapter 284:

- (1) This chapter and other applicable regulations in this Code,
- (2) The building codes, technical codes and Public Infrastructure Design Manual adopted by this Code include (and for this purpose, network nodes and other facilities mentioned in LGC Chapter 284 shall be treated the same as private utilities, whether they are utilities or not):
- (3) A requirement that an industry standard pole load analysis be completed and submitted to the City indicating that any service pole to which a network node is to be attached will safely support the load;
- (4) A requirement that non-cable facilities be placed on new and existing poles be placed more than eight feet above

ground level, unless the Mayor determines that lower placement will be as safe and less intrusive;

(5) Requirements as follows: (i) that all installations reduce the mass of the facilities visible from off-site or street areas, to the extent reasonably possible while maintaining structural integrity; (ii) that all facilities blend with similar objects to the extent feasible within the physical context and not be unnecessarily intrusive or obtrusive; (iii) that facilities include a permanent marker (not larger than 4x6 inches) clearly identifying the owner's name, address and emergency telephone number; (iv) that trees, natural landscaping and screening be incorporated to the greatest extent feasible. (v) that camouflage and disguise techniques be incorporated to the greatest degree feasible, for facilities that cannot be screened;

b. The Mayor shall from time to time compile the then-current versions of documents and requirements listed above and provide them to any person or entity which requests them.

B. Priorities for Use of PROW.

1. **Municipal Use.** Municipal uses have priority over all other uses of the PROW. The City has and retains full authority to lay sewer, water, drainage and other pipes, cables and conduits, to install and change all other facilities, to do underground and overhead work (and attachments, restructurings and changes to PROW facilities), and to change curbs, ditches, sidewalks, roadways and their grades.
2. **Standards.** The City Mayor shall assign locations in, on or over PROW among users and other persons with due consideration to public health and safety considerations of each use. If there is limit space available for additional users or facilities, the City may limit PROW facilities accordingly.

C. Insurance and Indemnities.

1. **Generally.** At all times when a permit is in effect or PROW work is being done, and whenever PROW facilities are present in the PROW, each permittee and user must: (i) maintain or cause to be maintained in effect both insurance and indemnities as required by this paragraph C, and (ii) file or cause to be filed written proof of insurance and indemnities with the City. The Mayor may specify the forms for such written proof. The Mayor may waive or reduce these requirements for small projects, if it is shown that the risk of loss is minimal, and there is an provision for self-insurance,

below.

2. **Insurance Specifications.** The insurance must include limits of liability, types of coverage (including explosion, underground, collapse, completed operations, etc.), endorsements (including additional insureds, waiver of subrogation, "per project" limits, etc.) and other features that are equivalent to (or better than) those provided by City contractors performing similar activities in PROW, as determined by the Mayor. In lieu of such insurance, in whole or in part, the Mayor may accept evidence of self-insurance, but only to the extent the self-insurance is proved by: (i) a certificate or other official determination of self-insurance issued by the appropriate state agency, or (ii) other proof of self-insurance satisfactory to the Mayor.
3. **Indemnities.** Written indemnities shall be in a form prescribed by the Mayor, based on those provided by City contractors performing similar activities in PROW. Each permittee and each holder of a municipal consent must sign and acknowledge an indemnity and file it with the City.

D. **Information, Etc.** Each permittee and user must report information related to its use of the PROW in the form and manner reasonably prescribed by the Mayor, including but not limited to:

1. Information relating to the user's identity, address, telephone numbers, authorized personnel, 24-hour contact persons, PROW facilities and PROW work, at reasonable times specified by the Mayor, which information shall thereafter be kept current by the user;
2. "As built" drawings, in a format reasonably prescribed by the Mayor, and as allowed by law, within 15 days of completion of any section of new or reconstructed PROW facilities, and when otherwise requested by the Mayor; provided, however, the Mayor may accept reasonable alternatives to "as built" drawings if (i) the alternatives provide adequate information about the PROW facilities and (ii) the user agrees in writing, at its own cost, to locate the facilities in the field and provide necessary location data to the Mayor, including depths, immediately upon request;
3. Written notice at least 15 days before any transfer of control or material change in operations; and
4. Within 15 days following a written request, copies of public petitions, applications, written communications and reports submitted by the user to federal or state regulatory agencies, but only if they relate to use of the PROW, and are reasonably identified.

E. **Reimbursement of Costs.** If a permittee or user fails to perform any work required by this chapter (for example, work to move or remove facilities or to restore the PROW) within the prescribed time (or within a reasonable time, if no

time is prescribed), the City may perform the work or have it performed. Except in case of an imminent threat to public health or safety, the City should give the permittee or user a notice allowing the user at least five calendar days to perform the work before the City does it. The permittee or user must reimburse the City for the costs so incurred within 30 days from the date the user receives an invoice and a written determination by the Mayor that the amounts are correct and owed by the user. The City incurs no liability by taking such action. Reimbursement is not a bar to other enforcement action or to prosecution for any violation.

F. Applications, Specifications, Etc. for Permits.

1. **Application.** This paragraph F applies to all work for which a permit is required by this chapter, except that the Mayor may waive or reduce the requirement for specifications for small projects or projects for which there are sufficient standard specifications incorporated into the permit, as determined by the Mayor. For any application, the Mayor may require supporting documents and additional information.
2. **Plans & Specifications; Grades.** The Mayor shall establish: (i) procedures, plans and specifications for roadways, sidewalks, driveways, curbs, gutters, utility facilities, other structures and other work and (ii) the grade, elevation and other special features for a particular structure. The plans, specifications, grades and elevations shall reflect: (i) recognized public works design principles, (ii) legal requirements, including access for persons with disabilities, and (iii) applicable regulations adopted by the City Council, including, e.g., the Public Infrastructure Design Manual adopted by AMC Title 20. Additional requirements may also apply to PROW facilities under this chapter.
3. **Compliance Required.** Each permittee shall cause the work to comply with: (i) all applicable procedures, plans and specifications for the type of work authorized, with only those exceptions granted by the Mayor in writing, (ii) any grade, elevation or special feature required by the Mayor, and (iii) all applicable regulations, including, but not limited to, the provisions of this chapter and AMC Title 16.
4. **Exceptions from Standards.** For good cause shown, the Mayor may issue a permit with exceptions to standard plans and specifications. Unless the permit clearly indicates otherwise, the City shall not be responsible for repairing or replacing any non-standard items (such as, for example, a special finish on a driveway or sidewalk), and the City may require the abutting owner to pay the cost of any such repair or replacement, regardless of whether the work is made necessary by the City or would otherwise be maintained by the City. As a condition to a permit with exceptions, the Mayor may require the abutting owner to record an appropriate notice in the real property records.
5. **Standard Requirements.** Each permittee must: (i) notify the Mayor

before the beginning of each phase of the work, (ii) provide adequate opportunity for the Mayor to examine the work immediately before any part of the work is covered up and before any concrete is poured, (ii) cause the work to be done in a good and workmanlike manner by trained and skilled persons, (iv) minimize disruption and inconvenience to other facilities and activities in the affected areas, (v) remove, reconstruct and correct any facility or work that does not comply with this paragraph F, (vi) clean and restore all affected areas, (vii) haul-off and properly dispose of all debris, trash, rubbish, etc. and (viii) comply with any detailed standards and procedures established by the Mayor to govern such requirements.

G. Curb Cuts and Driveways; Concrete.

1. **Curb Cuts, Etc.** Along the common boundary of a street and a building site, no part of a curb cut, culvert or driveway serving the building site may be closer than two feet to a side or rear property line, unless the affected neighboring owner consents in writing. In a street area, no part of the curb cut, culvert or driveway serving a building site may cross the imaginary extension of a side property line, unless the affected neighboring owner consents in writing. The Mayor may grant exceptions to these rules when there is no practical alternative or when necessary to avoid obstacles, trees, etc.
2. **"Open Ditch" Areas, Culverts.** If a driveway, sidewalk or similar structure is connected to a roadway where there is no curb and gutter, there must be a concrete culvert beneath the structure. The culvert must meet the criteria specified by Fort Bend County for culverts along county roads. The Mayor may waive or modify the culvert requirement at a specific location, but only to the extent it is shown that the required culvert is not necessary for adequate area drainage and only if the owner of the affected site applies in writing and pays the otherwise-applicable fees.

H. Responsibility for Abutter Facilities. It shall be the duty of each person who owns or controls property abutting a street area or PROW to maintain, repair and replace all abutter facilities in that area. The abutting owner is responsible for obtaining all necessary permits and approvals for such maintenance, repair or replacements.

I. Continuing Provisions. The provisions of this chapter are continuing and shall survive the termination of any permit, consent or other authorization.

20 Subdivisions, Development And Platting

20.04 General Provisions

20.08 Requirements For Platting

20.04 General Provisions

20.04.010 Adoption Of Regulations; Application

20.04.020 Submission, Approval, Etc.

20.04.030 Administration, Etc.

20.04.040 Denial, Administrative Remedies, Penalties

20.04.010 Adoption Of Regulations; Application

- A. **Adoption, Projects Covered, Etc.** Subject to this title, the City Council officially approves and adopts: (a) "FORT BEND COUNTY REGULATIONS OF SUBDIVISIONS," as amended through April 26, 2005 (the "FBC subdivision regulations"), and (b) the "FBC water-wastewater rules," as defined below, which are together referred to as the "platting regulations." The platting regulations and this title shall be read together and harmonized, but in case of any conflict, the FBC water-wastewater - rules control over the FBC subdivision regulations, and this title controls over both.
- B. **Types of Plats.** Unless otherwise clearly indicated, the platting regulations and this title apply to subdivision plats, development plats, amending plats, replats and all other kinds of plats.
- C. **FBC Water-Wastewater Rules.** In this title, "FBC water-wastewater rules" means "THE RULES OF FORT BEND COUNTY TEXAS GOVERNING WATER AND WASTEWATER INFRASTRUCTURE, A SUPPLEMENT TO FORT BEND COUNTY'S REGULATIONS OF SUBDIVISIONS ADOPTED AUGUST 27, 2002," which are hereby adopted and incorporated into this title by reference (as modified below) to make the City's existing ordinances consistent with the goal and intent of the TWDB model subdivision rules set out in 31 T.A.C. Chapter 364 and to provide minimum standards that assure adequate water supply and wastewater services to subdivisions within the City and its extraterritorial jurisdiction. For this purpose, the FBC water-wastewater rules are reviewed and modified (and confirmed) as follows:
1. They shall apply within the corporate limits and the extraterritorial jurisdiction of the City, to any subdivision of a tract of land into two or more lots of five acres or less intended for residential purpose, provided, however, that the exclusion in Section 1.02 of the FBC water-wastewater rules does not apply within the corporate limits unless the City Council finds and determines that the area in question is within the service area of City's water and sewer utilities;

2. They require preparation of a subdivision plat to be approved by the City (also the county, in unincorporated areas) and filed for record with the county clerk after approval;
3. They require water supply standards consistent with the standards developed by the commission and set out in 30 TAC Chapter 290;
4. They prohibit individual water wells or non-public water systems that do not meet the water quality standards developed by the TCEQ and set out in 30 T.A.C. Sections 290.104, 290.106, 290.108 and 290.109 (and, within the corporate limits and extraterritorial jurisdiction of the City, it shall be unlawful for any person owning or controlling any site to cause or allow any such well or system to be on such site or to use, operate or maintain any such well or system);
5. They establish wastewater collection and disposal system standards consistent with the standards developed by the commission and set out in 30 TAC Chapters 305 and 317 and in Health and Safety Code, Chapter 366;
6. They prohibit pit privies, portable toilets, and on-site sewerage facilities that do not meet the wastewater treatment standards developed by the TCEQ and set out in 30 TAC Chapter 285 (and, within the corporate limits and extraterritorial jurisdiction of the City, it shall be unlawful for any person owning or controlling any site to cause or allow any such privy, toilet or facility to be on such site or to use, operate or maintain any such privy, toilet or facility);
7. They require setback limitations consistent with local fire code requirements;
8. They prohibit more than one single family detached dwelling per subdivision lot;
9. They require an engineer's report consistent with 31 T.A.C. Section 364.52;
10. They require posting of a financial guarantee to assure completion of water supply and sewer service facilities required by the approved plat and consistent with 31 T.A.C. Chapter 364; and
11. They shall be enforced as authorized by state laws applicable to the City, including, e.g., LGC Sections 212.0175 and 212.018.

D. Interpretation, Etc. In all the Fort Bend County regulations and rules adopted by this section, certain terms and shall be applied and interpreted as follows, unless the context clearly requires a different meaning: (i) "county" means "City;" (ii) "commissioners court" or "governing body" means "City Council;" (iii) "county judge" and "county engineer" mean "Mayor" and "City engineer," respectively;

(iv) references to county platting authority (e.g., LGC Chapter 232) shall be interpreted to refer to the correlative City platting authority (e.g., LGC Chapter 212); and (v) references to other county regulations (e.g., platting regulations, OSSF regulations, health regulations) shall be interpreted to refer to the correlative regulations applicable within the City or its extraterritorial jurisdiction (which may include county regulations, in areas where county regulations apply).

Exception: In Section 3.04 of the FBC water-wastewater rules, references to the county or county officials shall not refer to the City or City officials for projects in unincorporated areas, unless the county and the City have agreed otherwise in accordance with 31 T.A.C. 364.54(e) (relating to financial guarantees, interlocal agreements, etc.).

E. Where Applicable.

1. The platting regulations and this title apply throughout the city limits and the extraterritorial jurisdiction of the City, and a plat is required for: (i) each division of land subject to LGC Chapter 212, no matter how the division is proposed or done (whether by sale, lease, rent or physical division); and (ii) each project that involves development subject to LGC Chapter 212 Subchapter B (and, for this purpose, the City Council chooses to be covered by that subchapter).

Exceptions: Unless otherwise prescribed by the FBC water-wastewater rules, as adopted above, a new plat is not required for:

- a. A site served by public water and sewer systems that is composed of one or more whole lots and contains only one dwelling unit; or
 - b. A project on a site served by public water and sewer systems composed of one or more whole lots, if the project does not involve an increase in the total area covered by impervious surfaces (like roofs and pavement).
2. In this section, a "lot" is a lot or parcel which was: (i) created or designated by plan, plat or replat approved by the appropriate governmental body as required by the Texas Local Government Code or previously applicable state law (e.g., the former Texas Revised Civil Statutes Annotated art. 974a); or (ii) in existence as a separately-owned and separately-described lot or parcel continuously since January 1, 1983.

20.04.020 Submission, Approval, Etc.

For each project that the platting regulations apply to, it shall be the duty of the owner, construction contractor, developer and each person controlling the site to: (i) submit

plats, plans and specifications and other data required by the platting regulations or this Code, in addition to any required site plan, (ii) obtain approval by the approving authority, and (iii) construct or provide all facilities and features required by the approved plat or the platting regulations so that they function fully as intended by the platting regulations and the plat itself. The approving authority is the City Council (advised by the Zoning & Planning Commission), except for the minor plats mentioned in LGC Section 212.0065, where the approving authority shall be the Mayor. For each such project, it shall be the duty of each person owing or controlling the site to maintain, preserve and operate all such facilities and features so that they function fully as intended by the platting regulations and the plat (and to repair, restore or reconstruct them within 30 days following the day that such person becomes aware of the need for such work).

20.04.030 Administration, Etc.

The Mayor shall administer this chapter and may obtain assistance from the City's engineer, Fort Bend County and other agencies. The Mayor may delegate functions under this chapter. The non-refundable fees for plat applications and submittals shall be 200% of the fees charged by the County for the same items (subject to a minimum of \$250 plus, if applicable, the estimated cost of engineering and legal review). The Mayor may require changes to plats, plans and specifications and may insert special conditions, if reasonably necessary to comply with this Code or other applicable regulations. The Mayor may require payment of additional review costs as a condition of further review or approval. The following shall govern the application of the platting regulations:

- A. The approving authority shall determine whether facilities or features may be (or must be) dedicated or conveyed to the City, the Fort Bend County Drainage District or other agency, based on established patterns of ownership and operation of similar facilities and features (or based upon the location, function and service area of the facilities or features).
- B. For any facilities or features to be dedicated or conveyed, the Mayor or City Council may require a maintenance bond, to be in effect for one year following acceptance. Only the City Council may accept facilities or features offered for dedication or conveyance to the City.
- C. Subject to applicable laws, the person who submits a plat is responsible for: (i) dedicating all rights of way and easements and construction and dedication of on-site and off-site water production, water distribution, wastewater collection, wastewater treatment, drainage facilities, streets, sidewalks, curbs and related facilities, to the extent necessary for and attributable to the new development in question, and bearing the entire cost thereof; and (ii) providing a bond or other acceptable financial security to assure that they are done. Such construction and dedication are required in all cases, unless otherwise mandated by state law, and except to the extent otherwise agreed to by a retail public utility, drainage agency or public agency with jurisdiction over a facility or property that may be

affected. This paragraph does not require construction, dedication, etc. to extent that a water district or other political subdivision takes responsibility for and actually provides water, sewer, drainage or other facilities when required by this paragraph.

- D. The City Council may allow the use of alternative facilities, methods and techniques for achieving compliance with the platting regulations, if the alternatives will function as well or better than those that would otherwise be required by the platting regulations, but subject to the FBC water-wastewater rules, as adopted above, to the extent they apply.

20.04.040 Denial, Administrative Remedies, Penalties

- A. **Denial; Revocation or Suspension.** If the standards for approval of a plat are not met, or if there is any violation of this chapter, the approving authority shall decline to approve a plat and may revoke or suspend an approval previously granted. The Mayor shall attempt to notify the current owner of the site, in case of non-approval, revocation or suspension.
- B. **Finality; Administrative Remedies.** Decisions of the City engineer or other City representatives are appealable to the Mayor, and they do not become final until acted upon by the Mayor, and the time for all appeals has run out. Decisions of the Mayor under this chapter (including decisions on appeal) are subject to appeal to the City Council, and they do not become final until acted upon by the City Council, or the time for appeal has run out. See AMC Title 2, which also provides for variances in certain circumstances. As an additional administrative remedy, any person may request that the City Council amend this chapter. Applications for amendment should be in writing and submitted to the City Secretary. They should include the exact wording that is requested.
- C. **Conduct Unlawful.** It shall be unlawful for any owner, developer, construction contractor or person in control of a site to divide it into two or more parts, or to cause or permit any development on it, unless a plat for the site is first approved, all as required by this chapter. Duties imposed by this section on more than one person are joint and several.

20.08 Requirements For Platting

[20.08.010 Preliminary Plat Conference](#)

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20.08.010 Preliminary Plat Conference

Prior to the submission of the preliminary plat, the subdivider shall confer with the public

services department staff on an informal basis to receive comments and suggestions on the procedures, specifications and standards required by the city as conditions for subdivision plat approval. At this meeting, staff shall also discuss the proposed plat and its conformity with the comprehensive plan, its relationship to surrounding property, availability of utilities, drainage, street patterns and any other matters.

20.08.020 Preliminary Plat Procedure

Following the staff conference all persons desiring to subdivide a tract of land within the city or its extraterritorial jurisdiction shall prepare or cause to be prepared a preliminary plat according to the following:

- A. The preliminary plat shall be drawn to a scale of one hundred (100) feet to the inch or larger, and shall show on the face of the plat as specified below or be accompanied by:
 1. The proposed name of the subdivision. (face of plat)
 2. The north point, scale and date. (face of plat)
 3. The names and addresses of the subdivider, the owner of record, the registered professional civil engineer responsible for the design and the registered professional land surveyor responsible for the land survey. (face of plat)
 4. The approximate boundary line (accurate in scale) of the tract to be subdivided. (face of plat)
 5. Contours with intervals of five-tenths (0.5) feet, more or less, referred to sea level datum, as required to show at least two (2) contours within the subdivision in addition to those necessary to clearly show outfall drainage including a benchmark on/or adjacent to the property. (face of plat)
 6. Proper adjoining information including the names of adjacent subdivisions. (face of plat)
 7. The location, widths, and names of all existing or platted streets or other public rights-of-way on-site and adjacent to the tract and within two hundred (200) feet of the tract as circumstances require. (face of plat)
 8. Existing pavement, sewers, water mains, culverts, or other underground structures adjacent to the tract and within two hundred (200) feet of the tract with pipe sizes, grades and locations indicated. (face of plat)
 9. All parcels of land intended to be dedicated for public use or reserved in deeds for the use of all property owners in the proposed subdivision, together with the purpose of conditions or limitations of such reservations, if any.
 10. The layout, names and widths of proposed streets and easements; the

radius of all arcs, length of the tangents, and the length of tangents between curves. (face of plat)

11. The layout, numbers and approximate dimensions of the proposed lots with building setback lines shown. (face of plat)
 12. The draft of any protective covenants whereby the subdivider proposes to regulate the use of the land in the subdivision; provided, however, that such restrictive covenants, conditions or limitations shall never be less than the minimum requirements of the city under the terms of this chapter. Where infrastructure design criteria is based on a specific type or density of development the covenants shall require development to conform to the design criteria.
 13. A preliminary drainage plan shall be submitted with each preliminary plat (at the same scale) which shall include the following:
 - a. Overall layout of lots or parcels.
 - b. Contours.
 - c. Any defined water ways on or adjacent to the site.
 - d. Drainage area map showing on-site and off-site areas draining across or adjacent to the site with preliminary calculations of flows.
 - e. Flood zones and flood ways as determined by FEMA maps. Elevations in zone "A" areas on-site or within two hundred (200) feet shall be shown. Actual elevations shall be compared with limits shown on FEMA maps and needed adjustments indicated.
 - f. Proposed drainage improvements including detention areas and depths with preliminary calculations.
 - g. Proposed easements.
- B. Five (5) copies of the preliminary plat and supporting data required by this chapter shall be submitted to the planning and development staff. The plats shall be reviewed by city staff for compliance with state law, this chapter, and the city's ordinance, policies, rules and regulations. Upon satisfactory review of the plat by city staff, fifteen (15) copies of the plat, including any necessary corrections and supporting documentation will be provided to the city staff. On receipt by city staff of an administratively complete application staff shall schedule will schedule the preliminary plat for action at a regularly-scheduled city council meeting to be held within thirty (30) days of the planning commission meeting date at which action was taken on the preliminary plat. A recommendation by city staff, along with the necessary copies of any corrected plats, plans or supporting documentation, will be forwarded to the city council for action at the scheduled meeting date. The

subdivider must submit corrected plats, plans or supporting documentation to the city not less than ten (10) days prior to such scheduled city council meeting date.

- C. Following approval of the preliminary plat and prior to actual construction of any water and sanitary sewer facilities, the Texas Natural Resource Conservation Commission shall be notified if required.
- D. The approval of the preliminary plat does not constitute acceptance of the subdivision, but is merely an authorization to proceed with the preparation of the final plat. The approval of the preliminary plat shall expire six (6) months after city council approval unless the final plat has been submitted for final approval during that time. Upon written request of the subdivider, an extension of time may be given at the discretion of the city council for a single extension period of three (3) months, provided the subdivider has shown that he is proceeding in good faith to complete the work necessary before filing the final plat.

20.08.030 Final Plat Procedure

- A. No final plat shall be considered unless and until a preliminary plat has been submitted and approved and a set of final construction and drainage plans have been approved by the city engineer for the public infrastructure improvements.
- B. After the foregoing procedure has been complied with and the preliminary plat approved by the city council, the subdivider shall prepare or cause to be prepared a final plat, or plats, together with other supplementary information as specified herein. The final plat shall conform substantially to the preliminary plat as approved and shall reflect any conditions or requirements for final approval imposed by the city council, together with the following additional requirements which must be shown on (as specified below) or accompany the plat:
 - 1. Name of the subdivision. (face of plat)
 - 2. Name and address of the subdivider. (face of plat)
 - 3. A list showing the names of person(s) to whom notice of hearing shall be sent.
 - 4. North point, scale and date. (face of plat)
 - 5. A signed certificate of the professional registered land surveyor who surveyed, mapped, and monumented the land shall be placed on the face of the plat. (face of plat)
 - 6. A certificate of ownership of the land from a title company
 - 7. A statement of express dedication of all streets, easements, alleys, parks, playgrounds, public places and any other rights-of-way within or outside the subdivision necessary to satisfy the requirements of this chapter to the public use forever, shall be executed by all persons, owning an interest in

the property subdivided, resubdivided and platted; and shall be acknowledged in the manner prescribed by the laws of the State of Texas for conveyance of real property. Lienholders must execute a subordination agreement subordinating their liens to all public streets, alleys, parks, school sites and other public areas shown on the plat of such subdivision or resubdivision as being set aside for public use and purpose. (face of plat)

8. A field note description of the tract of land subdivided. (face of plat)
9. A statement and express representation on the face of the plat that the parties joining in such dedication are the sole owners of such tract of land.
10. A positive reference and identification of the plat of such subdivision by the name of such subdivision, date of plat and the name of the surveyor. (face of plat)
11. The boundary lines with accurate distance and bearings, the exact location and width of all existing or recorded streets intersecting the boundary of the tract. The names of adjacent subdivisions and/or the names of owners of adjacent unplatted land (streets, alleys, and lot lines in adjacent subdivisions shall be shown by dotted lines). All necessary data to reproduce the plat and each lot on the ground must be shown on the plat. (face of plat)
12. Bearings and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat; the plat also shall show ties to municipal, county, or section lines. (face of plat)
13. The exact layout which must include the following on the face of the plat:
 - a. Streets and street names
 - b. The length of all arcs, internal angles, points of curvature, length and bearing of the tangents, and the length of tangent between curves.
 - c. All easements or rights-of-way provided for drainage, public services or utilities and any limitations of the easements/rights-of-way.
 - d. All lot and block numbers
 - e. All lot lines with accurate dimensions
 - f. All alleys
 - g. Location and description of monuments
14. Building setback lines from all adjacent streets. (face of plat)

15. Boundary closure calculations, the minimum of which shall be 1:15,000.
 16. The draft of any restrictive covenants whereby the subdivider proposes to regulate the use of the land in the subdivision; provided, however, that restrictive covenants, conditions, or limitations shall never be less than the minimum requirements of the city under the terms of this chapter or other city ordinances. The restrictive covenants must include language establishing the person(s) responsible for maintenance of the drainage detention facilities.
 17. A waiver of claim for damage occasioned by the establishment of grades or alterations of the surface of any portion of the streets.
 18. Certificate showing that all taxes have been paid on the tract to be subdivided, and that no delinquent taxes against the property are outstanding.
 19. Such other certificates, data, affidavits, and endorsements or dedication as may be required by the city council for the enforcement of these regulations.
 20. Certificate of approval for city council signature. (face of plat)
 21. Letters from utility companies indicating that the required easements are shown on the plat.
 22. No infrastructure improvements shall be shown on a final plat
 23. A notation on the plat that sidewalks must be constructed as part of the issuance of a building permit for each tract.
 24. A notation on the plat that no building permits will be issued until all the storm drainage improvements, which may include detention, have been constructed.
- C. Five (5) copies of the final plat and supporting data shall be submitted to planning and development staff. The plats shall be reviewed by city staff for compliance with state law, this chapter, and the city's ordinances, policies, rules and regulations. On receipt by city staff of an administratively complete application, staff shall schedule the final plat for action at a regularly-scheduled city council agenda meeting to be held within the thirty (30) days of the planning commission meeting date at which action was taken on the final plat. The planning commission recommendation, along with the necessary plats and supporting documentation, will be forwarded to the city council for action at the scheduled meeting date. If the plat conforms to all conditions and requirements established by this chapter, the city council shall approve the plat. Should the final plat, as submitted, fail to meet the conditions and requirements of the city council, then the council shall disapprove the plat and note its disapproval thereon and attach thereto a statement of the reasons for disapproval. A

disapproved final plat may be resubmitted with correcting changes within thirty (30) days of the council action.

- D. The final plat and any applicable restrictions shall be recorded by the city in the office of the county clerk within a period of thirty (30) days from the date of approval by the city council. At the time of submission of the final plat, the subdivider must deposit with the city sufficient funds for recording of the plat.

20.08.040 Street Identification Criteria

All street names with appropriate suffixes shall be shown on the plat. Street names which could cause confusion within the city or within the local postal, police, fire and emergency response area shall be prohibited. All street names shall be subject to the approval of the council. Private streets shall be identified on the plat. Restrictive covenants shall provide for ownership and maintenance of all private streets, utilities and drainage facilities located therein.

20.08.050 Minimum Right-Of-Way Widths For Streets

Minor residential streets shall have minimum right-of-way widths of 50 feet; secondary thoroughfare or collector streets shall have minimum right-of-way widths of 80 feet and arterial streets shall have minimum right-of-way widths of 100 feet. Streets shall have paved widths of at least 30 feet, back of curb to back of curb. The council may require additional paved widths for streets which are not classified as minor residential streets. Where proposed streets are extensions of existing or planned streets designated in the comprehensive plan or amendments thereto, having right-of-way widths greater than 50 feet, the proposed streets shall be at least the same width as the existing or planned streets.

22 Zoning Regulations

22.04 Advertising, Signs, Etc.

22.08 Fence Regulations

22.04 Advertising, Signs, Etc.

22.04.010 Handbills

22.04.020 Signs

22.04.010 Handbills

- A. **Definitions.** For the purposes of this section, the term "handbill" shall include any handbill, circular, booklet, poster, dodger or any other printed matter, advertising sample or device. The term does not include official signs and similar devices.
- B. **Distribution Restricted; Nuisance.** Throwing, casting, distributing, scattering and depositing handbills upon public property in the City is prohibited, and violation thereof constitutes a public nuisance.

Exception: This does not apply if the handbills are delivered by hand or other method so that they are not left blowing or loose upon public property and are not attached to public property.

22.04.020 Signs

- A. **Definitions.** In this section:

"Residential impact site" means a site with a sign, not located on a state highway but within a residential area. The site is deemed to be in a "residential area" if at least two-thirds of the sites located (in whole or in part) within 200 feet of the site with the sign are used primarily for residential purposes.

"Sign" has the same meaning as in Section 393.001 of the Texas Transportation Code. The term includes any structure, vehicle or other object which has the principle purpose of supporting or displaying a sign.

- B. **General Prohibitions.** Within the City limits or the area of the City's extraterritorial jurisdiction, it shall be unlawful for any person:
1. To erect, place or alter any sign which does not comply with this chapter or which exceeds any limit prescribed by this chapter;
 2. To use, own or control any place where a sign is located, if the sign does not comply with this chapter or violates this chapter, or if it exceeds any

limit prescribed by this chapter.

C. Streets and City-Controlled Areas.

1. **In General.** It shall be unlawful to erect, place, alter or maintain any sign in, on, or over any street area or other area owned or leased by the City, unless the sign is:
 - a. An official sign in a street area authorized by the police chief; or
 - b. An official sign in a non-street area authorized by the appropriate City official; or
 - c. A sign specifically authorized by motion, resolution or ordinance adopted by the City Council.
2. **Public Roads.** As provided in Section 393.002, Texas Transportation Code, signs not authorized by state law are prohibited on a public road right of way, and any permit issued for a sign in violation of said Section 393.002 is not effective.
3. **Interference, Etc.** It shall be unlawful for any person to interfere with or obstruct any sign authorized by the City in a street area or other area owned or leased by the City.
4. **Presumption of Maintaining.** When a sign is: (i) located in, on or over a street area or other area owned or leased by the City, (ii) has no obvious official purpose, and (iii) has an obvious connection to a nearby or abutting site, it is presumed to be maintained by each person who controls that site.

D. Nuisance; Removal of Unlawful Signs. Any sign which does not comply with the chapter, or violates this chapter, or which exceeds any limit imposed by this chapter, is declared a nuisance. The police chief has the authority to have removed any such sign, if the City has a right of access to the place where the sign is located and if the cost is provided-for by the City Council. The cost of such removal shall be paid by the person owning the sign, and any person who erected, placed or maintained the sign, jointly and severally.

E. Illuminated, Moving Signs. A sign on a residential impact site may not be illuminated, except by white lights which are shielded so that the source of the light cannot be seen by a person standing in a street area or on other premises. Such illumination, if used, may not flash, blink or move. All parts of all signs, except flags, must be stationary when in use.

F. Obscenity Prohibited. No person may display any sign visible from a street area which contains any word, statement, character, or illustration of an obscene or indecent nature.

G. Computation of Sign Height. The height of a monument sign shall be computed as the distance from the bottom of the sign base of the sign at normal grade to the top of the highest attached component of the sign. The height of all other signs, except for wall signs, shall be computed as the distance from the bottom of the sign structure at normal grade to the top of the highest component of the sign structure. Normal grade shall be the lower of either (1) the existing grade prior to construction or (2) the newly established finished grade after construction, excluding any filling, berming, mounding or excavating solely for the purpose of locating the sign.

H. Maximum Height.

1. A sign violates this chapter if: (i) any part of the sign structure exceeds a height of 24 feet above natural grade level beneath the structure, and (ii) the sign or sign structure is constructed, installed, reconstructed or structurally altered on or after August 17, 2016.

Exceptions: This section does not apply to an ordinary flagpole or a sign painted or flush-mounted on the wall of a building.

2. In this section, the term "sign structure" includes: (i) the sign in question, and (ii) each structure or object attached to that sign.

I. Extraterritorial Jurisdiction. As provided above, the City has extended its outdoor sign ordinance to the City's extraterritorial jurisdiction as authorized by LGC Chapter 216. However, it shall be an affirmative defense in any proceeding to enforce this chapter that the sign in question is an on-premises sign in the extraterritorial jurisdiction of the City, and the City is not allowed to regulate it by Section 394.063, Texas Transportation Code or other applicable law.

[22.08 Fence Regulations](#)

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[22.08.100 Determining Fence Height And Opacity](#)

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[22.08.130 Work Or Improvements By City](#)

[22.08.140 Assessment Of Expenses; Lien](#)

[22.08.150 Right Of Entry](#)

[22.08.160 Appeals](#)

22.08.010 Safety

To promote the safety of persons and property by providing fences that do not:

- A. Create a hazard due to collapse, fire, decay, or abandonment;
- B. Obstruct firefighting or police observation ability;
- C. Create traffic hazards by confusing or distracting pedestrians or motorists, and;
- D. Become obstacles that hinder the ability of pedestrians, bicyclists or motorists to read traffic signs

22.08.020 Jurisdiction

This chapter shall apply in all areas within the city. In areas that are Master Planned Communities or planned subdivisions, the stricter of this chapter or the community deed restrictions will apply.

22.08.030 Definitions: Fence Regulations

For the purposes of this chapter, the following words and phrases will have the meanings respectively ascribed to them by this section:

"Approved fence materials." Materials normally manufactured for, used as, and commonly recognized as fencing materials such as: wrought iron or other decorative metals suitable for the construction of fences, fired masonry, concrete, stone, metal tubing, wood planks, chain-link, field fencing, smooth and barbed wire and vinyl composite manufactured specifically as fencing materials. Fence materials must also be materials approved for exterior use that are weather and decay- resistant.

"Building Code." The group of building code and other related codes as adopted by the City of Arcola in the Code of Ordinances.

"Designated City Official" or "DCO." The City Administrator. The term may include the City Administrator's designee or delegated staff or duly authorized representative of the City Administrator.

"Code." The Code of Ordinances of the City of Arcola, Texas.

"Dilapidated fence." A fence which is decayed, deteriorated or has fallen into disrepair or partial ruin.

"Fence." An artificially constructed barrier enclosing, separating or screening areas of land, serving as a boundary, a means of protection, a buffer, a decorative element, a means of visually modifying the view, and/or confinement. Except where otherwise

required in this code, regulations governing the height, location and opacity of fences also applies to walls, hedges or landscaping used in lieu of a fence or in combination with a fence. A fence is any part of a fence including the base, footings, supporting columns, post, braces, gates, structural members or any other of its appendages.

"Opacity." The degree of openness which light or views are blocked measured perpendicular to the fence for each fence section between supports.

"Repair." Routine maintenance where replacement of materials is less than twenty (20) feet in length and the scope, location or dimensions of the fence are not changed. Repairs shall be made using materials with color, size and shape as nearly identical to the original as possible, and with quality meeting or exceeding the quality of the original. Replacement of entire sections or panels totaling more than twenty (20) feet in any six (6) month period shall require a fence permit.

"Wrought iron." Wrought iron (or steel) known to be hand or machine forged products, made from solid rods, bars, or other structural shaped iron (steel) or cast products of the same genre. These products are normally decorative, functional, and long lasting. Wrought iron fences would also include thin light weight sheet metal that has been slit, roll formed and machine welded into hollow tubular shapes and made to look like true wrought iron.

22.08.040 General Requirements

- A. No fence material shall be used to construct a fence except for those listed and regulated in this chapter or other city ordinances.
- B. Fence sections essentially parallel to a street shall have their back side (the side with the exposed posts and rails) oriented to the interior of the lot to minimize their exposure to the public.

Exception: posts and rails may be oriented to the exterior of the lot when concealed within construction that is consistent with and complementary to the construction of the fence. Visual depictions of construction shall be required for review of appearance prior to issuance of a permit.

- C. No person shall construct a fence, guy wire, brace or any fence post upon or into a public right-of-way or property that the city or the general public has dominion and control over, owns or has an easement over, under, around or through unless otherwise authorized by the City Administrator or designee or through a license agreement with the City of Arcola.
- D. No fence shall be erected within any drainage easement, or visibility, access and maintenance easements unless otherwise authorized by the City Administrator or designee.
- E. Fences are not permitted in floodway areas as designated on the Federal

Emergency Management Agency's (FEMA) flood boundary and floodway map.

- F. A fence must not adversely affect drainage or create debris build-up.
- G. Any area three feet (3') in radius around any fire hydrants and fire hose connections must be kept free of any fencing that could impede access to or use of the hydrant or fire hose connection.
- H. A fence must not impede access to public utilities or metering devices.
 - I. In all cases of conflict between this chapter and the City regulations, the most restrictive shall prevail.
 - J. No fence shall be constructed as to encroach into any area designated as part of the visibility triangle as specified by the ordinances.
- K. Each fence shall be constructed with materials of comparable composition, color, size and shape.
- L. No person shall construct a fence braced by guy wires, braces or any other material that may be viewable from any public streets, rights-of-ways, or alleyways or property over which the city or general public has dominion and control.

22.08.050 Permits

- A. **Required.** It is unlawful for any person to construct, replace, or cause to be constructed, repaired, or replaced, a fence or any part of a fence in the city without first obtaining a fence permit from the City of Arcola. No permit is required for repairs as defined by this chapter.
- B. **Approved Plans.** The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the City. When a permit is submitted where plans are required, the City shall endorse in writing or stamp the plans and specifications "reviewed." Such reviewed plans and specifications shall not be changed, modified or altered by any person without authorization from the City, and a person shall complete the work regulated by this chapter in accordance with the approved plans.

The applicant shall submit a survey or a scalable plot plan of the entire property showing the location of the fence on the property.

- C. **Other Laws.** The owner or the owner's authorized agent who applies for a permit to construct a fence must comply with all the requirements of this chapter and all other requirements of the Code of Ordinances. The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.
- D. **Permit Fees.** \$75.00 for first 50 feet, \$10.25 per additional 50 ft.
- E. **Application.** Any person making application for a fence permit shall complete a

permit application, provided by the DCO. The DCO shall establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for a permit.

22.08.060 Permitted Fence Materials

Type of Zoning District	Permitted Fence Materials
Single-Family and Duplex Residential	Wood, vinyl, wrought iron, brick/stone, chain-link (replacement & interior lot lines only)
Single-Family Lots of .3 acres or more	Wood, vinyl, wrought iron, brick/stone, chain-link (replacement & interior lot lines only)
Multi-Family Residential	Multi-Family Residential Wood, wrought iron, brick/ stone, decorative CMU
Retail	Wrought iron, brick/stone, decorative CMU
Office	Wood, wrought iron, brick/stone, decorative CMU.
Commercial	Commercial Wood, wrought iron, brick/stone, decorative CMU, chain-link.
Industrial	Wood, wrought iron, brick/stone, decorative CMU, chain-link. Barbed wire or similar may be installed on top of a chain link fence except where visible from an arterial thoroughfare or highway.
Freeway	Wood, wrought iron, brick/stone, decorative CMU, chain-link. Barbed wire or similar may be installed on top of a chain link fence except where visible from an arterial thoroughfare or highway.

22.08.070 Prohibited Fences

The following types of fences are prohibited. It is unlawful for any person to erect, maintain or permit a fence that:

- A. Is electrically charged in any manner, except that single-strand wires designed to conduct electricity through an approved low-voltage regulator shall be allowed along the fence's interior for the purposes of securing pets within a fenced yard.
- B. Is constructed with rope, string, chicken wire, hog wire, chain, live bamboo, netting, cut or broken glass, paper, corrugated metal panels, galvanized sheet metal, plywood or fiberglass panels or any other materials that are not manufactured specifically as fencing materials. The City may require the applicant to provide the manufacturer's standards to establish the intended use of a proposed fencing material.

Exception: A dog window no larger than two (2) square feet (288 square inches)

may be installed in a fence and may be covered with corrosion resistant material capable of restraining the dog.

- C. Is constructed of damaged, deteriorated or unsafe materials.
- D. Is constructed with used or recycled materials, unless it can be determined by the City that they meet the requirements of the building code for new materials.
- E. Is constructed with metal panels.
- F. Temporary fences are prohibited except where required by code for construction, excavation or life safety issues, provided however that temporary fences made of wire and not in excess of three feet in height are permitted for residential gardens.

22.08.080 Single Family And Duplex Residential Area Regulations

This section shall apply in all single-family and duplex residential areas within the city.

A. Height Limitation.

- 1. **Rear Yard.** It is unlawful for any person to construct, erect, maintain, suffer or permit a fence in any rear yard or along any rear yard lot line which fence exceeds eight feet (8') in height.
- 2. **Side Yard.** It is unlawful for any person to construct, erect, maintain, suffer or permit a fence in any side yard or along any side yard lot line which fence exceeds eight feet (8') in height.
- 3. **Decorative Embellishments are Allowed.** They shall not exceed the height of the fence by more than two feet (2').

B. Construction in Front Yards.

- 1. **Requirements.** All fences constructed in the front yard of a residential property shall:
 - a. Be no taller in height than forty-eight inches (48").
 - b. Not violate the visibility triangle as defined the Arcola Code of Ordinances.
 - c. Not allow vertical support posts and gates to extend more than four inches (4") above the top of the fence intersection.

22.08.090 Multi-Family And Nonresidential Area Regulations

- A. Fences constructed in multi-family residential and nonresidential areas must

meet requirements found in the chapter.

- B. **Height Restrictions.** A fence in a nonresidential area may not exceed eight feet (8') in height and meet the requirements of this chapter as it currently exists or may be amended.
- C. Fences in Industrial areas may also contain the following material, except where adjacent to arterial thoroughfares or highways:
 - 1. Fence arms
 - 2. Barbed wire as accessory to other fencing material
 - 3. Razor wire with special applications
 - 4. Chain-link
- D. Fences on parcels upon which livestock are kept may contain barbed wire or other similar materials.

22.08.100 Determining Fence Height And Opacity

- A. **Measurement.** Fence height is measured to the top of the body of the fence, from the finished grade of the ground. Fence posts including decorative finials or similar elements are permitted to extend a maximum of four inches (4") above the body of the fence. Columns including decorative finials or similar elements are permitted to extend a maximum of twelve inches (12") above the body of the fence.
- B. **Elevations.** In the event that the fence height has been elevated through the use of a retaining wall, the fence height is measured from the ground level at the highest point. The creation of a berm or other method for the primary purpose of increasing the elevation of the fence is not allowed.
- C. **Slopes.** In the event that fences are placed at a point where the adjacent grade is higher than the foundation of the main structure, fence height will be measured at the grade adjacent to the fence. In the event that fences are placed at a point where the adjacent grade is below the foundation of the main structure, fence height will be measured from the finished floor elevation of the main structure.

22.08.110 Fence Construction

- A. No person shall construct a fence that is not able to structurally support fencing materials as required in the building code as currently adopted and amended.
- B. A person building a fence shall comply with the requirements of the building code and all other city ordinances with regard to construction, materials and workmanship.

- C. No portion of a fence may interfere with or alter any drainage swale between lots.
- D. A person constructing a fence shall use only approved materials and construction methods that ensure uniform construction throughout. Once the person has established a pattern of materials and construction method he or she shall continue such method throughout the entire length of the section from corner post to corner post.
- E. A person constructing or maintaining a fence or wall enclosure around a swimming pool, hot-tub or spa shall comply with the minimum requirements of the building code and other applicable laws.

22.08.120 Maintenance And Standards For Fences

A fence or fences shall be maintained by the owner and/or occupant in compliance with the requirements of this chapter including but not limited to the following maintenance standards:

It is unlawful for a property owner and/or occupant to maintain, suffer or allow a fence on property they own or occupy that does not comply with the requirements of this chapter. In addition to requirements not included in this section, a fence shall be maintained in compliance with the following standards:

- A. A fence shall not lean more than 15 degrees out of vertical alignment.
- B. The owner and/or occupant shall replace broken, damaged, removed or missing parts of a fence with the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made. No permit is required for repairs as defined in this chapter.
- C. A fence shall be maintained in sound structural condition as a whole or be completely removed, including post(s).
- D. Property owners and/or occupants shall maintain fences, including those existing prior to the adoption of this chapter, at all times in a state of good repair, safe and secure condition, with all braces, bolts, nails, supporting frame, fastenings and other components free from deterioration, termite infestation, rot, rust damage or loosening, and able to withstand at all times the wind pressure for which they were designed.
- E. If the City determines the extent of repair on any existing fence (materials in noncompliance) is in excess of fifty percent (50%) of the total fence, then the entire fence must be replaced with materials approved by this chapter. A rolling six-month time period shall be used to determine if over fifty percent (50%) of a fence has been repaired.
- F. A fence shall not have symbols, writings or graffiti on it, except those which are permitted as a sign under the City Code of Ordinances or which pertain to the

address of the property.

- G. The construction of a fence or wall on the property line shall not preclude the property owner's responsibility to maintain and keep the area between the property line to the back of curb or edge of the pavement or center of alley, free and clear of debris and high weeds.

22.08.130 Work Or Improvements By City

- A. If the owner of property does not comply with the provisions of this chapter within thirty days of written notice of violation, the city may:
 - 1. Do the work or make the improvements required; and
 - 2. Pay for the work done or improvements made and charge the expenses to the owner of the property.
- B. Work may be done or improvements made provided that notice has been given
 - 1. Personally to the owner in writing; or
 - 2. By letter addressed to the owner at the owner's post office address; or
 - 3. If personal service cannot be obtained or the post office address is unknown:
 - a. By publication at least twice within a period of ten consecutive days; or
 - b. By posting the notice on or near the front door of a building on the property to which the violation relates; or
 - c. By posting the notice on a placard attached to a stake driven into the ground of the property to which the violation relates, if the property contains no buildings.

22.08.140 Assessment Of Expenses; Lien

- A. The city does hereby assess the expenses incurred pursuant to AMC 22.08.130 against the real estate on which the work is done or improvements made, and charge the owner of the property for the same.
- B. In the event the owner fails or refuses to pay the expense within 30 days after the first day of the month following the one in which the work was done, the City shall obtain a lien against the property by filing with the County Clerk of the appropriate county a statement of expenses so incurred.
- C. The lien is security for the expenditures made and interest accruing at the rate of ten percent per annum beginning 180 days after the date of payment by the city.

- D. When the statement is filed, the city shall have a privileged lien on that property, second only to tax liens and liens for street improvements.

22.08.150 Right Of Entry

Whenever it is necessary to make an inspection to enforce this chapter, or whenever the designated city official (DCO) has reasonable cause to believe that there exists in any structure or upon any property a condition or violation which is unsafe, dangerous or hazardous or detrimental to the public interest, the DCO may enter such structure or property at all reasonable times to inspect such structure or property; provided, however, that if such structure or property is occupied, the DCO shall first present proper credentials and request entry, and if such entry is refused, shall then have recourse to every remedy provided by law to secure entry.

22.08.160 Appeals

- A. Any person directly affected by a decision of the DCO or a notice or order issued under this Code shall have the right to appeal to the City Council provided that a written letter for an appeal is filed within 30 days after the date of the decision, notice or order has been served. An letter for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply or the requirements of this Code are adequately satisfied by other means.
- B. Appeals shall be heard by the City Council.
- C. When a quorum by the Council is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- D. The City Council may adopt, modify or reverse the decision of the DCO by a concurring vote, provided a quorum exists, of the majority of the Council members.
- E. Enforcement of any notice and orders of the DCO issued under this code shall remain until reversed or modified by the City Council.