

**ADMINISTRATION: OFFICERS AND EMPLOYEES**

**PART II  
CODE OF ORDINANCES**

**Chapter 1**

NOTE: The following section is for informational purposes only. It is designed to help the reader locate the principal duties and authorization of authority delegated to the chief officials, boards, and/or agencies of the City of Big Spring. Only the principal duties assigned and/or powers delegated an agent follow. Other authorizations may be found by looking under the title of a specific agent or agency in the Code Index (located in the back of this book). Following the position of city manager (the chief administrative officer of the city), officials or agencies are listed in alphabetical order. The codification of ordinances officially begins with Section 1-1.

<u>Offices Created by Charter:</u>	<u>Principal Duties, Authority:</u>
City Manager	IV-13, 14, 15; VI-1
Chief of Police	VI-4; VI-1
City Attorney	VI-7; VI-1
City Secretary and Tax Collector	VI-6; VI-1
City Tax Assessor	VI-9; VI-1
City Treasurer	VI-1
Fire Chief	VI-8; VI-1
Municipal Court Judge	X-2; X-1; X-4
Municipal Court Clerk	X-3
 <u>Boards Created By Charter:</u>	 <u>Principal Duties, Authority:</u>
Board of City Development	XII-6
Board of Tax Equalization	VII-10
 <u>Boards Created By Council/Ordinance:</u>	 <u>Principal Duties, Authority:</u>
Airport and Industrial Park Steering Committee	1-110; 1-115
Cemetery Board of Trustees	6-10

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Electrical Board	See Building Code, on file in City Secretary's Office
Office of Housing and Community Development	See Building Code, on file in City Secretary's office
Parks and Recreation Board	6-76; 6-77; 6-83; 6-85
Planning and Zoning Commission	1-30; 1-34
Police Reserve Officers Compensation Board	1-91; 1-96
Potton House Committee	6-171
Building Board of Adjustment and Appeals	See Building Code, on file in City Secretary's office
Traffic Commission	18-43; 18-50; 18-51
Airport Zoning Commission	1-30
Departments Created <u>By Ordinance:</u>	Principal <u>Duties, Authority:</u>
Office of Housing and Community Development	See Building Code, on file in City Secretary's office
Police Reserve Force	1-51; 1-59
Officers Created <u>By Ordinance:</u>	Principal <u>Duties, Authority:</u>
Assistant City Secretary	1-15
Chief Electrical Inspector	See Building Code, on file in City Secretary's Office
Director of Finance	See City Secretary
Director of Housing	See Building Code, on file in City Secretary's office

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Electrical Inspector	See Building Code, on file in City Secretary's office
Emergency Management Coordinator	8-1
Emergency Management Director	8-1; 8-2; 8-4
Fair Housing Administrator	12-31; 12-33; 12-34; 12-37; 12-38

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### **Article 1. In General**

#### **Sec. 1-1. Texas Municipal Retirement System; Firemen's Relief and Retirement Fund.**

On behalf of the city, the city council hereby exercises its option and elects to have the city and all of the employees of all departments, except the fire department, participate in the Texas Municipal Retirement System as provided in House Bill 29, Chapter 75, page 108, Acts of the 50th Legislature in 1947, being Article 6243h of Vernon's Annotated Civil Statutes and as amended (now codified as Subtitle G, Chapter 61 Et Seq., of Title 110B Public Retirement Systems, of the Texas Revised Civil Statutes) and all of the benefits and obligations of such system are hereby accepted. Said fire department is not a participating department in the Texas Municipal Retirement System since the City of Big Spring Fire Department is covered by the State Firemen's Relief and Retirement Law and the City of Big Spring Firefighters are members of the City of Big Spring Firemen's Relief and Retirement Fund and firefighters are permitted to defer federal income taxes under the terms of Section 10F(a) and 10F(b) of the State Firemen's Relief and Retirement Law, Article 6243e of the Texas Revised Civil Statutes. (Ord. of 8-8-50, §1; Ord. of 10-9-84)

#### **Sec. 1-2. Employees Included.**

Each person who becomes an employee of any participating department on or after the effective date of participation of such department shall be included within and subject to the provisions of the Texas Municipal Retirement System beginning upon the date such person becomes an "employee" as defined in subsection 14, Section II, of Article 6243h, and amendments, Vernon's Annotated Civil Statutes. (Ord. of 8-8-50, §3)

#### **Sec. 1-3. Addition or Discontinuance of Employees.**

The city may, in the future, refuse to add new departments or new employees to the Texas Municipal Retirement System, but shall never discontinue as to any participants. (Ord. of 8-8-50, §4)

#### **Sec. 1-4. Remittance to Board of Trustees; Certification of Prior Service, Etc.**

The personnel director is hereby directed to remit to the board of trustees of the Texas Municipal Retirement System at its office in Austin, Texas, the city's proper contributions to the system and the amounts which shall be deducted from the compensation or payroll of employees, all as required by such board under the provisions of Chapter 75, Act of the 50th Legislature of the State of Texas, 1947, and the personnel director is hereby authorized and directed to ascertain and certify officially on behalf of the city, the prior service rendered to the municipality by each of the employees of the participating departments, and the average prior service compensation received by each, and to make and execute all other reports and certificates, which may be required of the city, under the provisions of Chapter 24, Acts of the Regular Session 51st Legislature or the rules and regulations of the board of trustees of the Texas Municipal Retirement System. (Ord. of 8-8-50, §5)

#### **Sec. 1-4(b). Contributions Calculate on Full Earnings.**

In accordance with the provisions of subsection (d) of Section 63,401 of Title 110B of the Texas Revised Civil Statutes, as amended, the deposits required to be made to the Texas Municipal Retirement System by employees of several participating departments on account of current service shall be calculated from and after January 1, 1985, on the full amount of said person's earnings as an employee of the City. (Ord. of 10-9-84)

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### Sec. 1-5. Authorization of Updated Service Credits.

- (A) On the terms and conditions set out in Section 853.401 through 853.404 of Subtitle G of Title 8, Government Code, as amended (hereinafter referred to as the "TMRS ACT"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "System") who has current service credit or prior service credit in the System in force and effect on the 1st day of January of the calendar year preceding such allowance, by reason of service in the employment of the City, and on such date had at least 36 months of credited service with the System, shall be and is hereby allowed "Updated Service Credit" (as that term is defined in subsection (d) of Section 853.402 of the TMRS Act). (Ord. of 09-22-98)
- (B) On the terms and conditions set out in Section 853.601 of the TMRS Act, any member of the System who is eligible for Updated Service Credits on the basis of service with this City, who has unforfeited credit for prior service and/or current service with another participating municipality or municipalities by reason of previous service, and was a contributing member on 1<sup>st</sup> day of January of the calendar year preceding such allowance, shall be credited with Updated Service Credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in said 853.601, both as to the initial grant hereunder and all future grants under this ordinance. (Ord. of 10-28-80, S1; Ord. of 10-9-84, Ord. of 12-11-90, Ord. of 09-22-98).
- (C) The updated Service Credit hereby allowed and provided for shall be 100% of the "base Updated Service Credit" of the member (calculated as provided in subsection (c) of section 853.402 of the TMRS Act). (Ord. of 09-22-98)
- (D) Each Updated Service Credit allowed hereunder shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service. (Ord. of 09-22-98)
- (E) In accordance with the provisions of subsection (d) of Section 853.401 of the TMRS Act, the deposits required to be made to the System by employees of the several participating departments on account of current service shall be calculated from and after the date the effective date of this ordinance on the full amount of such person's compensation as an employee of the City. (Ord. of 12-11-90, Ord. of 09-22-98).

### Sec. 1-6. Increase in Retirement Annuities.

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

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- (B) The amount of annuity increase under this section is computed as the sum of the prior and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by 70% of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the section.
- (C) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.
- (D) If a computation hereunder does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed hereby.
- (E) The amount by which an increase under this Section exceeds all previously granted increases to an annuitant is an obligation of this City and of its account in the municipality accumulation fund of the Texas Municipal Retirement System.
- (F) Effective January 1, 1971, for each month of current service thereafter rendered by each of its employees who are members of the Texas Municipal Retirement System, the City will contribute to the current service annuity reserve of each such member at the time of his retirement, a sum that is two hundred percent (200%) of such members' accumulated deposits for such month of employment; and said sum shall be contributed from the City's account in the Municipality Current Service Accumulation Fund. (Ord of 9-30-70; Ord. of 10-28-80, §2; Ord. of 10-9-84, Ord. of 09-22-98)

**Sec. 1-7. Supplemental Benefits Fund; Notification; Employees Covered but City May Refuse to Add New Departments or Employees; Remittance, Rate of Contribution; Supplemental Death Benefits.**

- (A) Supplemental Benefits Fund.  
The City of Big Spring, by its city council, hereby elects to have the employees of all participating departments of said city (as above defined) participate in and be covered by the Supplemental Benefits Fund of the Texas Municipal Retirement System, as provided by Chapter 312, Acts Regular Session, 56th Legislature; and all the benefits and obligations of participation in said fund are hereby accepted by the city as to such employees. (Ord. of 10-28-80, §3)
- (B) Notification.  
The city manager is hereby directed to notify the board of trustees of the Texas Municipal Retirement System that the City of Big Spring, Texas, has elected to participate and have the employees of the above mentioned departments participate in the Supplemental Benefits Fund of said System. (Ord. of 10-28-80, §4)

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- (C) Employees Covered but City may refuse to add new Departments or Employees.  
Each person who becomes an employee of any participating department on or after the effective date of participation of such department in said supplemental benefits fund shall as a condition of his employment be covered into said supplemental benefits fund of said system. The City of Big Spring, Texas, may in the future refuse to add new departments or new employees to said fund, but shall never discontinue as to any members who are covered into said fund. (Ord. of 10-28-80, §5)
  
- (D) Remittance, Rate of Contribution.  
The personnel director is hereby directed to remit monthly to the Board of Trustees of the Texas Municipal Retirement System at its office in Austin, Texas, as the city's contributions to the Supplemental Benefits Fund of the Texas Municipal Retirement System, such percentage of earnings of the above-mentioned employees of said city as may be fixed by the Board of Trustees of the Texas Municipal Retirement System, provided that the rate of contribution to said Fund shall not exceed one-half of one percent (1/2%) of the earnings of the employees of the city who are covered under said Fund; and such officials shall make for the city such reports as the Board of Trustees of the Texas Municipal Retirement System may prescribe. (Ord of 10-28-80, §6)
  
- (E) Supplemental Death Benefits.  
The City of Big Spring hereby elects to participate in the Supplemental Death Benefits Fund of the Texas Municipal Retirement System beginning on the first day of the calendar month following written notification to the System of the adoption of this ordinance (ordinance dated October 28, 1980) for the purpose of providing in-service death benefits in the amounts and on the terms provided for in Section XIX of the TMRS Act (Article 6243h, Vernon's Texas Civil Statutes, as amended) for each of the city's employees who are members of said System, and for the purpose of providing post-retirement death benefits as provided in said Section XIX for annuitants whose last covered employment was as an employee of this city. (Ord. of 10-28-80, §8, Ord. of 10-9-84)

**Sec. 1-8. Participation of Employees; New Employees, Eligibility for Retirement; Ten Year Vesting; Maximum Age and Prior Service Credits.**

Pursuant to the provisions of Sections 62.105 and 64.202 of Subtitle G of Title 110B, Revised Civil Statutes of Texas, 1925, as amended, which Subtitle shall herein be referred to as the "TMRS Act", the City of Big Spring, Texas, adopts the following provisions affecting participation of its employees in the Texas Municipal Retirement System:

- (A) Each person who becomes an employee (as defined in Section 61.001 of said Title 110B) of any participating department of this City and who is not already a member of the Texas Municipal Retirement System shall become a member of the System as a condition of employment, provided said person is then under sixty (60) years of

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age;

- (B) Any member, after one (1) year from the effective date of his or her membership in the System, shall be eligible for service retirement if he or she has attained the age of fifty (50) years and has completed twenty-five (25) years of creditable service with one or more municipalities that have authorized eligibility under Section 64.202 of the TMRS Act or under Section XX of former Article 6243h, Vernon's Texas Civil Statutes, or if he or she has attained the age of sixty (60) years and has completed at least ten (10) years of creditable service with one or more municipalities that have authorized eligibility under Section 64.202 of the TMRS Act or under Section XX of said former Article 6243h;
- (C) The membership of any person who has completed at least ten (10) years of creditable service with participating municipalities that have authorized eligibility under Section 64.202 of the TMRS Act (or under Section XX of said former Article 6243h) shall not terminate because of absence from service; and
- (D) Any person who is an employee of a participating department of this municipality at the effective date of this ordinance, but who at the date of his or her employment was under sixty (60) years of age but did not become a member of Texas Municipal Retirement System because her or she was then above the maximum age then prescribed by law for initial membership in the System, shall become a member of the System at the effective date of this ordinance, unless he or she has already become a member under other provisions of the governing Act, and shall be allowed prior service credit for each month of creditable service performed for this municipality subsequent to the date such person was precluded from membership and prior to the effective date of his or her membership. Said prior service credit shall be calculated using the same percentage of base prior service credit as was most recently used in calculating prior service credits or updated service credits in said System for current member employees of this city. (Ord. of 10-9-84)

### **Sec. 1-9. Rights, Credits and Benefits Cumulative.**

The rights, credits and benefits herein above authorized in Sections 1-6 through 1-8 shall be in addition to the plan provisions heretofore adopted and in force at the effective date of said sections pursuant to the TMRS Act. (Ord. of 10-9-84)

### **Sec. 1-10. Dates of Allowances and Increases.**

The initial allowance of Updated Service Credit and increase in retirement annuities hereunder shall be effective on January 1, 1999, subject to approval by the Board of Trustees of the System. An allowance of Updated Service Credits and an increase in retirement annuities shall be made hereunder on January 1 of each subsequent year until this ordinance ceases to be in effect under subsection (e) of Section 853.404 of the TMRS Act, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in subsection (d) of Section 853.404 of the TMRS Act. (Ord. of 10-9-84, Ord. of 09-22-98)

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### **Sec. 1-11. Withdrawal from Social Security; Establishment of Deferred Compensation Plan.**

By resolution dated December 9, 1980, and by overwhelming majority vote of all employees of the City pursuant to said resolution the City withdrew from the social security system effective December 31, 1982. By resolution dated December 14, 1982, the City established a deferred compensation plan by contract with Great-West Life, Public Employees Benefit Services Corporation, and the United States Conference of Mayors for benefits in lieu of social security effective January 1, 1983. (Ord. of 10-9-84)

Note: Effective 12-31-82, the City of Big Spring withdrew from the Social Security System and instituted an employee benefit plan in lieu thereof. (Ord. of 12-9-82; Res. of 12-14-82)

That the City of Big Spring, Texas, shall increase its employer contribution to 5.51% effective October 1, 1999, for all employees of the City, who are participating members of Nationwide Retirement Solutions, Inc. (Ord. of 9-28-99)

### **Sec. 1-12. Military Leave of Absence.**

All officers and employees of the city who are members of the National Guard or official militia of the State of Texas, or members of any of the reserve components of the armed forces of the United States, shall be entitled to leave of absence from their respective duties without loss of time or efficiency rating on all days during which they are engaged in field or coast defense training ordered or authorized by proper authority, or in any parade or encampment ordered or authorized by proper authority to duty with troops or field exercises, or for instruction, for not to exceed fifteen (15) days in any one calendar year. The city secretary shall pay to the officer or employee the difference between his pay and allowances when on active duty, as certified by such officer or employee, and his salary from the city when the latter is greater, and when certified by the city manager. (Ord. of 8-22-50, §1)

### **Sec. 1-13. Military Service; Rights upon Return.**

Members of the National Guard or official militia of the State of Texas or members of any of the reserve components of the armed forces of the United States, in the employ of the city who are ordered to extended active duty with such armed forces by proper authority shall be restored to the position held by them when ordered to duty, with full cumulative seniority rights and without loss of creditable service time in connection with the Texas Municipal Retirement System; provided any such officer or employee of the city shall be able to perform the duties of such employment and provided any such officer or employee shall make request to be restored within ninety (90) days after being relieved from such military duty. The provisions of this section shall also apply to any officer or employee of the city who, being a member of the National Guard, militia or reserve components of the armed forces, shall be ordered to duty with the armed forces under the provisions of the National Defense Act or shall volunteer for extended active duty, it being the purpose of this section to make no distinction between the status of an officer or employee who shall volunteer and one who shall be ordered to active duty. No such officer or employee of the city shall be carried on the city's payroll during such extended active duty service, except as may be provided. (Ord. of 8-22-50, §2)

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### **Sec. 1-14. Returned Checks, Service Charge.**

A service charge of twenty five dollars (\$25.00) shall be levied against the drawer of any bill of exchange payable to the City of Big Spring and not honored by the drawer. Anyone levying a bill of exchange not honored by the drawer more than two (2) times shall be disallowed to make payment by check at the discretion of the Finance Director. (Ord. of 11-15-80) (Ord. of 2-22-94) (Ord. of 10-25-94)

### **Sec. 1-15. Assistant City Secretary.**

- (A) There is hereby created an assistant city secretary who shall perform any duties that the city secretary may lawfully delegate. (Ord. of 11-13-69, §1; Ord. of 9-26-72, §1)

### **Sec. 1-15(b). Records Management Officer.**

- (A) There is hereby created the office of records management officer with said officer to perform the duties set forth in the Texas Municipal Records Act. (Ord of 5-22-60).
- (B) The city secretary shall serve as the records management officer. (Ord. of 5-22-90)

### **Sec. 1-16. Power of Mayor to Declare State of Emergency.**

The mayor of the City of Big Spring, Texas, is hereby authorized to declare a state of emergency during that time of any riot or unlawful assembly by three (3) or more persons acting together by use of force or violence, or if a clear or present danger exists of the use of the force of violence, or during the time of natural disaster or man-made calamity. The mayor is further authorized to request the governor of the State of Texas to provide militia forces to help bring under control condition existing within the jurisdiction of the City of Big Spring with which in his judgement the law enforcement agencies within this area cannot cope without additional personnel (Ord. of 3-24-70, §1)

### **Sec. 1-17. Law Enforcement Officers Interlocal Assistance; Provisions Adopted.**

The City of Big Spring hereby adopts in all respects, Senate Bill Number 233, Chapter 81 of the 61st Legislature Regular Session, Chapter 81, entitled "Law Enforcement Officers Interlocal Assistance," and also referred to as Vernon's Annotated Civil Statutes, Article 999B, and as amended. The City of Big Spring also adopts those portions of House Bill 431, Chapter 877. and as amended, which relates to municipalities. (Ord. of 3-24-70, §2)

### **Sec. 1-18. Authority to Assist Other Municipalities.**

The City of Big Spring, acting by and through its mayor, mayor pro tem, or in their absence or inability to act, the city manager or in his absence or inability to act, the chief of police, may send or direct any of its regularly employed law enforcement officers to assist any other county or municipality, when a request is received for assistance from the mayor or other officer authorized to declare state of civil emergency, in such other county or municipality, representing that there exists in such other county or municipality, a need for additional law enforcement officers to protect health, life and property of such other county or municipality or its inhabitants, and the visitors thereof, by reason of riot, unlawful assembly characterized by the use of force and violence, or threat by three (3) or more persons acting together without lawful authority, or during the time of natural or man-made calamity; and such law enforcement officers, so sent to another county or

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municipality shall be in all things subject to the foregoing act and such officer or officers shall be and become peace officers of such other county or municipality under the command of the law enforcement officer therein, who is in charge in that city or county, and, as provided in said act, shall be vested with all the powers of a regular law enforcement officer in such other county or municipality to which sent, and such law enforcement officers of the City of Big Spring shall be considered under the terms of the foregoing described act as being in compliance therewith, and shall be entitled to the same wage, salary, pension and other compensations while performing police duties outside the territorial limits of the City of Big Spring, Texas, as though the same services were being rendered in the City of Big Spring, and the City of Big Spring shall pay to such officers such wages, salary, pension and other benefits, together with medical, travel, food, lodging and other expenses incurred on account of performing services outside of the territorial limits of the City of Big Spring and the City of Big Spring shall be reimbursed by the other county or municipality requesting the services out of which such payments and expenses arose, as is provided by the said Senate bill Number 233. Such other county or municipality shall save and hold harmless the City of Big Spring from any claim or liability resulting from the activities of said law enforcement officers while serving under the command of the chief law enforcement officer of such other county or municipality. (Ord. of 3-24-70, §3)

### **Sec. 1-19. City Attorney Authorized to Settle Claims.**

The city attorney is hereby authorized to compromise, settle, adjust and authorize payment for any claim for an amount up to fifteen thousand dollars (\$15,000.00), or with the concurrence of the City Manager, for an amount greater than fifteen thousand dollars (\$15,000.00), but not to exceed twenty-five thousand dollars (\$25,000.00). (Ord. of 12-16-80, §1, Ord. of 7-24-07)

### **Sec. 1-20. Same Authorized to Pay Damages.**

The city secretary is hereby authorized and directed to pay such sums as may from time to time be authorized by the city attorney to settlement of claims for damages as authorized by section 1-19, above. (Ord. of 12-16-80, §2)

### **Sec. 1-21. No Limitation Imposed on City Council.**

No provision in this article contained shall be construed as creating an affirmative duty of the city attorney to settle any claim for damages nor shall any provision herein contained be construed as limiting the power of the city council in any way regarding the settlement of claims for damages. (Ord. of 12-16-80, §3)

### **Sec. 1-22. Report to Council Required.**

The city attorney shall report to the city council during the first regular meeting of the city council in January, April, July, and October of each year, either in writing attached to the agenda of each council member or orally during such meeting, of all claims presented to the city attorney during the quarter next preceding the reporting date, and any change in the status of any previously reported claims. Said report shall include the name of the claimant, the amount of the claim, a brief description of the circumstances giving rise to the claim and a statement as to whether or not a settlement has been offered, the amount of settlement offered and whether or not such offer was accepted. Such report may be made in executive closed session if the city attorney considers the information contained in the report to be attorney-client privileged information. (Ord. of 12-16-80,

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§5, Ord. of 2-12-08)

**Sec. 1-23. Delinquent Rental Payments: Legal Action Authorized.**

The city attorney is hereby authorized and directed to take whatever legal action may be appropriate under the circumstances, including the actual filing and prosecution of lawsuits, to collect delinquent rental payments owed to the city by any tenant leasing real or personal property from the city and in default under the terms and conditions of any lease agreement regarding the payment of rental to the city. (Ord. of 12-9-80)

**Sec. 1-24. Reimbursement of Expenses of City Council.**

Certain expenses of a nonpersonal and city related nature may be incurred by a City Council member or the Mayor in the performance of the duties of such offices. The City will reimburse such offices for these expenses in the following manner.

- (A) The City will reimburse the City council member and the Mayor the following sums for incidental expenses without any documentation for such expenses:

City Council member	\$200.00/month
Mayor	\$300.00/month

- (B) The City will pay all other reasonable expenses of a Council member or Mayor in the official performance of his or her duties. The Finance Director is hereby authorized to disburse such monies upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits. If the Finance Director has a question as to the reasonableness of such expenses, he has the right to place such item on the agenda of the next Council meeting or approval by the Council of such expense. The Mayor or Council member requesting such reimbursement shall not participate in any vote on the reasonableness of such expenses. (Ord. of 9-14-93, §1-24)

**Sec. 1-25. Adoption of Civil service for Firefighters' and Civil Service Positions Designated.**

- (1) Firefighters' Civil Service under Chapter 143 of the Local government code, V.T.C.A. is hereby put into effect by the City of Big Spring, Texas, as of October 1<sup>st</sup>, 1985.
- (2) All Employees are hereby granted the same vacation and sick leave benefits granted to firefighters under Chapter 143 of the local Government Code, V.T.C.A., and the City of Big Spring Personnel Policies and Procedures is hereby amended to reflect these benefits.
- (3) Classification of all firefighters and the number of authorized positions in each classification are as follows:

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<u>CLASSIFICATION</u>	<u>NUMBER OF AUTHORIZED POSITIONS</u>
*Fire Chief	1
Deputy Chief	5
Lieutenant	16
Driver	15
Fire Fighter	25
	<b><u>Total</u>    <u>62</u></b>

\*Non-Civil Service

    1 Deputy Chief position will be appointed  
(Ord of 6-27-00)

- (4) The City of Big Spring, Texas, fire chief is hereby authorized to appoint one person to the classification immediately below fire chief who shall serve at the pleasure of the fire chief. (Ord. of 09-22-98, Ord. of 9-27-05)

**Sec. 1-26.    Crime Prevention Rewards.**

- (1) A Crime Prevention Reward Commission hereby created which shall consist of the Mayor, Chief of Police and City Manager. The Commission shall have the following functions:
- (A) To decide the amount of the reward to be offered any reward shall not exceed \$4,500.00 dollars.
  - (B) To decide to whom the reward should be awarded;
  - (C) To decide to which crimes shall be subject to the reward offered; and
  - (D) To publicize the reward
- (2) The reward shall only be payable to any person who furnishes information that leads to the arrest and final conviction of any personal guilty of the crime selected by the Commission that is the subject of the reward.
- (3) If more than one person provides information in relation to the crime selected by the Commission that is the subject of the reward, then the reward shall be prorated.
- (4) This reward shall not be available to any officer in the employ of the city, county or state, whose duty it is to detect violations of the law or make arrests in connection therewith, any private security personnel, and any victims of the crime and persons who are party to the offense or who are in any way criminally responsible for the commission of the offense.

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- (5) The city secretary is hereby authorized to post notices of the reward in public buildings or other locations within the city stating the following:  
“The City of Big Spring, Texas, will pay the sum of up to (insert amount approved by the Commission) to any person or persons furnishing information leading to the arrest and final conviction of any person or persons guilty of (insert crime subject to the award) within the City of Big Spring. If more than one person provides information in relation to (insert crime subject to the award), then the reward will be prorated. Persons who are a party to the offense or who are in any way criminally responsible for the commission of the offense are not eligible for this reward.”
  
- (6) The Commission is hereby authorized to accept donations for funding of the reward program governed by this section and the City council may authorize funds as part of the annual budget, when available, to be disbursed by the Commission to be payable to any person(s), except those persons who are ineligible to receive the reward as stated in subsection 4, furnishing information leading to the arrest and final conviction of any person guilty of a crime selected by the Commission that is the subject of the reward. (Ord. Of 2-23-99)

**Sec. 1-27 to 1-29.**

**Reserved.**

**Article 2. Planning and Zoning Commission**

**Sec. 1-30. Creation and Purpose.**

A Planning and Zoning Commission is hereby created in order to accomplish the following purposes:

- (A) To identify community needs and to advise the city council of its short-range and long-range implications for the total development of the city;
- (B) To recommend achievable community goals as a basis for long-range planning and development programs;
- (C) To recommend plans, programs and policies that will aid the entire community in achieving its defined goals; and
- (D) To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies. (Ord. of 9-23-80, 12-8-87, §1)

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### **Sec 1-31. Membership and Appointment.**

The Planning and Zoning Commission shall be composed of seven (7) qualified electors of the City. The membership shall be appointed by a majority vote of the City Council. The Mayor and City Council will consider for appointment to the commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings. The third absence, without prior notification, during any twelve month period is construed as the member's resignation. It is the intent of the Mayor and City Council that members shall, by reason of diversity of their individual occupations, constitute a commission which is broadly representative of the community. (Ord. of 9-23-80, §2, Ord. of 2-27-01)

### **Sec. 1-32. Terms of Office.**

The terms of the members of the initial Commission shall expire on the dates designated for the expiration of the terms of the members of the previous Plan Board. Thereafter, members shall be appointed for terms of three (3) years; provided, however, that the vacancies shall be filled for unexpired terms. The members of the Commission shall be identified by place numbers one (1) through seven (7). Commission members may be appointed to succeed themselves. Newly appointed members shall be installed at the first regular commission meeting after their appointment. Any vacancies occurring on the Commission shall be filled by appointment by a majority vote of the City Council with such appointment being for the unexpired term of such vacancy. Terms of appointed members shall be deemed extended until a successor is appointed. Members may be removed at the discretion of the City Council. (Ord. of 8-23-80, §3, Ord. of 2-27-01)

### **Sec. 1-33. Organization.**

The commission shall hold an organizational meeting on the first Tuesday of October of each year and shall elect a chairman and vice-chairman from among its members before proceeding to any other matters of business. The commission shall elect a secretary and such other officers as it deems necessary either from its membership or from staff representatives assigned by the chief executive of the city to work with the commission. The commission shall meet regularly and shall designate the time and place of its meetings. The commission shall adopt its own rules of procedure and keep a record of its proceedings consistent with the provisions of this ordinance and the requirements of law. (Ord. of 9-23-80, §4)

### **Sec. 1-34. Duties and Powers.**

The Planning and Zoning Commission is hereby charged with the duty and invested with the authority to:

- (A) Inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the State of Texas and of the city.

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- (B) Formulate and recommend to the city council for its adoption a city plan for the orderly growth and development of the city and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.
- (C) Formulate a zoning plan as may be deemed best to carry out the goals of the city plan; hold public hearings and make recommendations to the city council relating to the creation, amendment and implementation of zoning regulations and districts as provided in Articles 1011a to 1011k, Revised Civil Statutes of Texas, as amended, authorizing cities and incorporated villages to pass regulations; all powers granted under said Act are specifically adopted and made a part hereof.
- (D) Exercise all the powers of a commission as to approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats set out in Articles 974a and 970a, Revised Civil Statutes of Texas.
- (E) Study and recommend on the location, extension and planning of public rights-of-way, parks or other public places, and on the vacating or closing of same.
- (F) Study and recommend on the general design and location of public buildings, bridges, viaducts, street fixtures and other structures and appurtenances. Study and recommend on the design or alteration and on the location or relocation of works of art which are, or may become, the property of the city.
- (G) Initiate, in the name of the city, for consideration at public hearing all proposals:
  - (1) for the opening, vacating or closing of public rights-of-way, parks or other public places;
  - (2) for the original zoning of annexed areas; and
  - (3) for the change of zoning district boundaries on an area-wide basis. No fee shall be required for the filing of any such proposal in the name of the city.
- (H) Formulate and recommend to the city council for its adoption policies and regulations consistent with the adopted city plan governing the location and/or operation of utilities, public facilities and services owned or under control of the city.
- (I) Keep itself informed with reference to the progress of city planning in the United States and other countries and recommend improvements in the adopted plans of the city.
- (J) Study and recommend on applications for specific use permits. (Ord. of 9-23-80, §5)
- (K) Study and recommend on applications for Temporary Use Permits under Section 2-7 of the Zoning Ordinance of the City of Big Spring, Texas. (Ord. of 11-10-92)

**ADMINISTRATION: OFFICERS AND EMPLOYEES**

**Sec. 1-35. Meeting and Quorum.**

A quorum for the conduct of business shall consist of four (4) members of the Commission. The members of the Commission shall regularly attend meetings and public hearings of the Commission and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties. All meetings held by the Planning and Zoning Commission shall be open to the public. (Ord. of 9-23-80, §6, Ord. 2-27-01)

**Sec. 1-36. Commission Actions.**

- (A) A motion may be made by any member other than the presiding officer.
  
- (B) A motion to approve any matter before the commission or to recommend approval of any request requiring city council action shall require a majority vote of the members present. When fewer than all the members are present for the voting and when all motions to recommend on a given application fail to carry by a majority vote, considerations of the application shall be continued to the next regular meeting. No request or application shall be continued under this rule beyond the next regular meeting; failure of the commission to secure a majority of concurring votes to approve or recommend approval at said next regular meeting shall be recorded in the minutes as a denial of the proposal under this rule. (Ord. of 9-23-80, §7)

**Sec. 1-37. Disqualification from voting.**

- (A) A member shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property under appeal, or that he will be directly effected by the decision of the commission.
  
- (B) A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the vote of the member on his application, other than in the public hearing. (Ord. of 9-23-80, §8)

**Sec. 1-38. Application for Zoning Change.**

A fee of two hundred fifty dollars (\$250.00) shall accompany all applications for a change of zoning or specific use permit. Applications should be directed to the city secretary. The zoning board shall not be authorized to consider any applications for a zone change or specific use permit until such fee is paid as hereinabove provided. In the event the Planning and Zoning Commission fails to make a favorable report to the city council on an application for a zone change or specific use permit and it is not necessary for an ordinance to be drafted, there shall be a one hundred dollar (\$100.00) refund to the applicant. (Ord. of 9-23-80, §9)

**Sec. 1-39 to 1-50. Reserved.**

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**Article 3. Police**

**Division 1. Police Reserve Force**

**Sec. 1-51. Established.**

An auxiliary police force, to be known as "Police Reserve, Big Spring Police Department", is hereby established. (Ord. of 8-14-62, §1)

**Sec. 1-52. To Be Separate and Distinct from Regular Force.**

The police reserve force shall be separate and distinct from the regular force of the police department of the city. (Ord. of 8-11-62, §1)

**Sec. 1-53. Composition.**

The police reserve force shall be composed of not to exceed twenty (20) members who have volunteered to join the organization and whose application for membership has been accepted and who have complied with the rules, regulations and orders provided for conduct and control of the members thereof. (Ord. of 8-14-62, §1)

**Sec. 1-54. Application for Membership.**

All applicants for positions with the police reserve force must apply in writing on a form prescribed by the chief of police. (Ord. of 8-14-62, §3)

**Sec. 1-55. Basic Qualifications of Applicants.**

All applicants for positions in the police reserve force must meet the following basic qualifications:

- (A) Over twenty-one (21) years old.
- (B) United States citizen.
- (C) Level of education acceptable to the screening board.
- (D) Free of all physical defects, physically strong and well proportioned.
- (E) Of good moral character.
- (F) Never convicted of a felony.

(Ord. of 8-14-62, §3; Ord. of 2-24-70, §1)

**Sec. 1-56. Appointment of Members; Examination and Investigation of Applicants.**

Members of the police reserve force shall be appointed from a list of eligibles' established in compliance with rules and regulations set forth in the police manual. Selections will be made through examination and appointments will be made by the chief of police, with the consent and approval of the city council. All examinations shall be impartial, practical in their character, and shall relate to those matters which fairly test the relative capacity of the persons examined to discharge the duties of the position to which they expect to be appointed.

All applicants successfully completing the examinations shall, before appointment, be subjected to:

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- (A) A rigid background investigation.
- (B) A fingerprint check for criminal record.
- (C) A driver's license record check.
- (D) A credit rating check.
- (E) A rigid physical examination.

Failure to receive a favorable report on any of the five (5) above mentioned investigations shall reject the applicant. (Ord. of 8-14-62, §§2,3)

### **Sec. 1-57. Oath of Members.**

Every member of the police reserve force, before entering upon his duties, shall subscribe to an oath that he will observe and obey the Constitution of the United States, the Constitution of the State of Texas, and the laws of this nation, this state and this city and that he will carry out the duties of a member of the police reserve to the best of his ability. (Ord. of 8-14-62, §3)

### **Sec. 1-58. Supervision and Control.**

The police reserve force shall be under the direct control and supervision of the chief of police and the members thereof shall be under the authority, control and command of the chief of police, subject to all of the provisions of this article and other ordinances of the city. (Ord. of 8-14-62, §§1,2)

### **Sec 1-59. Duties.**

The duties of the police reserve force, subject at all times to the direction, supervision and control of the chief of police, shall be to assist the regular members of the police department in the enforcement of the law and in the maintenance of peace and order during periods of emergency designated by the chief of police. The chief may, by order, establish rules and regulations to govern the police reserve force, to fix the specific duties of its members, and to provide for the maintenance of discipline. He may change such orders from time to time, and he may command members of the police reserve force to obey the instructions of regular police officers in carrying out their duties.

The chief of police may prescribe other duties than those mentioned herein to be performed by the police reserve force, not inconsistent with the provisions of this article. (Ord. of 8-14-62, §4)

### **Sec. 1-60. Carrying of Firearms.**

No member of the police reserve force shall, while on duty or otherwise, carry or bear any firearm except on the express order of the chief of police. (Ord. of 8-14-62, §8)

### **Sec. 1-61. Entering Private Property Without Consent.**

No member of the police reserve force shall break into or otherwise forcefully enter upon any private property or enter the dwelling or habitation of another person without the consent of the owner or occupant, except when immediately accompanied by a regular member of the police department who then and there requests his aid in the enforcement of the law. (Ord. of 8-14-62, §8)

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### **Sec. 1-62. Identification Card, Etc. for Members.**

An identification card and such other insignia or evidence of identity as the chief of police may prescribe shall be issued to each member of the police reserve, who must carry the card and other identification at all times while on duty, and who must surrender them upon the termination of membership. (Ord. of 8-14-62, §5)

### **Sec. 1-63. Uniforms and Badges.**

The chief of police shall prescribe the uniforms and badges for the members of the police reserve force and direct the manner in which the same shall be worn. Any person, other than a member of such force, who shall wear such uniform or badge as may be prescribed shall be guilty of a misdemeanor. (Ord. of 8-14-62, §12)

### **Sec. 1-64. Expiration and Renewal of Membership.**

All commissions of membership in the police reserve force shall expire automatically at midnight on the 31st day of December in every year. A renewal of a commission for any next ensuing year may be had by the filing of an application by the holder of the commission. Such application shall be on a form prescribed by the chief of police, properly filled out by the applicant, giving his full name and address and giving the number of his existing commission. This application shall be filed with the chief of police. If application for renewal is not presented on or before January 31st of the year for which renewal is sought, the applicant shall be required to comply with all provisions of this article relative to initial appointments to the police reserve. (Ord. of 8-14-62, §5)

### **Sec. 1-65. Removal or Resignation of Members.**

The membership of any person in the police reserve force may be terminated by the chief of police at any time for any cause deemed sufficient by the chief of police. In addition to the penalties provided by law, any violation of law under color of the performance of his duties as a member of the police reserve force, and any breach of the rules and regulations established by the chief of police, shall subject any member to summary expulsion and the fact thereof may be published at the order of the chief of police.

Any member may resign from the police reserve force at any time, but it shall be the duty of such member to notify the chief of police of his resignation. (Ord. of 8-14-62, §§6,10)

### **Sec. 1-66. Diminishing or Expanding Force.**

The chief of police may, by order, diminish or expand the membership of the police reserve force as exigency may require, within the limit established by section 1-53. (Ord. of 8-14-62, §7)

### **Sec. 1-67. Impersonation of members.**

It shall be a misdemeanor for any person to wear, carry or display a police reserve force identification card or otherwise deceitfully represent himself to be connected with the police reserve force, unless he is in fact a member thereof in good standing. (Ord. of 8-14-62, §11)

### **Sec. 1-68 to 1-108. Reserved.**

(Ord of 09-23-97)

## **ADMINISTRATION: OFFICERS AND EMPLOYEES**

### **Article 4 Airpark**

#### **Division 3. Big Spring McMahon Wrinkle Airpark Development Board**

##### **Sec. 1-109. Purpose.**

An Airpark Development Board is hereby created to provide emphasis, assistance, information and support to the Council to ensure the efficient and effective operation of the Big Spring McMahon Wrinkle Airpark while maximizing its growth potential. (Ord. of 01-26-93).

##### **Sec. 1-110. Organization and Membership.**

The Airpark Development Board shall consist of seven (7) members, all of which shall be citizens of the City of Big Spring and appointed by a majority vote of the City Council for a term of three (3) years. The Council will consider for appointment only those members of the community who have demonstrated their interest and knowledge of business, industry and real estate. One (1) member of the Airpark Development Board shall be the Chairman of the Airpark Safety Committee. All members of the Advisory shall serve without compensation. If any voting member of the Advisory Board shall be absent more than three (3) times, without prior notification, during any twelve (12) month period, said third (3<sup>rd</sup>) absence shall be construed as the member's resignation from the Advisory Board for all purposes.

The Chairman and Vice-Chairman shall be elected annually, during the first annual meeting by the Board from its official members. Of those members first appointed, two (2) members shall be appointed for a term of one (1) year; two (2) members for a term of two (2) years; and two (2) members for a term of three (3) years. Subsequent appointments shall be for the full three (3) year terms. The Chairman of the Airpark Safety committee shall be a permanent member of the Board. A vacancy in an unexpired term of the appointed members shall be filled by a majority vote of the City Council.

In addition to the seven (7) members above, the Assistant City Manager and Vice President of the Moore Development Board for Big Spring, or their designates, shall sit on the Airpark Development Board as ex-officio members. The Mayor and Council members shall additionally serve as ex-officio members. The ex-officio members shall not have voting power, but shall assist the Board in its various functions. The Assistant City Manager shall serve as Secretary to the Board. (Ord. of 01-26-93, Ord. of 3-27-01).

##### **Sec. 1-111. Duties and Responsibilities.**

The Airpark Development Board shall recommend to the Council such policies as it may deem necessary, including, but not limited to: the preparation and maintenance of a comprehensive Airpark Improvement Program, the Airpark Master Plan, and matters pertaining to the economics of leases, potential business growth, security and safety. (Ord. of 01-26-93).

##### **Sec. 1-112. Removal from Office and Vacancies.**

Members of the Airpark Development Board shall serve at the pleasure of the City Council. The terms of the six (6) appointed members shall be deemed extended until a successor is appointed to the Board. (Ord. of 01-26-93).

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### **Sec. 1-113. Rules of Procedure and Quorum.**

The Airpark Development Board shall adopt its own rules of order and procedures to regulate meetings and activities directly related thereto. The rules shall deal only with procedural matters and shall be available to the public and kept on file. A quorum shall consist of no less than four (4) members. Affirmative vote of three (3) members shall be necessary for approval of motions before the Board. Members must be present to vote at the Meeting. (Ord. of 01-26-93).

### **Sec. 1-114. Public Meeting.**

All meetings of the Airpark Development Board shall be open to the public. Regular meetings shall be scheduled at least bi-monthly and the Assistance City Manager shall call together the Airpark Development Board to consider official business as needed. Additional meetings may be held upon the call of the Chairman, or the Vice-Chairman in the absence of the Chairman, or upon petition of a simple majority of Airpark Development Board members. (Ord. of 01-26-93).

### **Sec. 1-115. Records.**

The Airpark Development Board shall keep minutes of its proceedings, showing the vote upon each question. Such minutes shall be a public record, filed with the City Manager. (Ord. of 01-26-93).

## **ARTICLE 5. Capital Replacement Fund**

### **Sec. 1-116. Capital Replacement Fund**

There is hereby established a fund account to be known as the "Capital Replacement Fund" (CRF). Said fund shall be for the purpose of financing capital improvements, new capital equipment and/or replacement of capital equipment for the departments within the City of Big Spring. The funds currently in the account #06 and future funds, specifically allocated to the CRF by City Council, pay back and interest from departments securing loans from the fund shall be maintained in this account. (Ord. of 03-27-90).

### **Sec. 1-117. Loan Approvals**

- (A) The major Division Directors may submit to the City Manager proposals for the acquisitions of new capital equipment, replacement capital equipment and/or capital improvements within their area of responsibility. The request must be fully justified and funds must be available in the CRF for the project. (Ord. of 03-27-90).
  
- (B) After review, the City Manager may forward the request to the City Council for their consideration. The City Council, upon favorable consideration of the request, shall pass a resolution delineating the authorization of the funds, the pay back period and interest rate to be paid for the use of the monies. (Ord. of 03-27-90).
  
- (C) Division Director, Upon second reading of the resolution authorizing the funds, shall follow the procedures outlined in the purchasing manual for the procurement of the equipment, facilities or services. (Ord. of 03-27-90).

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- (D) The Division Director shall include the annual payment of principal and interest in the department budget proposals. (Ord. of 03-27-90).

**ARTICLE 6. Restricted Fund Accounts**

**Sec. 1-118. Municipal Solid Waste Management Resource Conservation Recovery Act (MSWRCRA)**

- (A) There is hereby established an escrow fund account within the general fund as the "State Garbage Tax", Account No. 02-201004. (Ord. of 03-27-90).
- (B) All revenues and the interest derived therefrom deposited in this account shall be as delineated by ordinance from the sanitation collection and disposal services revenue accounts 4151 and 4185. (Ord. of 03-27-90).
- (C) Disbursement of funds from this account shall be to the Texas Department of Health, Municipal Solid Waste Management branch, in accordance with the procedures promulgated by that office. (Ord. of 03-27-90).
- (D) This fund shall be allowed to be maintained at a level of not more than 125% of the anticipated garbage tax for any one calendar year. Funds in excess of the 125% shall be transferred into Capital Replacement Fund Account No. 06. (Ord. of 03-27-90).

**Sec. 1-119. Regulatory Agency Surcharge Fund 40 CFR Part 258.32.**

- (A) There is hereby established an escrow fund account within the general fund as the Regulatory Agency Surcharge Fund, Account No. 02-201015. (Ord. of 03-27-90).
- (B) All revenues and the interest derived therefrom deposited in this account shall be as delineated by ordinance from the sanitation collection and disposal services revenue accounts 4151 and 4185. (Ord. of 03-27-90).
- (C) Deposits in this account shall be allowed to accumulate until the principal and interest amounts are congruent with the amount of monies specified in the closure and post closure plan as specified in 40 CFR Part 258.30. (Ord. of 03-27-90).
- (D) Funds in excess of 125% of the amount required to satisfy the closure and post closure assurances shall be transferred into the Capital Replacement Fund, Fund 06. (Ord. of 03-27-90).

**Sec. 1-120. Sanitation Equipment Capital Fund**

- (A) There is hereby established an escrow fund account within the general fund as the Regulatory Agency Surcharge Fund, Account No. 02-201015, except Sanitation Equipment Capital Fund, Account No. 02-201016. (Ord. of 03-27-90).

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- (B) All revenues and the interest derived therefrom deposited in this account shall be as delineated by ordinance from the sanitation collection and disposal services revenue accounts 4151 and 4185. (Ord. of 03-27-90).
- (C) Disbursement of funds from this account shall be restricted to the procurement of new or replacement equipment required to provide municipal solid waste services. (Ord. of 03-27-90).
- (D) Request for new or replacement equipment shall be fully justified by the Director of Public Works and approved by Council resolution for emergency procurement and by Council approval of capital purchases in the annual departmental budgets. (Ord. of 03-27-90).

### **Sec. 121 to 124 Reserved.**

## **Article 7. Records Management**

### **Sec. 1-125. Definition of Municipal Government 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 it is open or restricted under the laws of the state, created or received by the City of Big Spring or any of its officers or employees pursuant to law or in the transaction of public business are hereby declared to be the records of the City of Big Spring and shall be created, maintained, and disposed of in accordance with the provision of this ordinance or procedures authorized by it and in no other manner. (Ord. of 11-27-90).

### **Sec. 1-126. Additional Definitions.**

- (A) "Department head" means the officer who by ordinance, order, or administrative policy is in charge of an office of the City of Big Spring that creates or receives records.
- (B) "Essential Record" means any record of the City of Big Spring necessary to the resumption or continuation of operations of the City of Big Spring in an emergency or disaster, to the re-creation of the legal and financial status of the City of Big Spring or the protection and fulfillment of obligations to the people of the state.
- (C) "Permanent Record" means any record of the City of Big Spring for which the retention period on a records control schedule is given as permanent.
- (D) "Records Control Schedule" means a document prepared by or under the authority of the Records Management Officer listing the records maintained by the City of Big Spring, their retention periods, and other records disposition information that the

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records management program may require.

- (E) "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 record keeping. 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 micro graphics and electronic and other records storage systems.
- (F) "Records Liaison Officers" means the persons designated under Section 1-134 of this ordinance.
- (G) "Records Management Committee" means the committee established in Section 1-130 of this ordinance.
- (H) "Records Management Officer" means the person designated in Section 1-129 of his ordinance.
- (I) "Records Management Plan" means the plan developed under Section 1-131 of this ordinance.
- (J) "Retention Period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction. (Ord. Of 11-27-90).

### **Sec. 1-127. Municipal Government Records Declared Public Property.**

All Municipal Government records as defined in Sec. 1-125 of this ordinance are hereby declared to be the property of the City of Big Spring. No Municipal Government 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. (Ord. of 11-27-90).

### **Sec. 1-128. Policy.**

It is hereby declared to be the policy of the City of Big Spring to provide for efficient, economical and effective controls over the creation, distribution, organization maintenance, use and disposition of all Municipal Government records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice. (Ord. of 11-27-90).

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### **Sec. 1-129. Designation of Records Management Officer.**

The City Secretary and the successive holders of said office, shall serve as Records Management Officer for the City of Big Spring. 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. (Ord. of 11-27-90).

### **Sec. 1-130. Establishment of Records Management Committee; Duties.**

A records Management Committee consisting of the City Secretary, Personnel Director, Public Works Secretary, Utilities Records Clerk, Airpark Office Manager, Police Department Records Officer and Fire Department Captain is hereby established. (Ord. of 11-27-90).

THE COMMITTEE SHALL:

- (A) assist the Records Management Officer in the development of policies and procedures governing the records management program;
- (B) review the performance of the program on a regular basis and propose changes and improvements if needed;
- (C) review and approve records control schedules submitted by the Records Management Officer;
- (D) give final approval to the destruction of records in accordance with approved records control schedules; and
- (E) actively support and promote the records management program throughout the City of Big Spring. (Ord. of 11-27-90).

### **Sec. 1-131. Records Management Plan to be Developed; Approval of Plan; Authority of Plan.**

- (A) The Records Management Officer and the Records Management Committee shall develop a records management plan for the City of Big Spring for submission to the City Council. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of record keeping, to adequately protect the essential records of the Municipal Government, and to properly preserve those records of the Municipal Government 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 ordinance effectively.
- (B) 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 of Big Spring and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

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- (C) State law relating to the duties, other responsibilities, or record keeping 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 ordinance and the records management plan adopted under it may not be used by the department head as a basis for refusal to participate in the records management program of the City of Big Spring. (Ord. of 11-27-90).

**Sec. 1-132. Duties of Records Management Officer.**

In addition to other duties assigned in this ordinance the Records Management Officer shall:

- (A) administer the records management program and provide assistance to department heads in its implementation;
- (B) plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
- (C) in cooperation with department heads identify essential records and establish a disaster plan for each Municipal Government office and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;
- (D) develop procedures to ensure the permanent preservation of the historically valuable records of the Municipal Government.
- (E) establish standards for filing and storage equipment and for record keeping supplies;
- (F) study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the City of Big Spring.
- (G) provide records management advice and assistance to all Municipal Government departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;
- (H) 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 Municipal Government records control schedules are in compliance with state regulations;
- (I) disseminate to the City Council and Department heads information concerning state laws and administrative rules relating to local government records;
- (J) instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan their duties in records management program;

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- (K) direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this ordinance.
- (L) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of Municipal Government records is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
- (M) maintain records on the volume of records destroyed under approved records control schedules, the volume of records microfilmed or stored electronically and the estimated cost and space savings as the result of such disposal or disposition;
- (N) report annually to the City Council on the implementation of the records management plan in each department of the City of Big Spring including summaries of the statistical and fiscal data compiled under Subsection (13); and
- (O) bring to the attention of the City Council non-compliance by department heads or other Municipal Government personnel with the policies and procedures of the records management program or the Local Government Records Act. (Ord. of 11-27-90).

### **Sec. 1-133. Duties and Responsibilities of Department Heads.**

In addition to other duties assigned in this ordinance, department heads shall:

- (A) cooperate with the Records Management Officer in carrying out the policies and procedures established in the City of Big Spring for the efficient and economical management of records and in carrying out the requirements of this ordinance.
- (B) 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
- (C) 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 of Big Spring and the requirements of this ordinance. (Ord. of 11-27-90).

### **Sec. 1-134. Designation of Records Liaison Officers.**

Each department head shall designate a member of his or her staff to serve as Records Liaison Officer for the implementation of the records management program in the department. If the Records Management Officer determines that in the best interests of the records management program more than one records Liaison Officer should be designated for a department, the department head shall designate the number of Records Liaison Officers specified by the Records Management Officer. Persons designated as Records Liaison Officers shall be thoroughly familiar with all the records created and maintained by the department and shall have full access to all records of the City of Big Spring maintained by the department. In the event of the resignation,

## ADMINISTRATION: OFFICERS AND EMPLOYEES

retirement, dismissal, or removal by action of the department head of a person designated as a Records Liaison Officer, the department head shall promptly designate another person to fill the vacancy. A department head may serve as a Records Liaison Officer for his or her department. (Ord. of 11-27-90).

### Sec. 1-135. Duties and Responsibilities of Records Liaison Officers.

In addition to other duties assigned in this ordinance. Records Liaison Officers shall:

- (A) conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;
- (B) in cooperation with the Records Management Officer coordinate and implement the policies and procedures of the records management program in their department; and
- (C) disseminate information to department staff concerning the records management program. (Ord. of 11-27-90).

### Sec. 1-136. Records Control Schedules to be Developed; Approval; Filing with State.

- (A) The Records Management Officer, in cooperation with department heads and Records Liaison Officers, shall prepare records control schedules on a department by department basis listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of Municipal Government records as the records management plan may require.
- (B) 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 record keeping procedures and need of the department and the records management program of the City of Big Spring.
- (C) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the members of the Records Management Committee. All schedules are adopted by a majority vote of the Committee.
- (D) 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. (Ord. of 11-27-90).

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### **Sec. 1-137. Implementation of Records Control Schedules; Destruction of Records Under Schedule.**

- (A) Records control schedule for a department that has been approved and adopted under Sec. 1-131 shall be implemented by department heads and Records Liaison Officers according to the policies and procedures of the records management plan.
- (B) A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending law suit, or the department head requests in writing to the Records Management Committee that the record be retained for an additional period.
- (C) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer from the Records Management Committee. (Ord. of 11-27-90).

### **Sec. 1-138. 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. (Ord. of 11-27-90).

### **Sec. 1-139. Records Center.**

A records center, developed pursuant to the plan required by Section 1-131, shall be under the direct control and supervision of the Records Management Officer. Policies and procedures regulating the operations and use of the records center shall be contained in the records management plan developed under Section 1-131. (Ord. of 11-27-90).

### **Sec. 1-140. Micro graphics.**

Unless a micro graphics program in a department is specifically exempted by order of the City Council, all microfilming of records will be centralized and under the direct supervision of the Records Management Officer. The records management plan will establish policies and procedures for the microfilming of Municipal Government records, including policies to ensure that all microfilming is done in accordance with standards and procedures for the microfilming of local government records established in rules of the Texas State local government records established in rules of the Texas State Library and Archives Commission. The plan will also establish criteria for determining the eligibility of records for microfilming, and protocols for ensuring that a microfilming program that is exempted from the centralized operations is, nevertheless, subject to periodic review by the records management officer as to cost effectiveness, administrative efficiency and compliance with commission rules. (Ord. of 11-27-90).

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### Sec. 141. Procedures for Public Information Requests.

Requests for public information shall be handled as follows:

- (A) The Records Management Officer of the City of Big Spring as defined by Section 1-129 shall be the primary officer responsible for responding to all requests for public information.
- (B) All requests shall be submitted in writing.
- (C) In the event a request is not delivered directly to the Records Management Officer by the requestor, it shall be immediately hand delivered to the Records Management Officer by the officer or employee of the City to whom the request has been submitted.
- (D) All charges for responding to requests shall be in accordance with Chapter 552 of the Texas Government Code and regulations of the Texas General Services Commission.

(Ord. of 09-23-97, Ord. of 11-17-03)

### Sec. 142-149. Reserved.

## ARTICLE 8. Big Spring Citizens Advisory Board

### Sec. 1-150. Creation.

- (A) There is hereby created a Big Spring Citizens Advisory Board for the purpose of providing a forum to the citizen who has exhausted the appellate process of the Police Department or who for whatever reason is not comfortable in dealing with the Police Department on a face-to-face basis regarding any alleged activities on the part of the Police Department.
- (B) The Big Spring Citizens Advisory Board shall review all complaints tendered against the Big Spring Emergency Ambulance Service. (Ord. of 03-24-92, Ord. of 10-27-98).

### Sec. 1-151. Activities.

- (A) Promote understanding, harmony and communication among all sectors of the community, the Police Department and the Ambulance Service.
- (B) Assist in policy review and assessment to help assure that the needs of the community, the Police Department and the Ambulance Service are reasonably compatible and mutually advantageous.
- (C) Receive sworn complaints from the citizens of the community who have exhausted the appellate process. Sworn complaints must be received by the Big Spring Citizens

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Advisory Board within three months of the date the alleged act occurred.

- (D) The Board may hear complaints of a first resort when in the opinion of the Chairperson, Vice-Chairperson and Secretary a hearing would be in the best interest of the complaining party, the Ambulance Service and the Police Department.
- (E) Hear testimony from all civilian, law enforcement parties, ambulance employees, city employees and city officials directly involved with the complaint.
- (F) Prepare and submit a report to the Mayor, City Council, City Manager, City Attorney, Chief of Police, Fire Chief and complaining party. (Ord. of 05-05-92, Ord. of 10-27-98).

### **Sec. 1-152. Composition, Qualifications, Appointments & Terms.**

The Big Spring Citizens Advisory Board shall be composed of seven (7) residents of the City of Big Spring and appointed by a majority vote of the City Council. Membership of the Big Spring Citizens Advisory Board shall reflect insofar as is practical that ethnic proportion of the general population. Each member of the Big Spring Citizens Advisory Board shall meet the following qualifications:

- (A) Must be a resident of the City of Big Spring;
- (B) Must not be employed by any law enforcement agency or have an immediate family member employed by any law enforcement agency;
- (C) Shall not have been convicted of a felony or have as an immediate member of his or her family a person who has been convicted of a felony.

Members of the Big Spring Citizens Advisory Board shall be appointed for three year terms, staggered so as to maintain continuity of the Board and shall be subject to removal by the City Council at the sole discretion of the council. Members except those removed by action of the City Council shall continue to serve until their successors are appointed.

If any member of the Board shall be absent, without prior notification, two times from a scheduled meeting during any twelve-month period, the third, absence without prior notification, shall be construed as the member's resignation from the Board. (Ord. of 3-24-92, Ord. of 5-5-92, Ord. of 10-27-98, Ord. of 2-27-01)

### **Sec. 1-153. Officers**

The City Council shall select the chairperson. Nominations for Vice-Chairperson, and Secretary, shall be made at the annual organizational meeting, which shall be held in October of each year. (Ord. of 2-27-01)

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**Sec. 1-154. Duties of Officers.**

- (A) The Chairperson shall:
- (1) Preside over all meetings.
  - (2) Establish, with the Vice-Chairperson and Secretary, an agenda for all meetings.
  - (3) Receive Big Spring Citizens Advisory Board communications and complaints.
  - (4) Keep a record of all communications and complaints and their results.
  - (5) Send the call for all meetings.
  - (6) Serve as liaison between meetings.
  - (7) Serve as official spokesperson for the Board.
  - (8) Establish subcommittees.
  - (9) Submit a report to the Mayor, City Council, City Manager, Chief of Police, Fire Chief and complaining party. (Ord. of 05-05-92, Ord. of 10-27-98).
- (B) The Vice-Chairman shall:
- (1) Assume duties of Chairperson in his absence.
  - (2) Assume any duties Delegated by the Chairperson.
- (C) The Secretary shall:
- (1) Record and maintain the minutes of all meetings.
  - (2) Prepare and submit to the Chairperson a written report of the Big Spring Citizens Advisory Board.
  - (3) Maintain a file of all communications and complaints.(Ord. of 03-24-92).

**Sec. 1-155. Meetings.**

The Board shall meet no less than once a month at a date and time to be established by the Board. The Board will meet and review each complaint within 10 working days of receiving the complaint. Members of the Big Spring Citizens Advisory Board shall deliberate as a body with a simple majority comprising a quorum. (Ord. of 03-24-92,10-14-97, Ord. of 2-27-01).

**Sec. 1-156. Procedures.**

Members appointed to the Big Spring Citizens Advisory Board shall set the procedures at the initial organizational meeting.(Ord. of 03-24-92).

**Sec. 1-157. Staff Liason.**

The City Attorney shall act as a liaison between the Board, the City Administration, and the City Council. (Ord. of 2-27-01)

**Sec. 1-158-169. Reserved.**

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### Sec. 1-170. City Council

(A) Time and place of regular council meetings:

The City Council shall regularly meet at City Council Chambers, 307 E. 4<sup>th</sup> Street, Big Spring, Texas on the second and fourth Tuesday of each month at 5:30 p.m. The City Council may by a two-thirds (2/3) vote change the time of a regular meeting to any other time and any other location.

(B) Mayor to preside at council meetings:

The Mayor shall preside over all meeting of the City Council. At the hour of meeting, the Mayor shall take the chair and call the Council to order, direct the roll to be called and the minutes of the previous meeting to be read, corrected, if need be, and adopted. If the Mayor be absent at the hour of meeting, the Mayor Pro Tempore shall take the chair and preside over the meeting and the business shall be proceeded with as indicated above. If both are absent, then the Council will elect a Council member to chair the meeting.

(C) Parliamentary Standard:

"The Scott, Foresman Robert's Rules of Order, Newly Revised" and any subsequent revisions, shall be the parliamentary standard for the conduct of all meetings of the Council of the City of Big Spring, and maintained in the City Secretary's office.

### Sec. 1-171. Reserved.

### Sec. 1-172. Agenda.

The agenda for regular and special meetings of the City Council of the City of Big Spring shall be divided into the following types of business and order:

(A) Public Hearing and Announcements:

This time shall be set aside to hear and respond to public comment and any announcements of interest to the public or to the Council. Persons or organizations that want to make presentations to Council are required to register with the City Secretary up to the time the Council meeting convenes stating name, address, and subject of presentation. A registration form will remain in the lobby of the Council Chamber for this purpose. In no event will an individual be allowed to speak over five (5) minutes. However, a majority vote of the Council can extend the time of any individual speaker. Each addressee should clearly state his name and address to facilitate accurate recording.

(B) Bid Awards:

All awards for purchase and/or services after there has been opportunity for competitive bidding as provided for by law or ordinance.

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- (C) City Manager's Report:  
This item shall consist of a report by the City Manager on subjects he deems of importance for the Council or have been requested by the Mayor or members of the Council.
- (D) Monthly Reports (May be staggered):  
All reports consisting of all departments and boards of the City.
- (E) Old Business:  
All business under this category shall be those written action items requiring subsequent readings, tabled or deferred from immediate prior old business agenda.
- (F) New Business:  
The business under this category shall be written action items considered for the first time or items tabled or deferred from immediate prior new business agenda.
- (G) Discussion Items:  
Items for discussion not requiring formal action by Council.
- (H) Executive Session:  
The executive session shall consider items as authorized by Article 6252-17, Section 2, V.T.C.S., Texas Open Meetings Law.

**Sec. 1-173. Establishing Agenda.**

- (A) Introductions of Ordinances:  
Any member of the Council, City Manager, or the City Secretary may cause ordinances to be placed on the agenda for consideration. Ordinances shall be in writing for placing on the agenda of a regular Council meeting. Copies of the proposed ordinance, in the form required for adoption, shall be available at the office of the City Secretary and shall be furnished to citizens, upon request to the City Secretary, before first reading and, if amended, shall be available and furnished in the amended form for as long as the proposed ordinance is before Council.
- (B) Placing Items on the Agenda:  
Any agenda item other than ordinances must be provided to the City Manager by 5:00 p.m. on the Tuesday previous to the regular Tuesday meeting or at least seventy-two (72) hours in advance of any other scheduled meeting. Material relevant to the items placed on the agenda shall be published and made available to Council seventy-two (72) hours in advance of the meeting.

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(C) Emergency Items:

Emergency items may be added to the agenda up to two (2) hours previous to a meeting. Cases of emergency and urgent public necessity are limited to imminent threats to public health and safety or reasonably unforeseeable situations requiring immediate action by the City Council.

(D) Limited Effect:

Failure to comply with this subsection shall not affect the validity of any action subsequently taken.

**Sec. 1-174. Regular, Emergency and Special Meetings.**

The regular meetings of the City Council are held at 5:30 p.m. on the second and fourth Tuesdays of each month. The agenda of regular meetings shall be posted at least seventy-two (72) hours in advance, as required by the Texas Open Meetings Act (Texas Revised Civil Statute Act 6252-17) as amended. An emergency meeting may be announced two (2) hours previous to such a meeting. The agenda for such a meeting shall be set by the Mayor. A special meeting shall be called by the City Secretary upon request of the Mayor, or a majority of the members of the Council or by the City Manager and shall be publicly announced pursuant to the 72-hour advance notification procedure.

**Sec. 1-175. Executive Sessions.**

The City of Big Spring establishes these rules for executive sessions in accordance with Open Meetings Act, Texas Revised Civil Statutes.

(A) Certified Agenda:

For each of its meetings that is closed to the public, the City Council may keep a certified agenda of the proceedings.

(B) Tape Recording:

In lieu of the requirements for maintaining a certified agenda as provided in this subsection, the City of Big Spring City Council shall make a tape recording of the proceedings which shall include an announcement made by the presiding officer at the beginning and end of the meeting indicating the date, time, and persons present.

(C) Sealing of Certified Agenda and Tape Recordings:

At the conclusion of the executive session, the certified agenda or tape recording shall be placed in an envelope and sealed and thereafter kept in a secure and confidential location by the city secretary. A certified agenda or tape recording shall not be made available for public inspection and copying until in camera inspection by a court of competent jurisdiction and upon issuance of a court order in an action brought under the Open Meeting Act.

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(D) **Two Year Tape Preservation:**

The custodian of record shall preserve the tape recordings for at least two (2) years after the date of the meeting. If an action involving the meeting is commenced during the required preservation period, the certified agenda or tape recording shall be preserved pending the outcome of the litigation.

**Sec. 1-176. City Council Workshops.**

The City Council must devote their regular City Council meetings to formal actions. Workshops shall be called from time to time so the City Council has an opportunity to review established policies, establish priorities and informally discuss upcoming matters, but no binding decisions shall be made in workshop session which require formal action. The notification requirements of the Open Meetings Act shall be observed in calling workshop sessions.

(A) **Workshops to be Called:**

Workshops shall be called by the City Secretary upon request of the Mayor, City Manager, or a majority of the members of the City Council and shall be publicly announced pursuant to the 72-hour notification procedure, as required by the Texas Open Meetings Act.

(B) **Workshop Agenda:**

The workshop agenda shall be prepared by the City Manager and shall include any items requested by Council members. Deliberations, as defined by the Texas Open Meetings Act, shall only be held on those items described in a timely posted workshop agenda.

(C) **Department Heads' Presence:**

Any agenda item affecting city departments shall require that the department head to be present.

(D) **Priorities:**

One (1) workshop per year shall be devoted entirely to the review and establishment of short and long range city priorities.

**Sec. 1-177. Media.**

(A) All regular meetings, special meetings, emergency meetings, executive sessions and city board meetings will be called and conducted in accordance with the Texas Open Meetings Law.

(B) Regular, special and emergency meetings of the City Council of the City of Big Spring are open to the public and to representative of the media. Properly called and convened executive sessions of the City Council are not open to the public, media coverage, pictures or taking for public release.

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- (C) No media personnel or equipment, including lights, cameras or microphones, will be located on the Council dais. Media personnel shall be located along the west wall of the Council Chambers no closer than five (5) feet in front of the Council table, and shall not obstruct other aisles or exits. This procedure applies to all City Council and appointed board meetings.
- (D) Reporters and media technicians are required to structure their movements, equipment set-up, removal and adjustments, etc, in such a manner as to not disrupt any council deliberations or the ability of the audience to see and hear the proceedings.
- (E) Interviews shall not be conducted inside the City Council Chamber during the time that the Council is in session.
- (F) During the time the Council meeting is in session, interviews may not be conducted in the lobby adjacent to the City Council room; however, interviews may be conducted in front to the building.
- (G) The City Secretary will furnish media representatives with a copy of the meeting agenda upon request. (Ord. of 7-13-93)

**ARTICLE 9.           Prision Guards**

**Sec. 178-1.    Creation of Special Prison Guard Force.**

There is hereby created and designated a special prison guard force for the purpose of averting danger and protecting the lives and property of the City's residents solely in connection with the operation and maintenance of the Big Spring Correctional Center.

**Sec. 178-2.    Appointment of Prison Guards.**

Members of the Special Prison Guard Force shall be appointed by the City Manager.

**Sec. 178-3.    Qualifications.**

Members of the Special Prison Guard Force may not be appointed or confirmed until such time as they have successfully completed the training requirements created and administered by the entity authorized by the Federal Bureau of Prisons to manage the BSCC, with such training to be approved by the City of Big Spring. The City Manager has the right with the consent of the City Council to create and enforce such other and additional qualifications as he from time to time may believe necessary. (Ord. 4-24-07)

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### Sec. 178-4. Powers.

The Special Prison Guard Force and its members shall, as prison guards at the BSCC have the following law enforcement authority, powers, and duties:

- (1) to arm themselves as required by the Statement of Work between the Federal Bureau of Prisons and the entity authorized by the Federal Bureau of Prisons to manage the BSCC (the "SOW");
- (2) to take all actions reasonably necessary to avert danger and protect the lives and property of the City's residents so long as such actions are performed in compliance with the SOW, and under the strict supervision of the entity authorized by the Federal Bureau of Prisons to manage the BSCC; and
- (3) to make arrests in compliance with the SOW. (Ord. 3/27/07)

### Sec. 178-5. Limitations.

Members of such Special Prison Guard Force may exercise the powers and duties granted them only in connection with their employment with the BSCC and only while acting within the course and scope of such employment. Members of such special force shall not be elected, employed, or appointed as peace officers, reserve law enforcement officers or public security officers of the City of Big Spring. Rather, members of such force shall be only those persons in private employment of the entity authorized by the Federal Bureau of Prisons to manage the BSCC, and appointed by the City Manager to constitute a special prison guard force for the limited purposes as described herein. (Ord. 3/27/07)

### Sec. 178-6. Termination.

Appointment as a member of the Special Prison Guard Force ends immediately upon the termination of such member's employment in connection with BSCC. Additionally, each officer's appointment is subject to termination for "good cause" shown at a hearing to be held before the City Manager. Such hearing shall be provided following three (3) days oral or written notice to the officer. The decision of the City Manager shall be final.

### Sec. 178-7. Employment.

Members of the Special Prison Guard Force are not, nor shall they be construed to be, employees of the City of Big Spring. They shall at all times remain as employees of the entity authorized by the Federal Bureau of Prisons, or such other entity as the City may contract with to provide security services at BSCC. No member of such special prison guard force shall accept employment as a peace officer as that term is defined by V.T.C.A. Code of Criminal Procedure Section 2.12 in any jurisdiction, including the City of Big Spring, while employed in connection with BSCC and working at a BSCC facility. (Ord. 3/27/07)

### Sec. 178-8. Official Acts.

While serving as members of the Special Prison Guard Force within the scope of their duties, members shall be performing functions as governmental officers of the City of Big Spring. (Ord. of 6-13-00)

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**ARTICLE 10**      **National Incident Management System**

**Sec. 179-9**      **Adopted.**

The City of Big Spring hereby adopts the National Incident Management System dated March 1, 2004. (Ord. of 8-23-05)

**Sec. 1-180. through 1-186.**

**Reserved.**

(Ord. of 10-27-98)

# ALCOHOLIC BEVERAGES

## Chapter 2

### **Sec. 2-1. Permit to manufacture, sell, distribute, etc.**

It shall be unlawful for any person to manufacture, brew, distill, sell or distribute any wine, beer, liquor or other alcoholic beverage within the city, or to engage in any other activity of which a license or permit is required by the Texas Alcoholic Beverage Code, without first obtaining a permit to do so from the city. The annual fee for such a permit shall be an amount equal to one-half ( $\frac{1}{2}$ ) the fee charged by the state for a license or permit to engage in a similar activity. Such fee shall be paid in full in advance to midnight of August thirty-first (31) next succeeding and only the proportionate part of the fee shall be collected. The fractional part of any month remaining shall be counted as one month in calculating the fee that shall be due. Upon payment of the applicable fee to the city secretary and exhibition to him of a permit or license duly issued by the state to the applicant or a person paying such fee, the city secretary shall, in the name of the city, issue and deliver to such applicant a permit to engage in business in the city of the character described in and authorized by the permit or license from the state held by such applicant, and the permit so issued in the name of the city shall authorize the conduct of such business upon the premises described in the permit or license from the state and shall remain in force only so long as such permit or license from the state remains in force. (Ord. of 3-10-36, §1-4)

### **Sec. 2-2. Sale near church, school or hospital.**

The sale of alcoholic beverages within three hundred (300) feet of any church, public school, or public hospital, within the corporate limits of the city, is hereby prohibited and no alcoholic beverages of any kind shall be sold on any premises located within three hundred (300) feet of any church, public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur. (Ord. of 3-18-38, §1)

### **Sec. 2-3. Application for alcoholic beverage occupational license.**

(A) Any person, firm or corporation desiring to sell liquor for off-premises consumption, or sell beer and wine for off-premises or on-premises consumption shall obtain the application form from the city secretary.

(B) After such application is completed and returned to the city secretary he shall then forward the application to the Building Official and Fire Marshall in order that they may have an opportunity to inspect the premises to see that the same conforms to the ordinances of the City of Big Spring.

(C) The application shall then be forwarded to the chief of police, who will make remarks and recommendations concerning the location that is being considered, and the reputation of applicant.

## ALCOHOLIC BEVERAGES

(D) After the investigation of the application has been completed it shall be submitted to the city manager for approval or disapproval.

- (1) If the application is approved by the city manager, the city secretary shall issue the applicant an occupational license.
- (2) If the application is disapproved by the city manager, the applicant will have ten (10) days to appeal this decision to the city council. (Ord. of 12-18-62, §§2,4; Ord. of 3-9-65, §1; Ord. of 8-28-73, §1; Ord. Of 12-14-93)

### **Sec 2-4 Sale of beer on Sundays.**

Repealed by ordinance of 9-24-85.

### **Sec. 2-5. Penalty.**

Any person violating the provisions of the above section shall be deemed guilty of a misdemeanor and shall upon conviction thereof be fined not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00). (Ord. of 8-24-54, §1; Ord. of 5-24-66, §1; Ord. of 67-0412, §§1, 2, 5, 4-25-67; Ord. of 5-22-73, §1)

### **Sec 2-6. Late hour consumption of alcoholic beverages.**

The hours of consumption of alcoholic beverages are hereby extended and it is allowed inside the city limits of Big Spring until 2:00 a.m. each morning of the week. (Ord. of 7-12-77)

### **Sec 2-7. Possession and Consumption of Alcoholic Beverages Prohibited in All City Parks; Defenses.**

(A) A person commits an offense if they consume an alcoholic beverage as defined in Section 1.04 (1) Alcoholic Beverage Code V.T.C.A. or possesses an open container that contains an alcoholic beverage while in any public park or along any street or road that is adjacent to a public park. (Ord. 11-26-91, 09-16-97).

(B) It is defense to prosecution under subsection 2.7a that: This person was on the premises of: Comanche Trail  
Moss Creek Lake

Participating in an event at the following locations for which approval from TABC to sell, serve and deliver alcoholic beverages has been obtained to the reservation form for that location.

Comanche Trail Municipal Amphitheater  
Dora Roberts Community Convention Center  
Old Settlers Pavilion

(Ord. 11-26-91)

## ALCOHOLIC BEVERAGES

(C) Selling and Consumption of Alcoholic Beverages Within Certain Areas of Comanche Trail Park.

(1) The sale, serving, delivering and consumption of alcohol beverages shall be restricted to the specific locations within Comanche Trail Municipal Park;

Comanche Trail Municipal Golf Course  
Comanche Trail Municipal Amphitheater  
Dora Roberts Community Convention Center  
Old Settlers Pavilion

(2) The following conditions shall be met in order for any person, firm, or organization to sell, serve, and deliver alcoholic beverages at the approved locations; Approval from TABC to sell, serve and deliver alcoholic beverages for the activity. Approved reservation from the locations identified in Section 2.8, this article. The dispensing of the alcoholic beverage shall be from a bulk delivery device into biodegradable paper cups or aluminum cans. Mandatory sale, serve and deliver shutdown time no later than one (1) hour prior to the scheduled closing of the event. Prohibition from any "carry-in" of coolers of alcoholic beverages at events where alcoholic beverages are for sale.(Ord. 11-26-91).

**Sec. 2-8. Reservations Required for Activities Involving Alcohol Sales, Serving and Delivery.**

Approval of a reservation to sell, serve and or deliver alcoholic beverages shall be restricted to the following parks and specific locations therein:

(A) Comanche Trail Municipal Park  
Old Settlers Pavilion Area  
(Area is defined by orange painted post around pavilion)  
Dora Roberts Community Convention Center  
(Area is defined as within the confines of the building)

Comanche Trail Municipal Amphitheater  
(Area is defined as that area within the rock wall on the north, east and west and 100' south of the rear rock wall.

(Ord. 11-26-91)

## ALCOHOLIC BEVERAGES

- (B) The application for a reservation for any of the locations described above where the sale, serving, delivery and consumption of alcohol is planned shall be made in the form prescribed by the City Manager and the application shall be accompanied by a non-refundable reservation fee in the amount of \$150.00 for the Old Settlers Pavilion and the fees prescribed in Chapter 6 of this code for other locations. The reservation application for an event where the sponsor proposes the sale, serving and delivery of alcoholic beverages shall reflect TABC approval and shall be made not later than ten (10) days prior to the date requested.
- (C) The conditions of said reservation shall include but not be limited to:
- (1) Specific date and times that the reservation is valid not to exceed three (3) consecutive days.
  - (2) The sale, serving, delivery of the alcoholic beverages shall be from a bulk delivery device and biodegradable paper cups or aluminum cans.
  - (3) Sale, serve and delivery shutdown time, no later than one (1) hour before the scheduled closing of the event.
  - (4) Proof of no delinquent taxes in Howard County or City of Big Spring.

Following review of the reservation application and TABC approval, The City Manager shall cause the approval of the reservation upon payment of the fees established herein. Reservation for activities in the Old Settlers Pavilion involving the sale, serving and delivery of alcoholic beverages; each day \$150.00. (Ord. 11-26-91).

**Sec. 2-9. Banning of Glass Beverage Containers in all City Parks and Public Properties.**

(A) It shall be unlawful for any person to possess and consume there from any glass beverage container in any city park or any city property within the corporate limits of the City of Big Spring, to include Moss Creek Lake Park.  
(Ord. 11-25-86)

**Sec. 2-10. Repealed in its entirety.**  
(Ord. 11-25-86) (Ord. of 9-16-97)

**Sec. 2-11. Late Hour Sale of Mixed Beverages.**

The hours of sale and offering for sale mixed beverages, within the City limits of Big Spring, Texas, are hereby extended to allow the sale and offer of sale of mixed beverages between the hours of midnight and 2:00 a.m. on any day, by a holder of a mixed beverage permit. (Ord. 2-10-87)

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### CHAPTER 3

#### Article 1. In General

##### Sec. 3-1. Keeping of fowl or swine prohibited; exceptions.

It shall be unlawful for any person to keep or maintain within the city limits any fowl or swine. It shall be permissible, however, to bring fowl or swine into the city for the purpose of transporting them by vehicle, or for the purpose of sale or processing, provided they do not remain within the city for a period of time exceeding forty-eight (48) hours. Also, fowl or swine may be kept or maintained on the premises owned by the Big Spring Rodeo Association during the time that a rodeo, fair, stock show, or regularly scheduled event is scheduled for the purpose of delivering or redelivering such fowl or swine.

##### Sec. 3-2. Regulations for keeping of livestock or fowl or swine; permit required.

It shall be unlawful for any person to keep or maintain any livestock, fowl, or exotic fowl or swine within the city for longer than forty-eight (48) hours, unless he has an unrevoked permit from the City of Big Spring. Livestock includes all animals except fish, dogs, cats, rodents, reptiles, monkeys, ferrets or rabbits kept as pets. Fowl includes those fowl defined in Section 3-11 except birds weighing less than four (4) ounces. The owner of a pet which is excluded from the definition of livestock or fowl will be allowed to keep such pet in the city without having to obtain a permit from the City.

A property owner where any animal is located or any owner of any animal shall maintain a safe and healthy environment for the animal. The property shall be kept free of accumulated waste, odor and attracted insects. The Animal Warden or designee may revoke any permit provided by this section or set a limitation on allowable pets if a safe, healthy and nuisance-free environment is not maintained. (Ord. of 8-9-94, §10-22-96, §2-10-98)

##### Sec. 3-3. Permit Application.

Any person desiring a permit to keep or maintain livestock within the city shall file with the city secretary a sworn application furnished by the city. The permit application will be reviewed by the Chief of Police, or his/her designee, before being brought before the City Council. Property owners 200 feet of the applicant will be notified of the application. The permit fee is of Seventy-Five Dollars (\$75.00) is renewable annually in January. Any deviation from the original application or failure to maintain a safe and sanitary condition will be sufficient to revoke such permit. (Ord. of 04-27-93, Ord. of 12-09-97, Ord. of 3-27-01, Ord. of 2-11-03)

##### Sec 3-4. Protective measures against disease.

- (A) Horses. All horses maintained within the city limits must be vaccinated for Equine Encephalomyelitis. Any new additions of horses to the lot must be so vaccinated or have been vaccinated within twelve (12) hours after arrival.

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- (B) Cows. The following tests are mandatory for all cows kept within the city limits:
- (1) Tuberculin
  - (2) Bangs Disease
  - (3) Mastitis
  - (4) Cowpox

**Sec. 3-5. Manure disposal.**

Control of premises where manure is to be found shall be as follows:

- (A) Each premise where livestock are kept shall be inspected for proper maintenance and supervision. A bin on the premises will be required which will act as a storage place for all manure from such livestock. Said bin shall be covered with an approved cover that will not allow the ingress or egress of flies. It will exclude any water (rain water). Any person who maintains any animal lot must make daily collections of all droppings; the time for the collection of the manure shall be before 10:00 a.m.; the collection to the bin of manure (this process shall be repeated for each day's collection). The formulas for the solutions are as follows:
- (1) Hellebore shall be applied in the following manner: by mixing one pound of the powder in twenty (20) gallons of water and allowing it to stand twenty-four (24) hours before use. It shall be applied as a spray at the rate of one gallon of the extract to each square foot of the surface of the pile.
  - (2) Borax shall be prepared by dissolving one pound of the powdered chemical in four (4) gallons of water. This solution shall be applied as a spray to the pile at the rate of one quart per square foot of surface, or powdered Borax may be used for dusting on the surface of the pile and thoroughly wetting. It shall be applied in quantities of about one ounce per square foot.
- (B) It will be necessary to have the bin large enough that it will compensate for the weekly collections of manure. At least one cubic foot of space shall be allowed for each animal per day. The thickness of the walls of the bin shall be a minimum of two (2) inches. The top shall be anchored by bolts which will allow repair as needed to be performed.

**Sec. 3-6. Notice of improper maintenance of premises; failure to obey notice.**

If at the time of an inspection the premises are not being maintained in the proper sanitary methods a written notice shall be given to the person owning such premises and to the person owning the livestock to correct the defects. This shall be by certified mail and issued by the city secretary. A reinspection shall be made at the end of three (3) days and if the corrections are not

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made, the persons owning the premises or owning the livestock shall be subject to the penalties established in this article.

### **Sec. 3-7. Penalty.**

Any person who violates any of the provisions of this article shall upon conviction thereof, be fined in any sum not less than one dollar (\$1.00) nor more than one thousand dollars (\$1,000.00). Notwithstanding the foregoing, the one thousand dollar (\$1,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be two hundred dollars (\$200.00) rather than one thousand dollars (\$1,000.00); provided, further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

This section is enacted pursuant to V.A.T.S. Articles 1011 set 1195, as amended, effective September 1, 1983. (Original citation: Ord. No. 80-83, 10-11-83, §1; Ord. of 10-22-85)

### **Sec. 3-8. Abandoned Animals.**

- (A) “It shall be unlawful for any person owning, possessing, or harboring an animal to abandon that animal.”
  
- (B) “ If the Animal Control Division of the Big Spring Police Department finds that an animal has been abandoned, the animal may be impounded. If the animal has been abandoned in a house or within a fenced area, the division must make a reasonable effort to locate the owner or manager of the property. If the property owner or manager is not the animal owner, then the division shall secure permission to remove the animal. If the property owner is also the animal owner and this individual cannot be located, the division shall secure an appropriate warrant to seize the animal.”
  
- (C) “An animal seized pursuant to this section shall be impounded for a period of five (5) days. If the owner contacts the division to reclaim the animal, an explanation for the animal’s abandonment must be provided to the satisfaction of the Animal Control Supervisor before the animal is released to the owner. Otherwise, the supervisor may dispose of the animal. If the animal is unclaimed by its owner after being held five (5) days, the animal shall be disposed of as provided in Section 3-45.” (Ord. of 11-11-96)

### **Sec. 3-9 Nuisance.**

- (A) “It shall be unlawful for any person to own, keep, possess, or maintain an animal in such a manner so as to constitute a public nuisance to neighbors. By way of example, and not of limitation, the following acts or actions of an owner, harbored, or possessor of an animal are hereby declared to be a public nuisance and are therefore unlawful;
  - (1) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers or vegetables, or desecrating the property of another; or

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- (2) Maintaining animals in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or is dangerous to the public health, welfare, or safety or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.
- (3) Maintaining property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property; or
- (4) Maintaining an animal that is diseased and dangerous to the public health; or
- (5) Maintaining an animal that is not properly secured from public contact and habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles; or
- (6) Failing to confine a female dog or cat while in season in a building or secure enclosure in such a manner that she cannot come into contact with another dog or cat, or create a nuisance by attracting other animals; provided this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal which is being bred; or
- (7) Allowing or permitting an animal to bark, whine, howl, crow or cackle in an excessive, continuous, or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises. (Ord. of 11-11-96)

### Sec. 3-10      Miscellaneous Regulation Regarding Animals.

- (A) **Stray animals:** It shall be unlawful for any person, without the actual consent of the owner, to harbor, feed, keep in possession by confinement or otherwise have an animal which does not belong to him unless he has, within forty eight (48) hours of the time the animal came into his possession, notified the Animal Control Division. Upon receiving such notice, the division may take the animal and deal with it as provided in Section 3-45.
- (B) **Surrender of Animals:** It shall be unlawful for any person to refuse to surrender such an animal to an employee of the Animal Control division or Police Department upon demand. (Ord.11-11-96)

### Sec. 3-11      Definitions.

ANIMAL:                      Any live vertebrate creature, domestic or wild, excluding man.

AT LARGE:                    Not under the control of the owner, or other persons acting for the owner.

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BITE:	Any abrasion, puncture, or tear of the skin actually caused or suspected of being caused by the teeth or claws of any animal.
CAT:	All members of the feline family.
DOG:	A member of the Canis familiaris family.
HARBOR OR HARBORING:	The act of keeping or caring for an animal.
NEUTERED:	Shall include both male and female animals and means a variety of operations that prevent conception.
OWNER:	Any person owning, keeping, possessing, harboring or maintaining a dog or other animal.
FOWL:	Includes any chicken, duck, turkey, goose, guinea fowl, peafowl, or other similar animal commonly classified as ratite(s).
EXOTIC FOWL:	Means any avian species that is not indigenous to this state.
LIVESTOCK:	Means a horse, stallion, mare gelding, filly, colt, mule, hinny, jack, jennet, hog, sheep, goat, or a head of any species of cattle.
EXOTIC LIVESTOCK:	Means grass-eating or plant-eating, singled-hooves or cloven-hooves mammals that are not indigenous to this state and are known as ungulates, including animals from the swine, horse, tapir, rhinoceros, elephant, deer, and antelope families.
SWINE:	Means any animal belonging to the Suis species.
PUBLIC CONTACT:	When an animal comes within (10) feet of the public and is not confined within an enclosure. (Ord. of 11-11-96, § 2-10-98)

### **Animal Control Committee: Powers and Duties**

#### **Sec. 3-12. Creation.**

There is hereby created an animal control committee for the City. That committee shall advise the Council on any animal control problem referred to the committee by the City Council.

#### **Sec. 3-13. Animal Control Committee: Membership.**

The Committee shall consist of seven (7) members. Such committee should be composed of, but not limited to, persons with experience in veterinarian medicine, animal welfare, animal

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shelter operations and public health or sanitation. Members may consist of one or more persons in the same area of experience. All members shall be qualified electors of the City of Big Spring unless

it is necessary to waive this requirement in order fill an area of experience stated above. Members will be appointed by a majority vote of the City Council. (Ord. of 3-27-01)

### **Sec. 3-14. Terms of Members.**

Members shall serve three (3) year staggered terms. Terms shall expire on September 30, but each member shall continue to serve until his or her successor is appointed. Any member may be removed from office by a majority vote of the City Council for any reason. (Ord. of 3-27-01)

### **Sec. 3-15. Election of Chairperson: Duration.**

The committee chairperson shall be selected by a majority vote of the committee. The chairperson shall serve in such capacity for the duration of their appointed term.

#### **Sec. 3-15.1. Duties and Powers.**

The committee shall be responsible for public awareness of animal issues within the city. The committee is charged with organizing quarterly public awareness events concerning issues such as population control, animal tags, permit requirements, the duties of the Animal Control Department, animal diseases and other issues relating to Animal Control.

The committee may also review and make recommendations regarding the adoption or revision of ordinances when requested by the City Council. (Ord. of 3-27-01)

#### **Sec. 3-15.2. Meetings.**

The Animal Control committee shall meet at least four (4) times a year.

#### **Sec. 3-15.3. Recommendations.**

In addition, the committee shall, as requested by the City Council, submit recommendations to the City Council for the adoption or revision of ordinances. (Ord. of 3-27-01)

#### **Sec. 3-15.4 Quorum.**

Four (4) members of the committee shall constitute a quorum. To take action on an item, the affirmative votes of the majority present, but no less than three (3) affirmative votes, shall be required. (Ord. of 3-27-01)

#### **Sec. 3-15.5 Conflict of Interest.**

A committee member shall not act in any case in which he or she has a personal interest.

#### **Sec. 3-15.6. Records.**

The lieutenant over support services of the Big Spring Police Department or their designee shall act as secretary of the committee and shall make a record for all committee proceedings, which shall set forth the reasons for its decisions, the vote of each member, and failure of a member to vote. Such written record, so taken in the form of committee minutes, shall be reviewed and approved by the committee at the next regularly scheduled meeting. Such approved minutes, along

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with any decisions of the committee, shall be submitted to the City Council for acceptance. (Ord. of 6-22-99)

### Sec. 3-16-17.      Reserved

## Article 2. Keeping of Dangerous Animals

### Sec. 3-16.      Definitions.

For purposes of this article, "dangerous animal" means and includes any wild mammal, reptile, or fowl which is not naturally tame or gentle but is of the wild nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters. The term "dangerous animal" also means and includes any domestic animal, reptile, or fowl which, because of its size or vicious propensity or other characteristic would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

### Sec. 3-17.      Permit required.

It shall be unlawful for any person to keep or maintain within any zone in the city wherein residential uses are permitted pursuant to the zoning ordinance of the city, any dangerous animal as defined above unless a special annual permit therefor is first obtained from the city council.

### Sec. 3-18.      Issuance of permit.

The city council shall issue a special permit for the keeping or maintenance of a dangerous animal if they find:

- (A) That the animal is at all times kept or maintained in a safe manner and that it is at all times confined securely so that the keeping of such animal will not constitute a danger to human life or the property of others.
- (B) That adequate safeguards are made to prevent unauthorized access to such animals by members of the public.
- (C) That the health or well-being of the animal is not in any way endangered by the manner of keeping or confinement.
- (D) That the keeping of such animal does not constitute a nuisance and will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.
- (E) That the keeping of such animal will not create or cause offensive odors or constitute a danger to public health.

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- (F) That the quarters in which such animal is kept or confined are adequately lighted and ventilated and are so constructed that they may be kept in a clean and a sanitary condition.
  
- (G) That the applicant for such special permit prove his ability to respond to damages to and including the amount of one hundred thousand dollars (\$100,000) for bodily injury to or death of any one person or persons or for damage to property owned by any other person which may result from the ownership, keeping or maintenance of such animal.

### **Sec. 3-19. Inspections.**

At least once each month after the issuance of any such permit or after its renewal, the public health officer shall inspect the premises subject to such special permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this article. If the public health officer determines during such inspections that any of the conditions therein specified are being violated, he shall refuse to renew any such permit or he shall revoke such special permit in the event that such violation is not corrected within such period of time as he shall direct. (Ord. of 12-14-93; Ord. of 8-22-95; Ord. of 2-11-03)

### **Sec. 3-20. Limit on number of dangerous animals.**

In no event shall a permit be issued for the keeping of more than two (2) dangerous animals at any single location.

### **Sec. 3-21. Permit fees.**

No permit shall be issued for the keeping of dangerous animals unless all provisions of this article are complied with and a fee of Five Hundred Dollars (\$500.00) is paid to the City of Big Spring. Permit fees shall be paid annually on or before the start of the license year. (Ord. of 8-22-95; Ord. of 2-11-03)

### **Sec. 3-22. Exceptions to provisions.**

The provisions of this article shall not apply to the keeping of dangerous animals in the following cases:

- (A) The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study.
- (B) The keeping of such animals for exhibition to the public by a circus, carnival or other exhibit or show.
- (C) The keeping of such animals in a bona fide licensed veterinary hospital for treatment.

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- (D) Dangerous or poisonous reptiles may be maintained by bona fide educational or medical institutions for the purpose of instruction or study provided such reptiles are securely confined and are properly cared for in a manner set as satisfactory to the public health officer.

### **Sec. 3-23. Penalty.**

Any person who violates any of the provisions of this article shall upon conviction thereof, be fined in any sum not less than one dollar (\$1.00) nor more than one thousand dollars (\$1,000.00). Notwithstanding the foregoing, the one thousand dollar (\$1,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be two hundred dollars (\$200.00) rather than one thousand dollars (\$1,000.00); provided, further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

This section is enacted pursuant to V.A.T.S. Articles 1011 and 1195, as amended, effective September 1, 1983. (Original citation: Ord. No. 80-83, 10-11-83, §1; Ord. of 10-22-85)

### **Sec. 3-24. Running at large prohibited -- livestock.**

It shall be unlawful for any person to permit any horse, mule, jack, jennet, sheep, cow, hog, or goat owned or kept by him to run at large within the corporate limits of the city. (Ord. of 9-16-29, §1)

### **Sec. 3-25. Cats.**

It shall be unlawful for any person to permit any cat owned or kept by him to run at large within the city. Any cat found running at large in violation of this section may be impounded under the terms and subject to same conditions as provided in sections 3-43 through 3-46 for dogs.

### **Sec. 3-26. Poisoning, maiming or disfiguring animals.**

Whoever shall willfully poison, maim or disfigure any dog or other domestic animal shall be deemed guilty of a misdemeanor. Any person found in, on, or about any premises belonging to another and having in his possession poison or any toxic substance capable of causing illness or death to a dog or other domestic animal shall be presumed to have the intent to willfully poison a dog or other domestic animal and it shall be prima facie evidence of the violation of this section. Any person, other than a duly constituted peace officer of the city or state, furnishing information leading to the arrest and conviction of a person violating the provisions of this section shall receive a reward of fifty dollars (\$50.00) from the city. State law reference V.A.T.S. Articles 1373, 1373-a.

### **Sec. 3-27. Disposition of dead animals.**

The owner or possessor of any animal which shall die within the corporate limits of the city shall have the carcass of the same removed, by the nearest and most direct route, from within the

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city limits to the sanitary landfill within twenty-four (24) hours after the death of such animal. (Ord. of 9-29-29)

**Sec. 3-28. Animal warden.**

The police chief shall appoint a special officer to be known as the animal warden and fix a salary therefore, subject to the approval of the city council, and the police chief may appoint or provide for an assistant or assistants to the animal warden. The animal warden and his assistant or assistants shall be under the supervision and control of the police chief. It shall be the duty of the

animal warden and his assistants to perform such duties as are prescribed by this chapter and as may be directed by the police chief under the terms of this chapter. (Ord. 1-8-57, §7)

**Article 2A. Animal Registration; Impoundment Fees**

**Sec. 3-29. Vaccination and license required.**

It shall be unlawful for any person to keep any dog or cat within the city, unless such dog or cat has been vaccinated against rabies by a practicing veterinarian within the preceding twelve (12) months and such dog or cat has been issued a license for the current year. Such vaccination shall be made prior to the dog or cat becoming three (3) months of age. (Ord of 11-8-05)

**Sec. 3-30. License fee and term.**

There is hereby fixed and assessed as a police regulation for the protection of the public health a license fee of four dollars (\$4.00) per annum for spayed or neutered animals and fifteen dollars (\$15.00) for unaltered animals against the owner or keeper of each dog or cat kept in the city. Each license shall be valid for one year from the date of issuance. Each practicing veterinarian shall collect the appropriate fee at the time each dog or cat is vaccinated. The veterinarian shall then provide the animal control department with the vaccination number of each animal. The vaccination number shall serve as the registration number of the animal. The veterinarian shall retain \$1.00 of each registration fee to cover his or her expenses in collecting and reporting registration information. (Ord. of 11-8-05)

**Sec. 3-31. Applicable Fees.**

The City of Big Spring will receive the following fees related to the impoundment of animals:

<u>Redemption Fee</u>	<u>Fees</u>
(Unaltered Animals)	
1 <sup>st</sup> incident	\$ 25
2 <sup>nd</sup>	\$ 50
3 <sup>rd</sup>	\$ 100
(Altered Animals)	
1 <sup>st</sup> incident	\$ 10
2 <sup>nd</sup>	\$ 50

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3 <sup>rd</sup>		\$ 100
<u>Boarding Fee</u> (After 72 Hours)		
Per Day		\$ 3
<u>License Fee</u>		
Animal		
Altered		\$ 4
Unaltered		\$ 15
Dangerous Dog		
Altered		\$ 50
Unaltered		\$ 65
<u>Quarantine</u>		
Per Day		\$ 5
Ship Head		\$ 20
<u>Adoption Fee</u>		\$ 45
If animal previously chipped or tattooed		\$ 25
(Ord. of 11-8-05)		

**Sec. 3-32. Penalty.**

Any person, firm or individual who shall violate any of the provisions of the article shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding Five Hundred Dollars (\$500.00). Each and every day the violation continues shall constitute a separate and distinct offense. (Ord. 11-8-05)

**Sec. 3-34 through 3-39. Reserved.**

**Article 3. Dogs**

**Sec. 3-40. Running at large - Maintenance.**

All dogs within the City shall be cared for in accordance with the following:

- (A) It shall be unlawful for the owner, caregiver or keeper of any dog to permit such dog to run at large within the city. A dog is at large if it is not within an enclosure adequate to contain the dog upon or within property owned or leased by its owner, caregiver or keeper or restrained by a leash or harness personally held by the owner, caregiver or keeper of the dog.

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- (B) It shall be unlawful for the owner, caregiver or keeper of any dog to restrain or anchor a dog by means of a tether, chain, cable, rope or cord, unless the tether or restraint is being personally held by the owner, caregiver or keeper of the dog. No dog may be attached to any inanimate object.
- (C) Any dogs confined within a fenced yard or run must be provided with at least 100 square feet of space for each dog. Any dog kept within a house without a yard shall be provided an enclosure or run for such dog with at least 100 square feet for each dog. The enclosure shall be constructed of chain link or similar type material with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping from the enclosure. The top of the enclosure shall be covered with material to provide the dog with shade and protection from the elements. (Ord. 8-26-75, Ord. 7-27-04)

### **Sec. 3-41. Vicious or dangerous dogs not to be kept in public places.**

It shall be unlawful for any owner or person in control of any vicious or dangerous dog to keep or permit the same in or about any public house, public place, street, or alley in the city. (Ord. of 1-8-57, §12)

### **Sec. 3-42. Confinement of dogs which have bitten persons.**

If any person shall make an affidavit before the chief of police or judge of the corporation court that any dog has bitten any person within the limits of the city it shall be the duty of the chief of police to direct the owner or keeper of such dog to keep him securely confined for not less than ten (10) days and to release such dog only upon written permission of the health officer or a duly licensed veterinarian. In the event such owner or keeper fails or refuses to comply with such directions, such dog shall be impounded in the city pound for the required period of observation, and shall be released to the owner or keeper only after payment of the pound fees provided for in section 3-44. (Ord. of 1-8-57, §13)

### **Sec. 3-43. Impoundment--generally.**

It shall be the duty of the animal warden and his assistants to pick up and impound any dog found running at large in violation of this article and to take proper care of all dogs so impounded. (Ord. of 1-8-57, §7)

### **Sec. 3-44. Redemption.**

The owner or keeper of any animal impounded under the provisions of this article shall redeem, reclaim, and receive possession of such animal upon payment of the applicable fees. (Ord. of 5-13-75; Ord. of 8-22-95)

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### **Sec. 3-45. Disposition of unclaimed dogs.**

Should the owner or keeper of any impounded dog fail to redeem the same as provided in section 3-44 within seventy-two (72) hours, the dog shall be destroyed by the animal warden in a manner approved by the American Humane Society; provided, however, that no dog wearing a license tag shall be destroyed prior to seventy-two (72) hours after notifying the owner or keeper of such dog, by mailing to such owner or keeper a notice of impoundment at the mailing address furnished the city at the time of issuing the license. Any time subsequent to expiration of the redemption period and prior to destruction of any dog under the provisions hereof, the city may sell the dog so impounded to the first person tendering to the city the pound fees and license fees provided for in this article. (Ord. of 1-8-57, §11)

### **Sec. 3-46. Reports.**

It shall be the duty of the animal warden to report in writing to the chief of police, once each month, the total number of dogs impounded, the total number of dogs redeemed or sold, and the total number of dogs destroyed under the provisions of this article. (Ord. of 1-8-57, §8)

### **Sec. 3-47. Barking dog.**

Any person who shall harbor or keep on his premises or in or about his premises, or premises under his control, any dog, which by loud or unusual barking or howling shall cause the peace and quiet of the neighborhood or the occupants of the adjacent premises to be disturbed, or reasonably liable to be disturbed, shall be guilty of a misdemeanor. (Ord. of 12-12-67; Ord. of 8-22-95)

### **Sec. 3-48. Vaccination and license required.**

Specific Repeal. Moved to Article 2A. (Ord. of 8-26-75, Ord. of 11-8-05)

### **Sec. 3-49. License fee and term.**

Specific Repeal. Moved to Article 2A. (Ord. of 1-8-57, §1; Ord. of 8-22-95, Ord. Of 10-23-01, Ord. of 11-8-05)

### **Sec. 3-50. Applicable Fees**

Spetic Repeal. Moved to Article 2A. (Ord. of 8-22-95, Ord. Or 10-23-02, Ord. of 7-27-04, Ord. of 11-8-05)

### **Sec. 3-51 Penalty**

Any owner, caregiver or keeper of any dog who shall violate any provision of this article shall be guilty of a misdemeanor and upon conviction may be fined not less than \$1.00 or more than \$500.00; provided further, no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state. Each day the violation occurs or continues shall constitute a separate offense. (Ord. of 7-27-04)

## **Article 4. Bees and Beekeeping.**

### **Sec. 3-52. Regulation for keeping of bees; permit required.**

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It shall be unlawful for any person to keep or maintain any bees or engage in the practice of beekeeping within the City for longer than forty-eight (48) hours, unless he or she has an unrevoked permit from the City Council to do so. (Ord. of 7-14-87)

### **Sec. 3-53. Permit application.**

Any person desiring a permit to keep or maintain bees or bee hives, or engage in the practice of beekeeping within the City shall file with the City Secretary a sworn application furnished by the City. The permit fee shall be Five dollars (\$5.00).

### **Sec. 3-54. Permit issuance.**

The City Council may issue a special permit for the keeping of bees or the practice of beekeeping. Said permit shall be valid for a term of one year from the date of issuance.

### **Sec. 3-55. Limits on bee hives.**

No permit holder shall own or possess more than three standard size bee hives at any one location within the city limits. No more than one permit shall be issued per person or location within the city limits.

### **Sec. 3-56. Penalty.**

Any person who violates any of the provisions of this Article shall upon conviction thereof, be fined in any sum not less than One Dollar (\$1.00) nor more than One Thousand Dollars (\$1,000.00). Notwithstanding the foregoing, the One Thousand Dollar (\$1,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be Two Hundred Dollars (\$200.00) rather than One Thousand Dollars (\$1,000.00); provided further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues. (Ord. of 7-14-87)

### **Sec. 3-57 through 3-59. Reserved.**

## **Chapter 4**

### **BUILDING, PLUMBING, GAS, AND ELECTRICAL INSTALLATIONS**

NOTE: The building, plumbing, gas and the electrical installations ordinances are hereby incorporated by reference and shall be deemed part of this Code. Said ordinances are on file in the office of the City Secretary.

# **BUSINESS AND OCCUPATIONS**

## **Chapter 5**

### **Article 1. Public Amusements in General**

#### **Sec. 5-1. Bond or liability insurance required for exhibitions, carnivals, circuses, or amusement rides.**

No person shall conduct, operate, manage, or sponsor any exhibition, carnival, or circus, ferris wheel, merry-go-round, go-carts, or any amusement ride of any kind operated for hire or for the purpose of promoting or advertising any trade or business, without first filing with the city secretary a bond or certificate of liability insurance in the amount of at least one hundred thousand dollars (\$100,000) per person and three hundred thousand dollars (\$300,000) per occurrence indemnifying the public against bodily injury and/or property damage sustained by reason of the operation of said amusement. Said bond or certificate of insurance shall be subject to approval by the city attorney. This section shall apply to all persons, whether or not a license is required by any other provisions of this chapter. (Ord. 88-83, 10-25-83, §5-1)

#### **Sec. 5-2. Definitions.**

The term "exhibition" or "exhibitions" as used in this article and Article 2 shall be held to mean and include circus's, menageries, carnivals, sideshows, and other similar enterprises which are operated for hire or for the purpose of promoting or advertising any trade or business, but shall not be held to mean western style rodeos. The term "carnival" or "carnivals" as used in this article and in Article 2 means and includes amusement activities, rides, merry-go-rounds, booths for the conduct of games of skill, food dispensing facilities and sideshows. A carnival shall not include gambling devices, games of chance, lotteries, punch boards or other activities in violation of state or federal law or city ordinances.

An exhibition, carnival, or circus shall be exempt from Articles 1 and 2 hereof if it is sponsored or given for the benefit of and if all proceeds from such operations are retained by (1) the Big Spring Independent School District or a school or a parent teacher association thereof and conducted entirely on property of said district, or (to) a local church and conducted entirely on property of said church or any local organization that sponsors the carnival and mans it with all local volunteer or otherwise labor and does not include rides or merry-go-rounds. An exhibition deemed to be an educational exhibit, as determined by the city manager, shall be exempt from Article 1. (Ord. 8-8-83, 10-25-83, Ord. 8-12-86.)(Ord. of 4-13-93)

#### **Sec. 5-3 to 5-10. Reserved.**

### **Article 2. Exhibitions, Carnivals or Circuses**

#### **Division 1. Generally**

#### **Sec. 5-11 to 5-20. Reserved.**

# **BIG SPRING CITY CODE**

## **Division 2. License**

### **Sec. 5-21. Unlawful without license.**

It shall be unlawful for any person to conduct or operate any exhibition, carnival, or circus within the city limits without first obtaining a license to do so from the city manager or his designated representative. Any person conducting or operating an exhibition, carnival or circus, or in any manner connected with or taking part in same within the city limits without first applying for and obtaining said license shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding two hundred dollars (\$200.00). A separate offense shall be deemed committed on each day any violation occurs or continues. (Ord. of 5-26-39, §§2,4; Ord 88-83, 10-25-83, §5-21, §4-14-98)

### **Sec. 5-22. Application required.**

Any person desiring to conduct or operate any exhibition, carnival or circus within the city limits shall make application for a license to the city manager and file the same with the city secretary not less than two (2) weeks prior to the time when it is desired to conduct or operate same. Said application shall give the name and permanent address of the owner, and if owned by a company or corporation, or association, the application shall show said fact and shall also show the name of the manager or other officer in charge of said exhibition, carnival or circus. In any event, the application shall show the person in active charge and control of operating or conducting the exhibition, carnival or circus. The application shall further give a list of all shows, rides, booths and any other businesses and attractions operated in connection with the exhibition, carnival or circus, listing same by name and with a description of each premises on which the exhibition, carnival or circus is operated or conducted. Said premises shall be kept in clean and orderly condition during the operating thereof and after the conclusion thereof shall be restored to the same condition it was in prior to the operation thereof, reasonable wear and tear excepted, and any trash or debris originating therefrom shall be removed from any surrounding property by applicant at applicant's expense. (Ord. of 5-26-39, §2; Ord. 88-83, 10-25-83, §5-22, §4-14-98)

### **Sec. 5-23. City Manager action on application.**

After an application is filed under this division, the city secretary shall refer the same to the city manager for action, and if the city manager or his representative is convinced from the evidence submitted that the owner of the carnival is solvent and that he has in the past, and proposes to while showing in the city, conducted the carnival in a decent, law-abiding and orderly manner, the city manager or his representative shall approve the application. (Ord. of 5-26-39,§2, §4-14-98)

## **BUSINESS AND OCCUPATIONS**

### **Sec. 5-24. License fee; exemption; administrative fee.**

As a conditional requirement to the licensing of any exhibition, carnival or circus to operate in the city the applicant for said license shall pay to the city secretary a license fee in the sum of two hundred and fifty dollars (\$250.00); however, if an exhibition is deemed to be an educational exhibit as determined by the city manager, then the foregoing license fee shall be waived and in lieu thereof the applicant shall pay to the city secretary an administrative fee in the amount of twenty-five dollars (\$25.00) to help defray some of the time and expense in processing the application and issuing the license. (Ord. of 5-26-39, §3; Ord. 88-83, 10-25-83, §5-24, Ord. of 8-12-86)(Ord. of 04-13-93)

### **Sec 5-25. Issuance.**

Upon approval of an application for a license under this division by the city manager or his representative and payment of the fee prescribed by section 5-24, the city secretary shall issue a license to the applicant to show and exhibit the carnival in the city. Such license shall not issue, however, unless the applicant complies with section 5-1, if applicable (Ord. of 5-26-39, §3, §4-14-98)

### **Sec. 5-26. Term.**

A license issued under this division shall cover one appearance in the city and shall be good only for as many days as the exhibition, carnival or circus remains continuously in the city, and a new license shall be required each time the exhibition, carnival or circus returns to the city. (Ord. of 5-26-39, §3; Ord 88-83, 10-25-83, §5-26)

### **Sec. 5-27. Permitted operations under license.**

Any person obtaining a license to conduct or operate an exhibition, carnival or circus within the city limits shall have the right to show, obtain and operate only those shows, rides, booths, and other attractions which are under the direct charge and supervision of the owner or operator of the exhibition, carnival or circus, and it shall be unlawful for any person to conduct or operate in connection with the exhibition, carnival or circus, any show, attraction, or concession of any kind or character independent of the ownership and management of said exhibition, carnival or circus. The license granted to said exhibition, carnival or circus shall cover and permit only those shows, attractions and concessions which are owned and operated by the person applying for the license. (Ord. of 5-26-39, §5; Ord 88-83, 10-25-83, §5-27)

### **Sec 5-28. Advertising Restrictions.**

Any placards, handbills, posters and other advertising materials used, placed or caused to be placed by applicant or agent of the applicant in the public right-of-way or on public property in publicizing their exhibition, carnival or circus shall be unlawful and shall constitute a misdemeanor. Any placards, handbills, posters and other advertising materials used, placed or caused to be placed by applicant or agent of the applicant on private property without the permission of the owner or person in charge thereof in publicizing their exhibition, carnival or circus shall be unlawful and shall constitute a misdemeanor. Said materials shall be removed by applicant at the applicant's expense. The city manager reserves the right to deny an applicant's license for failure to adhere to the provisions of this subsection in reviewing an application under this division.(Ord. of 4-14-98)

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Sec 5-29 to 5-35.     Reserved.

### Article 3.                     Dances and Dance Halls

**Sec. 5-36.     Definitions.**

The term "public dance", as used in this article, shall be taken to mean any dance or hall to which admission can be had by payment of a fee, or by the purchase, possession or presentation of a ticket or token, or at which a charge is made for caring for clothing and other property, or any other dance to which the public generally may gain admission, with or without the payment of a fee. The term "public dance hall", as used herein, shall be taken to mean any room, place or space in which a public dance or public ball is held, or any room, place or space where dancing is permitted. (Ord. of 8-13-63, §1)

**Sec. 5-37.     Dance hall license required.**

It shall be unlawful for any person to hold or conduct any public dance within the city, unless the dance hall in which the same is held is licensed or such purpose. It shall likewise be unlawful for any person to dance at any public dance hall that is not duly licensed and any person engaging in a dance or dancing at an unlicensed public dance hall shall be deemed guilty of disorderly conduct and a misdemeanor. The owner, proprietor, manager, or person in charge of any unlicensed public dance hall who permits or condones any person to engage in a dance shall also be guilty of a misdemeanor. (Ord. of 8-13-63, §2,12)

**Sec. 5-38.     Application.**

(A) Any person, firm, association, or partnership, or corporation desiring a license under this article shall file with the city secretary a written sworn application for said license on a form furnished by the city secretary, which application shall state:

- (1) The location, by street and number, of the place, space or building and room or floor, and the size of said room or space, which is proposed to be used for the public dance hall, and a description of all parking areas which are to be owned, leased, controlled or used by applicant or provided by applicant for customers and the name and address of the applicant.
- (2) A description of the ventilation and toilet facilities of said dance hall.
- (3) If the applicant is an individual, that he is a lawabiding citizen of the state; that he has not been convicted of a felony or a misdemeanor involving moral turpitude; and the length of his residence in the city.
- (4) If the applicant is a firm, association or partnership, all of the information prescribed in paragraph (3) of this subsection as to each individual composing the firm, association or partnership and as to each operator or

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person in charge of the operation of the public dance hall.

- (5) If the applicant is a corporation, that the applicant is organized and chartered under the corporation laws of the state applicable to said corporation or, if a foreign corporation, that said corporation has complied with the laws of this state applicable to said corporation and the same information with reference to each officer and stockholder of the corporation and the operator or person in charge of the operation of the public dance hall to be licensed as is prescribed in paragraph (3) of this subsection in addition thereto, a statement as to the names of the officers, incorporators and stockholders, and the amount of interest owned by each.
  - (6) The previous occupation or employment of the applicant for a period of five (5) years next preceding the filing of the application.
  - (7) The name and resident address of each proposed employee of applicant and that each employee is a law abiding citizen of the state; that each employee has not been convicted of a felony or a misdemeanor involving moral turpitude; and the length of residence of each employee in the city.
  - (8) The previous occupation or employment of each proposed employee of applicant for a period of five (5) years next preceding the filing of the application.
- (B) The information given in said application is for the purpose of determining whether or not the applicant and applicant's employees are fit and proper persons to operate a public dance hall. It shall be unlawful to misrepresent the kind and character of said dance hall to be operated, or any other fact or statement made in said application, and any misrepresentation of any person, club or organization for the purpose of avoiding the provisions of this article shall, in addition to the other penalties prescribed by law be cause for revocation or cancellation of the license. (Ord. of 8-13-63, §4; Ord. of 2-26-85; Ord. of 8-13-85)

### Sec. 5-39. Application approval.

- (A) No license shall be granted pursuant to this division unless it shall appear, upon inspection and investigation by the chief of police, fire marshal and the building inspector that the premises to be used for the purpose of operating a public dance hall comply with the laws of the state and the ordinances of the city regulating health and sanitation, the fire regulations, the zoning regulations, the building code, and all other applicable ordinances, and that the proposed dance hall is properly ventilated and supplied with sufficient toilet conveniences, and is a safe and proper place for the purpose for which it is used, as determined by regulations adopted by the city, and that the statements in the application are true and correct. Said officers shall, in their

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respective capacities, note their approval or disapproval on the application for the license. §12-14-93

- (B) No license shall be issued until the applicant and each individual composing the firm, association or partnership and each officer and stockholder of the corporation involved and the operator or person in charge of the public dance hall and all of applicants employees have been photographed by the city police department for identification and investigation purposes. Applicants shall notify the city police department within three (3) days of the termination of any employee. Applicants shall cause any newly hired employee to go to the city police department within three (3) days of the date that said employee is hired. Provided, however, this photographing requirement shall not apply if alcoholic beverages are neither sold, served nor consumed on the premises. (Ord. of 8-13-63, §§3,5; Ord. of 2-26-85; Ord of 8-13-85)

### **Sec. 5-40. Fee.**

An annual fee of twenty-five (\$25.00) shall be charged for each dance hall license, which fee shall be paid prior to issuance of the license. (Ord. of 12-14-93)

### **Sec. 5-41. Issuance or refusal.**

When the conditions of this article have been complied with, a dance hall license shall be issued by the city secretary and certified to and approved by the chief of police. No such license shall be effective until it has been so approved. In the event the chief of police refuses to approve a license, such action shall be final unless the applicant shall, within ten (10) days after the refusal, file a written appeal with the city secretary, addressed to the city council, requesting a hearing by the council upon the question as to whether or not his application shall be granted. In the event such appeal is filed, the chief of police shall provide the council with a record of all proceedings theretofore had with reference to the application in question, including the written application, together with the action of the chief of police and the reasons for such action. The city council shall, within thirty (30) days, grant a hearing thereon to determine the correctness of the action of the chief of police, at which hearing the council may make such investigations as it may see fit, whether or not all the pertinent facts appear in the application. It shall be discretionary with the city council as to whether or not the license shall be granted and such action as the council say take thereon shall be final and conclusive. (Ord. of 8-13-63, §§2,15)

### **Sec. 5-42. Contents; posting.**

A dance hall license issued under this article shall state on its face to whom it is issued, the date of expiration, the address and location of such dance hall and shall be signed by the city secretary and posted by the licensee in a conspicuous place and in such a manner and position that it may be easily read at any time of the day or night. (Ord. of 8-13-63, §14)

### **Sec. 5-43. Term; expiration; renewal.**

All licenses issued under this article by the city shall be obtained on an annual basis and shall

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automatically expire at midnight on the 31st day of August of each year. Before the license issued under this article shall be renewed, the person requesting said renewal shall make application for said renewal and the renewal thereof shall be subject to all of the requirements and conditions as an original application for a license issued under this article, and the renewal of the license shall not be

granted without the approval of the chief of police, the building inspector and the fire marshall, as is required in the case of original applications, and without the payment of the fees required by section 5-53. (Ord. of 2-26-85)(Ord. of 12-14-93)

### **Sec. 5-44. Cancellation revocation or suspension.**

- (A) If a public dance hall licensed under the provisions of this article is not being conducted in accordance with the laws of this state or this article, the chief of police may, at any time, give notice in writing to the operator, licensee, manager or other person in control of the operation and maintenance of said public dance hall that the license issued for the operation and maintenance of said dance hall has been canceled, revoked or suspended.
  
- (B) The notice of the cancellation, revocation or suspension shall state the specific grounds therefore and shall state that it shall become a final cancellation, revocation or suspension after the expiration of ten (10) days from the date of the service of same upon the operator, licensee, manager or the person in charge unless, on or before the expiration of said ten (10) days the licensee, operator, or manager or other person in charge shall file with the city secretary a written appeal addressed to the city council in which it is requested that the council grant him a hearing upon the question, whether or not the license shall be canceled, revoked or suspended. Said appeal shall operate as a stay or postponement of the cancellation, revocation or suspension until the city council grants a hearing and makes a final decision. Said hearing shall be held within thirty (30) days after the date of the filing of said appeal, and the action and judgement of the council, after hearing all the evidence and facts, shall be final and conclusive as to all parties.
  
- (C) The chief of police or city council, as applicable is hereby authorized and empowered to cancel, revoke or suspend the license of any person issued hereunder in the manner and after notice and opportunity for hearing as prescribed herein, under any of the following conditions:
  - (1) For violation of any of the provisions of this article.
  - (2) For violation of the prescribed hours of operation provided herein.
  - (3) For permitting the presence on the premises of a person or persons under the influence of intoxicating liquor or drugs.
  - (4) For permitting disorderly conduct or immoral practices on the

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premises.

- (5) For permitting gaming or gambling of any form or in any manner whatsoever upon or in said licensed premises.
  - (6) For permitting the violation, or for violation of the law or laws of the state or of the ordinances of the city.
  - (7) For failing to keep the premises in a clean and safe condition as required by the fire, building, health regulations, and other ordinances of the city.
- (D) "Premises" as used in this article in addition to any other ordinary and usual definition of the term, also includes any private parking area which is owned, leased, controlled or used by the licensee or provided by licensee for customers. (Ord. of 8-13-63, §§10,16; Ord. of 2-26-85)

### **Sec 5-45. Duty of chief of police relative to licenses.**

The chief of police shall examine all applications for dance hall licenses and make recommendations with references to applications for dance hall licenses. (Ord. of 8-13-63, §9)

### **Sec. 5-46. Transfer of license.**

No license issued under the provisions of this article shall be transferred without the written consent of the city council. (Ord. of 8-13-63, §7)

### **Sec. 5-47. Maintenance of dance hall premises.**

All public dance halls shall be kept at all times in a clean, healthful and sanitary condition and all rooms connected therewith shall be kept open and the entire place shall be well lighted. (Ord. of 8-13-63, §8)

### **Sec. 5-48. Conduct prohibited.**

It shall be unlawful for any person in charge of any public dance hall to permit any boisterous or disorderly person to enter, be, or remain in or to assist in any such public dance hall or public dance, and it shall be unlawful for any person to conduct himself in a boisterous or disorderly manner in any public dance hall or at any public dance. No intoxicated, gross-mannered or vulgar person or person of indecent character shall be permitted in any dance hall and no person shall be admitted who conducts himself in a gross or vulgar manner. No indecent, freak or immodest dances shall be allowed. (Ord. of 8-13-63, §8)

### **Sec. 5-49. Authority to vacate premises.**

The chief of police, or other persons under his direction, shall have the power, and it shall be his duty to cause any place, hall or room where any public dance is held or given to be vacated whenever any provision of this article is being violated or whenever any indecent act is committed, or when any disorder of a gross, violent or vulgar character shall take place therein. (Ord. of 8-13-63,

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§8)

### Sec. 5-50. Enforcement.

The chief of police, or other persons under his direction, shall have the authority to enforce the provisions of this article and all rules, regulations, and ordinances relating to public dances and public dance halls. In making determinations as to proper cleanliness and sanitation conditions, fire

safety requirements, building regulations, uses and requirements, etc., the chief of police or other persons under his direction shall work with and seek the aid of the proper city department administering such regulations for the city. (Ord. of 8-13-63, §§8,9)

### Sec. 5-51. Cumulative remedies.

Any remedy prescribed by this article for the enforcement of the same shall be merely cumulative and shall not preclude resort to any other remedy provided by law. (Ord. of 8-13-63, §13)

### Sec. 5-52. Hours of operation.

No person shall engage in the operation of any public dance hall within the city between the following hours: after 2:00 o'clock a.m. and before 7:00 o'clock a.m. on any day; provided, further, on Sunday no person shall engage in the operation of any dance hall within the city between the following hours on Sunday: 7:00 o'clock a.m. and before 12:00 o'clock noon. (Ord. of 2-26-85)

### Sec. 5-53 to 5-65. Reserved.

## Article 4. Pool Halls

### Division 1. Generally

### Sec. 5-66. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning herein ascribed to them:

- (A) Pool. Any game which is played upon a table surrounded by ledges or cushions, with or without pockets, and upon which balls are impelled by a stick or cue.
- (B) Pool hall. Any room, building or space located within the city in which there are more than two (2) pool or billiard tables for the use and enjoyment of the general public, regardless of whether or not there is a charge for the playing of pool or billiards.
- (C) Pool or billiard table. Any table surrounded by a ledge or cushion, with or without pockets, upon which balls are impelled by a stick or cue. (Ord. of 8-20-63, §2; Ord. of 3-27-73, §1)

### Sec. 5-67. Compliance with article.

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The operation of any public pool hall or billiard table or tables shall be in the manner and under the conditions as prescribed by this article. (Ord. of 8-20-63, §1)

### **Sec. 5-68. Location in certain zones prohibited.**

No public pool hall or pool table shall be operated in the city in any "SF-1", "SF-2", "SF-3", "GR", "MF", or "P" Districts, as defined and designated by the zoning regulations of the city, which

were finally passed and approved on the 5th day of June, 1961 together with all the amendments thereto. Provided, however, this Section 5-68 shall not apply if alcoholic beverages are neither sold nor consumed on the subject premises. (Ord. of 8-20-63, §3J; Ord. of 3-27-73, §2)

### **Sec. 5-69. Location near church of school.**

No public pool hall or pool table shall be operated in the city within three hundred (300) feet of a church or school. The three hundred (300) feet measurement shall be made from the closest point of the school or church building to the closest point of the building containing such pool hall. This Section 5-69 shall not apply if alcoholic beverages are neither sold nor consumed on the subject premises. (Ord. of 8-20-63, §3K)

### **Sec 5-70. Hours of operation.**

No person shall engage in the operation of any public pool hall or pool table or tables within the city between the following hours: after 2:00 o'clock a.m. and before 7:00 o'clock a.m. on any day; provided, further, on Sunday no person shall engage in the operation of any public pool hall or pool table or tables within the City between the following hours on Sunday: 7:00 o'clock a.m. and before 12:00 o'clock noon. (Ord. of 8-13-63, §3L; Ord. of 2-13-79; Ord. of 8-28-84)

### **Sec 5-71. Inspections**

The city manager shall have the authority to appoint or designate a person to make periodic inspections of premises licensed under this article for the purpose of determining whether or not such premises is in compliance with the health, plumbing and sanitary and other ordinances of the city. (Ord. of 8-20-63, §5)

### **Secs. 5-72 to 5-80. Reserved**

## **Division 2 License**

### **Sec 5-81. Required.**

It shall be unlawful for any person to operate, for profit or personal gain, any public pool hall or billiard table or tables in the city without first obtaining a license from the city secretary for such purposes. (Ord of 8-20-63, §§1, 3C)

### **Sec 5-82. Application.**

- (A) Any person, firm, association, or partnership, or corporation desiring a license under this article shall file with the city secretary a written, sworn application for such license, which application shall state;

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- (1) The location, by street and number, of the place, space or building and room or floor, and the size of such room or space, which is proposed to be used for the public pool hall or billiard table or tables, and a description of all parking areas which are to be owned, leased, controlled or used by applicant or provided by applicant for customers and the name and address of the applicant.
  - (2) If the applicant is an individual, that he is a law abiding citizen of the state; that he has not been convicted of a felony or a misdemeanor involving moral turpitude; and the length of his residence in the city.
  - (3) If the applicant is a firm, association, or partnership, all of the information prescribed in paragraph (2) of this subsection as to each individual composing the firm, association or partnership and as to each operator or person in charge of the operation of the public pool hall or billiard table or tables.
  - (4) If the applicant is a corporation, that the applicant is organized and chartered under the corporation laws of this state applicable to said corporation, or, if a foreign corporation, that such corporation has complied with the laws of the state applicable to said corporation and the same information with reference to each officer and stockholder of the corporation and the operator or the person in charge of the operation of the public pool hall, billiard table or tables to be licensed as is prescribed in paragraph (2) of this subsection; in addition thereto, a statement as to the names of the incorporators or stockholders, and the amount of interest owned by each.
  - (5) The previous occupation or employment of the applicant for a period of five (5) years next preceding the filing of his application.
  - (6) The name and resident address of each proposed employee of applicant and that each employee is a law abiding citizen of the state; that each employee has not been convicted of a felony or a misdemeanor involving moral turpitude; and the length of residence of each employee in the city.
  - (7) The previous occupation or employment of each proposed employee of applicant for a period of five (5) years next preceding the filing of the application.
- (B) The information given in such application is for the purpose of determining whether or not the applicant and applicant's employees are fit and proper persons to operate a public pool hall or billiard table or tables. It shall be unlawful to misrepresent the kind and character of said pool hall, billiard table or tables to be operated, or any other fact or statement made in said application, and any

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misrepresentation of any person, club or organization for the purpose of avoiding the provisions of this article shall, in addition to the other penalties prescribed by law, be cause for revocation or cancellation of the license. (Ord. of 8-20-63, 3E, F; Ord. of 8-28-84; Ord 8-13-85)

### **Sec 5-83. Application approval**

- (A) No license shall be granted pursuant to this division unless it shall appear, upon investigation by the chief of police, fire marshal and the building inspector that the premises to be used for the purpose of operating a public pool hall or billiard table or tables comply with the laws of the state and the ordinances of the city regulating health and sanitation, the fire regulations, the zoning regulations, the building code, and all other applicable ordinances, and that the statements in the application are true and correct. Such officers shall, in their respective capacities, note their approval or disapproval on the application for the license.
- (B) No license shall be issued until the applicant and each individual composing the firm, association, or partnership and each officer and stockholder of the corporation involved and the operator or person in charge of the public pool hall, billiard tables, and all of the applicant's employees have been photographed at the City Police Department for identification and investigation purposes Applicants shall notify the City Police Department within three (3) days of the termination of any employee. Applicants shall cause any newly hired employee to go to the City Police Department to be photographed within three (3) days of the date that said employee is hired. Provided, however, this photographing requirement shall not apply if alcoholic beverages are neither sold, served, nor consumed on the premises. (Ord. of 8-20-63, §3D; Ord. of 8-28-84; Ord. of 8-13-85) (Ord. of 12-14-93)

### **Sec 5-84. Fee.**

There shall be an application processing fee of fifty dollars (\$50.00) for processing the application for the license under this division and said amount shall not be prorated. Said amount shall accompany the application or renewal application and said amount shall not be refunded once the application has been processed even if the application is denied. In addition, there shall be a photographing fee of \$4.00 for each employee and this fee shall accompany the application; in the case of newly hired employees, this fee shall be paid before the newly hired employee is photographed. If an application is denied before an employee is photographed then the photographing fee as to said employee shall be refunded but shall not be refunded once an employee is photographed. If applications for a dance hall license and for a public pool hall, billiard table or tables license are made at the same time by the same applicant, then applicant shall only have to pay one application processing fee and one photographing fee in order to obtain both licenses and shall not have to pay separate fees for each license. (Ord. Of 8-20-63, §3N; Ord. of 8-28-84, Ord. of 8-13-85)

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### **Sec. 5-85. Issuance or refusal.**

In the event the chief of police, fire marshal, or building inspector fails to approve the issuance of a license to any applicant under this division, the action of such official shall be final, unless the applicant shall, within (10) days after the refusal to grant such license, file a written appeal with the city secretary, addressed to the city council, requesting a hearing by the council upon the question as to whether or not his application shall be granted. In the event such appeal is filed, the chief of police shall provide the council with a record of all proceedings theretofore had with reference to the application in question, including the written application, together with the action

of the officials and the reasons for such action. The council shall, within thirty (30) days, grant a hearing thereon to determine the correctness of the action of such officials, at which hearing the council may make such investigation as it may see fit, whether or not all the pertinent facts appear in the application. It shall be discretionary with the council as to whether or not a license shall be granted and such action as the council may take thereon shall be final and conclusive. (Ord. of 8-20-63, §3H) (Ord. of 12-14-93)

### **Sec. 5-86. No vested right conferred.**

The granting of any license under the terms of this division shall in no event be construed as the granting or conferring of any vested right to the licensee or operator, but shall be subject to revocation, cancellation or suspension as provided in section 5-89. (Ord. of 8-20-63, §3G)

### **Sec. 5-87. Term; expiration.**

All licenses issued under this article by the city shall be obtained on an annual basis and shall automatically expire at midnight on the 31st day of August of each year. (Ord. of 8-20-63, §3N; Ord. of 8-28-84)

### **Sec. 5-88. Renewal.**

Before a license issued under this article shall be renewed, the person requesting such renewal shall make application for said renewal and the renewal thereof shall be subject to all of the requirements and conditions as an original application for a license issued under this article, and the renewal of the license shall not be granted without the approval of the chief of police, city health officer, the building inspector and the fire marshal, as is required in the case of original applications, and without the payment of the fees required by Section 5-84. (Ord. of 8-20-63, §3N, O; Ord. of 8-28-84)

### **Sec. 5-89. Cancellation, revocation or suspension.**

- (A) If a public pool hall or billiard table licensed under the provisions of this division is not being conducted in accordance with the laws of the state or this article, the chief of police may, at any time, give notice in writing to the operator, licensee, manager or other person in control of the operation and maintenance of said public pool hall or billiard table that the license issued for the operation and maintenance of said pool hall or billiard table has been canceled, revoked or suspended. The notice of cancellation, revocation or suspension shall state the specific grounds therefore and shall state that it shall become a final cancellation, revocation or suspension after the

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expiration of ten (10) days from the date of the service of same upon the operator, licensee, manager or the person in charge, unless, on or before the expiration of such ten (10) days, the licensee, operator or manager or other person in charge shall file with the city secretary a written appeal addressed to the city council in which it is requested that the council grant him a hearing upon the question whether or not the license shall be canceled, revoked or suspended. Such appeal shall operate as a stay or postponement of the cancellation, revocation or suspension until the city council grants a hearing and makes a final decision. Such hearing shall be held within thirty (30) days after the date of the filing of such appeal, and the action and judgement of the council, after hearing all the evidence and facts, shall be final and conclusive as

to all parties.

- (B) The Chief of Police or City Council, as applicable is hereby authorized and empowered to cancel, revoke or suspend the license of any person issued hereunder in the manner and after notice and opportunity for hearing as prescribed herein under any of the following conditions:
- (1) For violation of any of the provisions of this article.
  - (2) For violation of the prescribed hours of operation provided herein.
  - (3) For permitting the presence on the premises of a person or persons under the influence of intoxicating liquor or drugs.
  - (4) For permitting disorderly conduct or immoral practices on the premises.
  - (5) For permitting gaming or gambling of any form or in any manner whatsoever upon or in said licensed premises.
  - (6) For permitting the violation, or for violation of the law or laws of the state or of the ordinances of the city.
  - (7) For failing to keep the premises in a clean and safe condition as required by the fire, building and health regulations and other ordinances of the city. (Ord. of 8-20-63, §3I, M; Ord. of 7-24-84; Ord. of 8-28-84)
- (C) "Premises" is used in this article in addition to any other ordinary and usual definition of the term, also includes any private parking area which is owned, leased, controlled or used by the licensee or provided by licensee for customers. (Ord. of 8-28-84)

**Sec. 5-90 to 5-109. Reserved.**

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### **Article 5. Peddlers, Solicitors, and Itinerant Merchants**

#### **Division 1. In General**

##### **Sec. 5-110. Activities prohibited during certain hours.**

It shall be unlawful for any person to solicit or peddle any goods, wares, merchandise or services between the hours of 6:00 p.m. and 9:00 a.m. on any day and at any time on Sunday. (Ord. of 6-11-63; Ord. of 7-8-69; Ord. of 4-27-82, §5-110)

##### **Sec. 5-111. Peddling from vehicles prohibited on streets.**

It shall be unlawful for any person, whether licensed under this article or not, to demonstrate, sell or offer for sale or take an order for the purchase of any goods, wares, merchandise or services from any vehicle upon any street or highway. (Ord. of 8-12-58, §9(5); Ord. of 5-22-79, §2; Ord. of 4-27-82; Ord. of 6-25-85, §5-111)

##### **Sec. 5-112 to 5-121. Reserved.**

#### **Division 2. Peddlers, Solicitors and Itinerant Merchants**

##### **Sec. 5-122. Definitions.**

For the purpose of this chapter, the terms "itinerant vendors", "peddlers", "solicit", and "person" shall be held to mean:

- (A) Itinerant Vendor. Any person who sells or offers for sale merchandise or services from a tent, vehicle, or place which is not a permanent building or structure, for any period of time, or from a permanent building or structure for a period which is forty-five (45) days or less.
- (B) Peddler. Any person who travels from house to house or place to place selling or offering for sale merchandise or services, which may be immediately or subsequently delivered or performed.
- (C) Person. Any individual, firm, association, partnership, company, society, corporation, group or entity of any nature.
- (D) Solicit. To take orders for future deliveries, or for intangible services or for subscriptions, from house to house, or from place to place, or on the streets or in any public place, which orders are not taken at one established location or private premises.

The definition of itinerant peddler shall not include the following concerning permit requirements:

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- (1) Any sales of merchandise damaged by smoke or fire, or of bankrupt concerns, where such stocks have been acquired from merchants of the city regularly licensed and engaged in business, provided, however, no such stocks of merchandise shall be augmented by new goods;
- (2) Persons living in Big Spring who hold "garage sales", which consist of the sale of used domestic merchandise for two (2) days or less duration, no more than twice a year;
- (3) Art exhibits where participating artists sell their original works and which do not contain any sales of artwork purchased elsewhere and held for resale, providing said art exhibits are sponsored by a local responsible organization.
- (4) The sale of agricultural products grown by the seller in this county;
- (5) Peddlers selling to or soliciting orders from retail business houses only;
- (6) Peddlers going to a house or place at the express invitation of the owner or occupant of such house or place;
- (7) Persons engaged in a business or activity which the State or Federal government has exclusive authority to regulate;
- (8) Persons distributing or selling newspapers, pamphlets, handbills or other written or printed matter sold or distributed for the purpose of disseminating news, information or religious materials;
- (9) Governmental entities. (Ord. of 9-12-50, §§1,2; Ord. of 6-11-63; Ord. of 5-22-79, §13; Ord. of 4-27-82; Ord. of 6-25-85, §5-122, Ord. 12-9-86)

### **Sec. 5-123. License required.**

It shall be unlawful for any person, or for any person, firm or corporation to peddle or engage in the business as an itinerant vendor without having first obtained a license therefore from the Chief of Police. (Ord. of 9-12-50, §2; Ord. of 6-11-63; Ord. of 5-22-79, §14; Ord. of 4-27-82; Ord. of 6-25-85, §5-123, Ord. 12-9-86)

### **Sec. 5-124. Application.**

Applicants for an itinerant vendor's or peddler's permit under this Chapter shall make a sworn application to the Police Chief upon forms to be furnished by the Police Department of the City. Each application shall give the following information:

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- (A) Full name and all information contained on drivers license of the applicant and each agent or employee working under the permit.
- (B) Permanent home address and present local address of the applicant.
- (C) Name and home office address of applicant's employer.
- (D) If the applicant owns or uses a motor vehicle in connection with his business, a description of such motor vehicle and the license number of same.
- (E) A brief description of the merchandise or services to be sold.
  
- (F) A statement as to whether or not the applicant has been convicted of any felony and the disposition of same.
- (G) A site plan to be drawn by the applicant, not to scale, which need only show the location to be used by itinerant vendor and to be made the basis of the permit.
- (H) Proposed duration of temporary sales operation.
- (I) Written permission of the owner of the land or building where the sales are to take place (itinerant vendor only).
- (J) A copy of the applicant's Texas limited sales and use tax permit.
- (K) A description of the proposed parking spaces to be used and proposed manner to dispose of trash/litter. (Ord. of 8-12-50, §3; Ord. of 5-22-79, §15; Ord. of 4-27-82; Ord. of 6-25-85, §5-124, Ord. 12-9-86)

### **Sec. 5-125. Bond required.**

The application for the license required in section 5-123 of this article shall be accompanied by a bond, approved by the city attorney, in the penal sum of five thousand dollars (\$5,000.00) signed by the applicant, and signed, as surety, by some surety company authorized to do business in the State of Texas, conditioned for the final delivery of goods, wares, merchandise or services in accordance with the terms of any order obtained prior to delivery; and also conditioner to indemnify any and all purchasers and customers for any and all defects in material and workmanship which may exist in the article sold by the principal or by an agent or employee of said principal of said bond at the time of delivery, and that may be discovered by such purchaser or customer within thirty (30) days after delivery; and which bond shall be for the use and benefit of all persons, firms or corporations which may make any purchase or give any order to the principal of said bond, or an agent or employee of the principal; provided, however, that in case the applicant is an agent or employee of a person, firm or corporation engaging in any activity in section 5-123 of this article, through one or more agents or employees, said person, firm or corporation, in lieu of the applicant,

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shall sign said bond as principal and shall be required to enter into only one bond as above required, which bond shall be made and conditioned to cover the activities of all its agents or employees. (Ord. of 5-22-79, §17; Ord. of 4-27-82; Ord. of 6-25-85, §5-125)

### **Sec. 5-126. Processing fee.**

- (A) Each application shall be accompanied with payment of a processing fee of fifty dollars (\$50.00). There shall also be charged a fee of seventy-five dollars (\$75.00) investigation of a sales location by the Police Department. An additional ten dollar (\$10.00) charge shall be charged for each agent in excess of two. These fees shall be applied to the expenses incurred in processing the application and in enforcing the ordinance of this chapter. No more than one investigation charge shall be made for any one location.
  
- (B) Persons offering for sale agricultural products grown or produced by them in this county shall not be required to pay the fees required by this article, but the permit card required hereby shall be issued to such persons by the Chief of Police upon satisfactory proof that they have produced or grown the products to be peddled and the products have been approved by the Health Department.(Ord. of 5-22-79, §18; Ord. of 4-27-82; Ord. of 6-25-85, §5-126, Ord. 12-9-86)

### **Sec. 5-127. Investigation of Applicant; Denial or Revocation of Permit; Issuance, Contents.**

Each application shall be referred to the Police Chief for investigation and approval of the proposed sales area with regard to City zoning ordinances, if an itinerant vendor. The Police Chief shall also investigate with regards to the other requirements of this chapter. Any application for an itinerant vendor's or peddler's permit may be denied or such permit may be revoked for any of the following reasons:

- (1) Any misrepresentation or false statement contained in the application for permit.
- (2) A violation of any of the provision of this chapter.
- (3) Conviction of any crime involving moral turpitude.
- (4) Conviction of any crime constituting a breach of the peace, or a violation of any City ordinance or State Law or, when the incident constituting the basis of such crime occurred during the course of business of itinerant vendor or peddler.
- (5) Proposed operation would not comply with federal or State Law or City ordinance, including zoning restrictions.

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- (6) Failure to provide parking spaces, which need not be paved, sufficient in number to accommodate the number of automobiles being reasonably expected to be parked at any one time taking into consideration the type, size and quantity of merchandise to be offered for sale, and in addition to those parking spaces required under the zoning ordinance for existing businesses.
- (7) Blocks access or driveway.
- (8) Failure to provide adequate trash containers for the proposed use. The trash containers need not be city trash containers.
- (9) Failure to report and/or remit sales tax collected for the City of Big Spring to the State Comptroller.

Upon denial or revocation of an itinerant vendor's or peddler's permit, the Police Chief shall notify in writing the applicant or permittee of the reason for such denial or revocation. The applicant or permittee shall have a right of appeal to the City Council upon the denial or revocation of permit. After an applicant for a license under this article has complied with all the provisions and requirements of this article, the Chief of Police shall issue him a license certifying some compliance, upon payment of the fee prescribed by Section 5-126. Such license when issued, shall be signed by the Chief of Police and shall be dated as of the date of its issuance. Any license not dated and signed as herein required, or issued in violation of this Section, shall be void. (Ord. of 9-12-50, §6; Ord. of 5-22-79, §19; Ord. of 4-27-82, Ord. 12-9-86)

### **Sec. 5-128. Display.**

Every peddler or itinerant vendor who has secured a permit under the authority of this chapter shall keep a copy of any permit upon his person at all times and shall display the same upon the request of any City Official, customer, policeman or owner or occupant upon whose property the itinerant vendor or peddler has gone for business purposes.(Ord. of 9-12-50, §10; Ord. of 5-22-79, §20; Ord. of 4-27-82, Ord. 12-9-86)

### **Sec. 5-129. Expiration.**

Each itinerant vendor's or peddler's permit issued under the authority of this chapter shall be valid for the period of anticipated use of the applicant, but not to exceed ten (10) days for itinerant vendors and thirty (30) days for peddlers from the date it issued, or until revoked by the provisions of this chapter.(Ord. 12-9-86)

### **Sec. 5-130. Exemptions from article.**

This article shall not apply to the agent or representative of a jobber or wholesaler calling on customers on a regularly established route. (Ord. of 8-12-50, §§1,5; Ord. of 5-22-79, §23; Ord. of 4-27-82)

### **Sec. 5-131. Penalty.**

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Any person, firm or corporation violating any provision of this article shall be fined not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00) for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. of 5-22-79, §24; Ord. of 4-27-82)

### **Sec. 5-132. Severability.**

The provisions of this article are declared to be severable and if any section, sentence, clause, or phrase of this article shall for any reason be held to be invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, said judgment or decree shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this article but they shall remain in effect, it being the legislative intent that this article shall stand notwithstanding the invalidity of any part. (Ord. of 4-27-82; Ord. of 6-25-85, §5-132)

### **Sec. 5-133 - 5-150 Reserved.**

## **Article 6. Regulation of Oil and Gas Production**

### **Sec. 5-151. Definitions.**

For the purpose of this article all technical or oil and gas industry words and phrases used herein and not specifically defined herein shall have that meaning customarily attributed to them by the oil and gas industry. The following words and terms wherever and whenever used or appearing in this article shall have the scope and meaning hereinafter defined and set out in connection with each:

- (A) Applicant. Any person who applies for a drilling permit hereunder.
- (B) Approved, approved type, or approved design. Improvements, equipment or facilities of a type or design approved by the chief building inspector.
- (C) Building code. The portion of this Code or any ordinance of the city known by that title and all amendments thereto.
- (D) Building permit. The permit required by the building code.
- (E) Chief building inspector. The chief building inspector of the city or his successor.
- (F) Completion of drilling. A well is completed, for the purpose of these regulations, thirty (30) days after the drilling crew has been released. The drilling crew is released within the meaning of this paragraph when work at the wellsite for drilling or completing the well is suspended, either temporarily or permanently.
- (G) Derrick. Any structure, improvement, equipment or facility, and each and every part thereof, whether completed or not, and which is required or used or useful for or in connection with drilling, operating, or maintaining a well for the production of oil,

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gas or other hydrocarbons from the earth together with all parts of and appurtenances to such structure, improvement, equipment or facility, including but not limited to, foundations and sills therefore, pump-houses, engine-houses, or housings, pipe-racks, posting, walkways, mud-ditches and crown block.

- (H) Designated agent. The designated agent of applicant or permittee.
- (I) Diligence. That the drilling derrick is in its operating position over the well, properly anchored and supported and that an operating crew is on duty at the drill site at all times.
- (J) Drill Site. The premises used during the drilling and subsequent life of a well or wells, which is necessary for the safe operations thereof.
- (K) Drilling. Entry into the site with equipment and/or personnel for the specific purpose of actually opening a well hole intended to produce oil or gas.
- (L) Erect. To built, construct, install, assemble, put together, improve, alter, move, reconstruct, restore, renovate, renew or repair any building, structure, improvement or facility, or any part or portion thereof or foundations therefore, or appurtenance thereto, whether or not such building, structure, improvement or facility is completed, or to work upon, or in any way assist in such erection.
- (M) Flammable liquids. Oil and other fluid hydrocarbons, including liquified gases or other flammable liquids, having a flash point below two hundred (200) degrees Fahrenheit. The flash point of all commodities shall be determined by the Elliot, Abel, Abel-Pensky, or Tag closed cap testers, but the Tag closed cap tester, standardized by the United States Bureau of Standards, shall be authoritative in case of dispute. All tests shall be in accordance with the methods adopted by the American Society for Testing Materials, and approved by the American Standards Association, or their successors.
- (N) Gas. The gaseous components or vapors occurring in or derived from petroleum or natural gas.
- (O) Lessee. The possessor of the right to explore and recover minerals from the premises.
- (P) Lessor. The owner of the mineral rights.
- (Q) Maintained. To repair, or otherwise keep or place in working condition, and also to permit, or authorize to exist, regardless of whether any actual maintenance work is done. For the purposes of this chapter, an oil well, well-hole, derrick and production equipment, shall be deemed to be "maintained" upon the premises in and upon

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which the same were or are being drilled, erected or installed, until the following tasks are accomplished:

- (1) Every part of such derrick and production equipment shall be removed from the drill site.
  - (2) All requirements for abandonment established by the state and any other regulatory authority having jurisdiction must be met.
  - (3) All sumps, cellars, rotary mud, concrete, oil and rubbish must be removed and the drill site cleaned and all ditches must be leveled.
- (R) All property of the city which may have been disturbed or damaged by the operations at the drill site shall be repaired and cleaned as needed and restored to substantially the same condition as existed at the time of the issuance of the permit. Maintenance. The repair and replacement of parts of a structure when the repair or replacement does not alter or lessen the strength or stability of the structure.
- (S) Non-urbanized drilling site. A drill site shall be considered non-urbanized if no occupied commercial, residential or industrial structure exists in use within one thousand (1,000) feet of the proposed well-hole.
- (T) Occupied structure. Only those structures that are regularly occupied by persons at least twenty (20) hours per week.
- (U) Oil. Petroleum and other fluid hydrocarbons obtained from the earth.
- (V) Operate. To work or act upon, or to cause or permit natural or artificial forces to function in connection with any structure, plant, equipment, machinery, or facility with the purpose of utilizing the same for the purpose for which it was or is erected or maintained, or for any other purpose and when used with reference to a well, well-hole, derrick or production equipment, means and includes any acts or functions performed or permitted to occur in connection with such well, well-hole, derrick or production equipment, from and after the completion of the drilling of the well, for the purpose of producing or obtaining oil, gas, or other hydrocarbons from the ground, and for the purpose of collecting and handling the same and making deliveries thereof at the well or from the shipping tanks or lease tanks in the vicinity of the well. "Operate" includes all functions performed or permitted to occur in connection with such production, collection, handling, and delivery, including the repair, re-conditioning, restoration, perforating, redrilling or deepening of said well or well-hole, and the dehydration or cleaning of said oil prior to making such deliveries as aforesaid.
- (W) Operator. The person, whether owner, lessee, or independent contractor, actually in

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charge and in control of the drilling, maintenance, operation or pumping of a well or lease.

- (X) Owner. A person who has legal or equitable title to the surface of the drill site.
- (Y) Permit or drilling permit. The written, typed or printed permission issued to applicant by the chief building inspector under the authority of this article.
- (Z) Permittee. Any person to whom a permit has been granted and issued under and pursuant to the term of this chapter by the code enforcement administrator.
- (AA) Person. An individual; a receiver; a trustee; a partnership; a joint adventure; a firm; an unincorporated association; a syndicate; a club; a society; a trust; a private corporation; a public corporation; a municipal corporation; a county, a state, or national government; a commission; a water district; a utility district; a political subdivision; and a drainage, irrigation, levee, reclamation, flood control or water conservation district, whether acting for himself or itself or in any representative capacity.
- (BB) Production equipment: Pumping equipment, tubing, pipes, gauges, meters, valves, oil and gas separators, sumps, flow tanks, production tanks, shipping tanks, lease tanks, shipping pumps, loading racks and all other structures, machinery, equipment and facilities, and each and every part thereof, whether completed or not, required for or used or useful in connection with the operation, repair, reconditioning, redrilling or maintenance of a well or well-hole, and the collection, handling and delivery of oil, gas or other hydrocarbons therefrom, and which structures, machinery, equipment and facilities are not included in the "derrick," "well," or "well-hole," as heretofore defined. "Production equipment" also includes any wash tanks, dehydration plant or other equipment or facility operated or maintained by or in behalf of the operator of said well for the purpose of separating sand, water and other foreign substances from the oil, gas or other hydrocarbons produced or obtained by said operator prior to shipping or delivering said oil from the shipping tanks or lease tanks at the well, or in the vicinity thereof.
- (CC) Redrilling. The deepening of an existing oil well or otherwise drilling beyond the extremities (to the side) of the existing well casing. The provisions of this chapter relating to drilling shall be equally applicable to redrilling.
- (DD) Structure. That which is built or constructed; a tank, edifice, or building of any kind.
- (EE) Suspended operations. The approved temporary suspension of drilling or redrilling operations pending a resumption of operations or abandonment.
- (FF) Tank. A container, covered or uncovered, used in conjunction with the drilling or

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production of an oil well, for holding or storing liquids at or near atmospheric pressure.

- (GG) Urbanized drilling site. A drill site shall be considered urbanized where an occupied commercial, residential or industrial structure exists within one thousand (1,000) feet of the proposed well-hole.
- (HH) Well head. A well head is composed of the bradenhead, Christmas tree and all well connections. (Ord. of 3-11-80, §1)

### **Sec. 5-152. Permit required; acts constituting nuisances.**

- (A) No person shall conduct any drilling or redrilling within the corporate limits of the City of Big Spring without having obtained a permit for said drilling or redrilling under this article.
  
- (B) It is hereby declared a nuisance for any person to conduct any drilling operations within one thousand (1,000) feet of the property line of any school of the Big Spring Independent School District without the prior written consent of the Board of Trustees of said district, or within one thousand (1,000) feet of the property line of any parochial school without the prior consent of the board of trustees or other governing body of said parochial school. It is hereby declared a nuisance for any person to conduct any drilling operations within one thousand (1,000) feet of a property line of any hospital, convalescent home, orphanage or nursing home located within the city limits without prior written consent of the owner or owners thereof. It is hereby declared a nuisance for any person to conduct any drilling or redrilling operation outside the city limits closer than one thousand (1,000) feet to any occupied structure other than a school, hospital, convalescent home, orphanage, or nursing home located within the city limits without obtaining a permit for said drilling or redrilling under this article.
  
- (C) It is hereby declared a nuisance for any person to construct any storage tank or tanks within one thousand (1,000) feet of the property line of any school of the Big Spring Independent School District without the prior written consent of the board of trustees of said district, or within one thousand (1,000) feet of the property line of any parochial school without the prior written consent of the board of trustees or the governing body of said parochial school or within one thousand (1,000) feet of any hospital, convalescent home, orphanage or nursing home located within or outside the city limits without the prior written consent of the owner or owners thereof. (Ord. of 3-11-80, §2)

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### **Sec. 5-153. Review and action on permit application; approval or disapproval of operations.**

It shall be the responsibility of the chief building inspector to review impartially and to approve or disapprove all applications for drilling permits. The chief building inspector, based upon the criteria established herein, may require the applicant for a permit hereunder to do those things necessary to insure the health, safety, and welfare of the citizens of the city. Items required shall be clearly stated in the permit issued hereunder. The chief building inspector is hereby authorized to approve or disapprove the actions of the permittee not otherwise covered by the permit application during the drilling and post-drilling operations in accordance with the terms of this article only. The chief building inspector shall issue or deny a permit within ten (10) days of receipt of a properly completed application for drilling at a non-urbanized drilling site. The chief building inspector shall issue or deny a permit within thirty (30) days of the receipt of a properly completed application for drilling at an urbanized drilling site.

- (A) If the chief building inspector denies a drilling permit, he shall notify the applicant in writing of such denial and the reasons therefore.
  
  
  
  
  
  
  
  
  
  
- (B) If the chief building inspector grants a drilling permit, the permit, in a form as determined by the chief building inspector, shall be mailed to the applicant. (Ord. of 3-11-80, §3)

### **Sec. 5-154. Form of permit application; permit fee.**

- (A) Applications for permits to drill or redrill any oil or gas well shall be made in writing to the chief building inspector and shall include the following:
  - (1) The legal description of the proposed drill site and the legal description of the real property in the city which the applicant proposes to explore for oil and gas purposes. A map shall be attached to the application, which map shall clearly show and outline the proposed drill site with reference to existing city streets or city limits.
  - (2) A statement of what property the applicant has the right, by reason of ownership or permission of the owner, to pass through and enter for drilling purposes and a further statement that the applicant agrees, in finally locating the well, not to pass through or enter any property where he does not have such right.
  - (3) The proposed location, type, kinds, size and amount of major equipment and a general description and the method of operation of the proposed well.

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- (4) The proposed method of handling and using any product proposed to be developed at the well site and the proposed method of disposing of all waste products anticipated.
  - (5) A statement from a licensed surveyor or registered professional engineer verifying the drill site as being either an urbanized or a nonurbanized drilling site as defined herein.
- (B) Each application shall state the maximum depth to which the applicant desires to drill, and each application shall be accompanied by an application fee of ten cents (10¢) per foot of depth. The maximum fee for any one well shall be one thousand dollars (\$1,000.00). Should the applicant drill to greater depth than that stated in his application, a supplemental fee shall be required based upon the increased depth. (Ord. of 3-11-80, §4)

### **Sec. 5-155. Engaging an expert to assist inspector on permit applications.**

The chief building inspector is authorized to engage a person qualified in petroleum engineering, petroleum geology, or the oil industry as necessary to determine whether to issue or deny a permit and to assist the chief building inspector in the writing of a permit. When funds are sufficient, payment for such services is to be made from the permit fees received hereunder. (Ord. of 3-11-80, §5)

### **Sec. 5-156. Bond required; amounts, conditions.**

Prior to the issuance of any permit hereunder, the applicant shall furnish the chief building inspector with a bond in the principal sum of fifty thousand dollars (\$50,000) per drill site. Such bond shall be executed by an insurance company authorized to do business in the state, as surety, and with applicant as principal, naming the city for the benefit of the city conditioned that the permittee will comply with the terms and conditions of this article. In addition, the bond will be conditioned that the applicant will promptly pay fines, penalties and other assessments imposed upon applicant by reason of the breach of any of the terms, provisions and conditions of this article, and that the applicant will promptly restore to their former condition streets, sidewalks and other public property which may be damaged in drilling operations; and that the applicant will comply with all fencing, screening and site restoration requirements of this article. If at any time the chief building inspector should find the applicant's bond to be insufficient for any reason, he may require the applicant to file a new bond. (Ord. of 3-11-80, §6)

### **Sec. 5-157. Reduction of amount of bond.**

Upon written request from a permittee, who has complied with all the provisions of this article, the chief building inspector may permit a reduction of the permittee's bond to a sum of not less than ten thousand dollars (\$10,000) per drill site for the remainder of the time such well produces. (Ord. of 3-11-80, §7)

### **Sec. 5-158. Insurance required; types, amounts.**

Prior to issuance of any permit hereunder, applicant shall furnish the chief building inspector

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with a certificate of insurance showing a valid policy or policies of public liability insurance, covering bodily injuries and property damage. Said insurance shall be written by a company authorized to do business in this state. Such policies shall provide for the following minimum coverage:

- (A) Bodily injuries and general liability one occurrence: \$3,000,000 in an urbanized area.
- (B) Property damage, \$2,000,000 in an urbanized area.
- (C) Bodily injuries and general liability one occurrence: \$1,000,000 in a non-urbanized area.
- (D) Property damage \$500,000 in a non-urbanized area. (Ord. of 3-11-80, §8)

### **Sec. 5-159. Waiver of bond and insurance to financially responsible person.**

The chief building inspector may waive the requirements for surety bond and policies of insurance as required herein as to any permittee who is financially responsible and capable of meeting obligations for amounts in excess of seven million five hundred thousand dollars (\$7,500,000) upon permittee filing with chief building inspector in lieu of any such surety bond or insurance policies a letter of acceptance and indemnity approved by the city attorney, bonding and obligating such permittee to abide by the conditions for which surety bond and insurance policies are required as prescribed herein, and agreeing to indemnify and hold the city harmless from

anyway and all liability growing out of or attributable to the granting of any and all permits to such permittee including acts or omissions of the city, its officers, agents, and employees in connection with said drilling permit. (Ord. of 3-11-80, §9)

### **Sec. 5-160. Minimum distance of well-hole from occupied structure.**

In each case of drilling or redrilling, the distance from any well-hole to any occupied structure shall be a minimum of three hundred (300) feet, unless permittee obtains written consent from the owners and tenants of said occupied structure and furnishes said written consent to the chief building inspector prior to issuance of said permit. (Ord. of 3-11-80, §10)

### **Sec. 5-161. Minimum distance of storage tank in conjunction with well from occupied structure.**

In each case the distance from any storage tank or tanks in conjunction with any well to any occupied structure shall be a minimum of three hundred (300) feet. (Ord. of 3-11-80, §11)

### **Sec. 5-162. Minimum distance of well-hole and tanks from streets.**

In each of a well-hole drilled under a permit issued under this article and from all storage tanks installed after the effective date of this article to the nearest traveled public or private street right-of-way shall be a minimum of one hundred fifty (150) feet. (Ord. of 3-11-80, §12)

### **Sec. 5-163. Vehicular access route to site.**

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A vehicular access route to the site may be established at the discretion of the chief building inspector after consideration of all of the circumstances including but not limited to the existing width, load-bearing capability, and composition of all streets proposed to be included in the access route; residential densities; potential interference with pedestrian and bicycle traffic; the presence of effective traffic control; and the general character of the areas through which the proposed access route would pass. (Ord. of 3-11-80, §13)

### **Sec. 5-164. Compliance with permit gas to drilling location and as to operations.**

The oil or gas well drilled pursuant to any drilling permit shall be drilled only within the properties through which such well was proposed to pass unless the permittee secures approval of the chief building inspector to cause such well to pass through other properties. No permittee shall drill, operate, or maintain any oil or gas well except in conformity with the terms and conditions of a permit issued under this article. (Ord. of 3-11-80, §14)

### **Sec. 5-165. Representative operations supervisor.**

The applicant or permittee shall designate a competent representative who shall be responsible for the supervision of drilling operations and the carrying out of the conditions of any permit. Such representative shall be available at all times during drilling operations and shall be the responsible contact agent of the applicant or the permittee who the chief building inspector may require to carry out the provisions of the permit. (Ord. of 3-11-80, §15)

### **Sec. 5-166. Marking well location; road and ground surfacing.**

- (A) The well location shall be clearly marked by staking or other suitable means and identified as the "drill site."
- (B) Prior to commencement of any drilling operations all private roads used for access to the drill site and the drill site itself shall be surfaced so as to prevent excessive dust and mud and in a manner adequate to support the weight of mobile fire-fighting equipment. Surfacing may be by boards, rock, gravel, shell, or any other material that is oiled and maintained so as to prevent excessive dust and mud. (Ord. of 3-11-80, §16)

### **Sec. 5-167. Permit transfer approval.**

All permits granted under this article shall be transferable upon approval of the chief building inspector, after a determination that all requirements of this article are met by the transferee. (Ord. of 3-11-80, §17)

### **Sec. 5-168. Lapse of permit; time; work without permit permitted.**

The drilling permit shall become null and void unless the permit is accepted by the applicant in its entirety in writing, filed with the chief building inspector within thirty (30) days from the effective date thereof, and no work on such drill site shall be commenced until such permit is issued

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and accepted. The drilling permit shall become null and void unless drilling is commenced within one hundred eighty (180) days of the effective date of the permit. (Ord. of 3-11-80, §18)

### **Sec. 5-169. Same, extension of time.**

Whenever a person holding a permit pursuant to the provisions of this article wishes to request an extension of the time within which drilling operations are required to be commenced to a period beyond one hundred eighty (180) days after the effective date of the permit, a request for such extension shall be filed with the chief building inspector in writing and be accompanied by a fee in the amount of one hundred twenty-five dollars (\$125.00) for each well for which an extension is requested.

Such request for an extension shall set forth facts showing good cause for the chief building inspector to allow additional time for the commencement of the well. When good cause is shown, the chief building inspector shall grant an extension not to exceed an additional one hundred eighty (180) days. (Ord. of 3-11-80, §19)

### **Sec. 5-170. Indemnification of city for damage.**

The permittee shall indemnify and save harmless the city, its officers, agents and employees from any and all claims, causes of action and damages of every kind, for injury to or death to any person and damages to property arising out of the operation under any drilling permit and including acts or omissions of the city, its officers, agents, and employees in connection with said drilling permit. (Ord. of 3-11-80, §20)

### **Sec. 5-171. Filing of "Potential" or "Plug and Abandon" report.**

A copy of the "Potential" or "Plug and Abandon" report of any well furnished to the Texas Railroad Commission shall be concurrently filed by the permittee with the chief building inspector.

(Ord. of 3-11-80, §21)

### **Sec. 5-172. Storage of equipment and materials restricted.**

- (A) No equipment shall be stored on the site which is not essential to the everyday operation of the oil well located thereon.
- (B) Lumber, pipes, and casing shall not be left on the site, except when drilling operations are being conducted on the site.
- (C) No equipment shall be stored except within the fenced areas of the site. (Ord. of 3-11-80, §22)

### **Sec. 5-173. Compliance with regulations as to slush pits.**

The slush pit or pits at each drilling site shall at all times be in compliance with all state and federal requirements. (Ord. of 3-11-80, §23)

### **Sec. 5-174. Fencing of site.**

- (A) Within thirty (30) days after production has been established, the permittee shall enclose the well, together with its surface facilities and storage tanks by a substantial,

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smooth eleven (11) gauge or heavier galvanized steel net wire fence a minimum of six (6) feet in height and provided with barbed wire supporting arms and a minimum of three (3) strands of barbed wire installed at the top of each post and properly built so as ordinarily to prevent the entry of unauthorized persons into the enclosure, with all gates thereto to be kept locked when the permittee or his employees are not within the enclosure. This applies also to each existing producing drill site in the city together with its surface facilities and storage tanks.

- (B) Wells, which when in operation, have no externally moving parts, are excepted from the fencing requirements of this section; however, all storage tanks and surface facilities must be fenced as required herein. (Ord. of 3-11-80, §24)

### **Sec. 5-175. Landscaping or screening of set.**

- (A) Within ninety (90) days after production has been established on an urbanized drill site containing a well which when in operation has external; moving parts, the permittee shall have completed either adequate landscaping or screening composed of shrubbery to a minimum of six (6) feet in height, but in any event tall and thick enough to shield the drilling site from public view, or physical fencing and screening which effectively shields the drill site from public view. Such required landscaping or screening is subject to the approval of the chief building inspector concerning its adequacy in meeting the requirements of this section. Said landscaping or screening must be maintained so as to shield the drill site from public view so long as production continues on the drill site. This applies also to each existing producing urbanized drill site in the city containing a well which when in operation has externally moving parts.

- (B) Wells which when in operation have no externally moving parts are excepted from the fencing requirements of this section; however, all storage tanks and surface facilities must be fenced as required herein. (Ord. of 3-11-80, §25)

### **Sec. 5-176. Noise, vibration, odor, etc., restricted.**

- (A) All drilling and production equipment installed or operated upon any drill site shall be so constructed, operated and maintained that no noise, vibration, odor, or other harmful or annoying substances or effects therefrom which can be eliminated or diminished by the use of modern and approved types of equipment silencers or greater care, shall ever be permitted to result from operations on any drill site to the injury or annoyance of persons in the vicinity of such drill site. Proven technological and mechanical improvements in methods of drilling and production and in the type of equipment and methods will reduce noise, vibration, odors or the harmful effects of annoying substances.
- (B) The engines used in connection with the drilling of any oil well or any production equipment shall be equipped with an exhaust muffler or mufflers, or an exhaust muffler box, sufficient to suppress noise and to prevent the escape of obnoxious

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gases, fumes, sparks, ignited carbon, or soot. Type and design of any muffler or muffler box shall be approved by the chief building inspector and by the fire chief or his authorized representative.

- (C) At an urbanized drilling site, the operation of oil field production equipment shall not increase the ambient noise level at any given time by more than three (3) decibels in any octave band, when measured at a distance of one hundred fifty (150) feet from the oil field production equipment in question. The ambient noise level, for the purpose of this section, shall be the average of sound level meter ratings taken consecutively at any given time from four (4) or more diametrically opposite positions within an area of not more than five hundred (500) feet nor less than two hundred (200) feet from the oil field production equipment in question; all such readings to be taken at a distance and in a manner so as to obtain the surrounding noise level as distinguished from the noise level produced by the oil field production equipment. However, if the ambient noise level is less than seventy (70) decibels, the production equipment shall not generate a noise level in excess of seventy (70) decibels measured at a distance of one hundred fifty (150) feet from such equipment.
  
- (D) At a non-urbanized drilling site, the operation of oil field production equipment shall not generate a noise level in excess of eighty (80) decibels at a distance of one hundred fifty (150) feet from said production equipment. (Ord. of 3-11-80, §26)

**Sec. 5-177. Neatness, cleanliness, order; fire-fighting equipment.**

- (A) All of the operation at the drill site shall be conducted in a careful and orderly manner, and the premises shall at all times be maintained in a neat, clean and orderly manner.
  
- (B) All fire-fighting equipment as required and approved by federal statutes shall be installed and maintained on the drill site at all times during drilling operations. In addition, each drill site shall, during drilling operations, be equipped with two (2) one hundred fifty (150) pound dry chemical fire extinguishers equipped with sheels and also equipped with fifty (50) feet of hose on each unit. (Ord. of 3-11-80, §27)

**Sec. 5-178. Watchman.**

At all times during the drilling process until the well is abandoned and plugged or complete as a producer and enclosed with a fence as herein provided, the permittee shall keep a watchman on duty on the premises; provided, however, it shall not be necessary to keep a watchman on duty on the premises when other workmen of permittee are on such premises. (Ord. of 3-11-80, §28)

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### **Sec. 5-179. Casing quality.**

- (A) All casing, including surface protection and production strings, shall be either seamless steel or equivalent quality oil well casing. Each production string of casing must meet or exceed the minimum internal pressure yield strength established under American Petroleum Institute standards.
- (B) Each joint and length of each particular casing string shall have prior to setting unconditionally passed a complete cold water test and the chief building inspector shall be furnished a copy of said test results. (Ord. of 3-11-80, §29)

### **Sec. 5-180. Minimum depth of surface casing, Cementing of casing.**

No well shall be drilled within the city limits without properly setting surface casing to a minimum depth of one hundred (100) feet below the fresh water depth required by state law. No well shall be drilled within the city limits without cementing the surface casing by the pump and plug method with sufficient cement to completely fill all of the annular space behind such casing to the surface of the ground; and without cementing the production string by the pump and plug method with sufficient cement to completely fill all of the annular space behind the production string to at least five hundred (500) feet above the highest oil and/or gas bearing horizon. In the event a protection string of casing be required under the terms of this article, said protection string shall not be installed without cementing the protection string by the pump and plug method with sufficient cement to completely fill all the annular space behind the protection string to at least five hundred (500) feet above the highest oil and/or gas bearing horizon. (Ord. of 3-11-80, §80)

### **Sec. 5-181. Master valves, valve cocks, blow-out preventers.**

No well shall be drilled within the city limits without properly equipping the surface casing when set with at least one (1) master valve, and without properly equipping the protection casing when set with at least one (1) master valve and one (1) fluid-operated ram type blow-out preventer, and without properly equipping the production casing during completion operations and workover

operations with at least one master valve and at least one fluid operated ram type blowout preventer. On each well drilled, a valve cock or kelly cock shall be installed on the kelly used. Each blow-out preventer shall test a minimum of three thousand (3,000) pounds and its mechanical operation shall be tested at least once every twenty-four (24) hour period. All control equipment shall be in good working condition and order at all times. (Ord. of 3-11-80, §31)

### **Sec. 5-182. Drilling fluid.**

No well shall be drilled within the city limits without using mud as the drilling fluid after the setting of surface casing as provided in section 5-180 hereof. Prior to the time the well reaches a total depth of five thousand (5,000) feet or the depth of the first known or encountered oil or gas bearing horizon whichever is the lesser depth, the weight of the mud laden drilling fluid shall be at all times maintained at a weight sufficient to contain the formation pressure. After the well reaches a total depth of five thousand (5,000) feet or the depth of the first known or encountered oil or gas bearing horizon, whichever is the lesser depth, the weight of the drilling fluid shall be maintained to provide a hydrostatic head necessary to contain the formation pressure. In reworking a well the drilling fluid shall be at all times maintained at a weight that will provide a hydrostatic head

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necessary to contain the formation pressure. (Ord. of 3-11-80, §32)

### **Sec. 5-183. Testing restrictions.**

It shall be unlawful for any person in connection with the drilling or reworking operations of any well within the city limits to complete any drill stem test or tests except during daylight hours and then 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. (Ord. of 3-11-80, §33)

### **Sec. 5-184. Tubing quality.**

All tubing used in any well within the city limits shall be seamless steel tubing meeting American Petroleum Institute standards for minimum internal pressure yield strength. (Ord. of 3-11-80, §34)

### **Sec. 5-185. Bradenheads.**

Each well drilled within the city limits shall be equipped with a bradenhead with a working pressure sufficient to contain the formation pressure. Bradenheads shall not be welded. The bradenhead pressure shall be checked at two (2) or more times each calendar year and if pressure is found to exist, proper remedial measures shall be immediately taken to eliminate the source and the existence of the pressure. (Ord. of 3-11-80, §35)

### **Sec. 5-186. Christmas tree and well head connection maintenance.**

The Christmas tree and all well head connections on each well existing within the city limits and on each well drilled pursuant to a permit under this section shall be maintained so as to operate safely. If a Christmas tree or a well connection is found to be leaking or otherwise ineffective, the chief building inspector may immediately revoke the permit. In the event the surface shut-in pressure of any well in the city limits exceeds two thousand (2,000) pounds per square inch, the flowing of the Christmas tree shall be equipped with an automatic closing safety valve in addition to

the regular control valves. (Ord. of 3-11-80, §36)

### **Sec. 5-187. Compressor station shutdown devices and other precautionary measures.**

The compressor station on each well existing within the city limits and on each well drilled pursuant to a permit under this section shall be equipped with an automatic shut-down device which shall be clearly marked and visible at all times. The compressor station and all pipes and valves connected thereto must meet or exceed the minimum internal pressure yield strength established under American Petroleum Institute standards and shall have prior to installation unconditionally passed a complete cold water test. All compressor stations shall be checked a minimum of once each three (3) months and the result of said check shall be sent to the chief building inspector upon request. Failure to comply with this section shall result in immediate cancellation of the drilling permit issued hereunder. (Ord. of 3-11-80, §37)

### **Sec. 5-188. Tank restrictions and requirements.**

Except as provided in section 5-161 herein, within one thousand (1,000) feet of any

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occupied structure a maximum of two (2) five hundred (500) barrel tanks for crude oil storage may be constructed in connection with any one producing well within the city limits. There shall be no limitation on the size or number of storage tanks that may be constructed in the area more than one thousand (1,000) feet from any occupied structure. Each tank shall be equipped with flame arresters and shall be so constructed and maintained as to be vaportight. Each tank or tank battery shall also be surrounded with an earthen fire wall which shall at all times be free of vegetation and which will be at such distance from the tank as will under any circumstances hold and retain at least one and one-half (1-1/2) times the maximum capacity of such tank. The area outside each tank but contained within the earthen fire wall shall be properly drained at all times. 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 vaportight. Each oil gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head. (Ord. of 3-11-80, §38)

### **Sec. 5-189. Plugging of abandoned wells.**

When a well is abandoned it shall be the obligation of the permittee and the operator of the well to plug said well in accordance with the requirements of the Texas Railroad Commission. (Ord. of 3-11-80, §39)

### **Sec. 5-190. Disposal of salt water.**

The permittee shall make adequate provision for the disposal of all salt water or other impurities which he may bring to the surface. Disposal shall be made in a manner that will not contaminate the water supply, present or prospective, or injure surface vegetation. (Ord. of 3-11-80, §40)

### **Sec. 5-191. Monitoring inspector.**

A well site inspector to be designated by the chief building inspector shall be responsible for the monitoring of drilling and production activities both at scheduled intervals and at any other times he may deem necessary to ensure the public safety and to ensure compliance with the term of this article. (Ord. of 3-11-80, §41)

### **Sec. 5-192. Time restriction on delivery of equipment and supplies.**

Whenever practicable on an urbanized drilling site all delivery of equipment and supplies to the drill site shall be made only on Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m. This requirement shall not apply to drilling operations being conducted in a non-urbanized area. (Ord. of 3-11-80, §42)

### **Sec. 5-193. Transportation of oil and gas restricted.**

When production has been established in any new well, the construction of a pipeline shall be started as soon as practical and economically feasible and thereon diligently prosecuted until such pipeline is completed in order to eliminate the trucking of oil. All oil and gas shall be shipped and transported through pipelines after those pipelines have been completed, except in cases in which such a method of transportation is found by the chief building inspector to be unfeasible. In such cases the shipping and transportation of oil by truck may be permitted at the discretion of the chief building inspector after consideration of all the circumstances including, but not limited to, the

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proximity of the well to existing and available pipelines, the availability of acceptable access routes to the drill site, and the frequency and size of transportation vehicles required to serve the well. In the instance of an oil spill, permittee may bring in a vacuum truck to clean said spill without the necessity of obtaining permission from the chief building inspector. (Ord. of 3-11-80, §43)

### **Sec. 5-194. Producing or nonproducing status of well.**

If a well is placed in production, it shall be inspected periodically by the chief building inspector in accordance with the requirements of this article. A notification of status change from producing well to abandoned well shall become necessary for any well which has not produced, or which has not been used for subsurface injection into the earth of oil, gas, salt water, or oil field waste for a period of nine (9) months, unless permission to hold said well for a longer period of time is obtained from the Texas Railroad Commission. The operator shall upon request of the chief building inspector furnish verification of production for the purposes of this section. (Ord. of 3-11-80, §44)

### **Sec. 5-195. Well abandonment requirements; removal of derricks when production started.**

If a well is to be abandoned, the following requirements are applicable:

- (A) Within ninety (90) days after the completion of drilling operations or abandonment of further drilling, the derrick and all drilling equipment, including temporary tanks, shall be removed from the drill site. Well abandonment shall be in accordance with the requirements of all applicable laws and ordinances. Upon such well abandonment, the permittee shall restore the property as nearly as possible to its original conditions and shall remove all concrete foundations, oil-soaked soil, and debris. All holes or depressions shall be filled to the natural surface.
  
- (B) Drilling operations shall be prosecuted in a workmanlike manner until the well is completed or abandoned. Once a well is a producing well, it shall not be serviced with a permanent derrick.
  
- (C) The chief building inspector shall determine that the drill site and all facilities pertinent thereto have been restored to their original condition as nearly as practicable and that all requirements of this section have been satisfied.
  
- (D) After abandonment of a well by the operator, the drilling permit will be terminated if, to the satisfaction of the chief building inspector, all the conditions stated in this article have been fulfilled. (Ord. of 3-11-80, §45)

### **Sec. 5-196. Violations suspension or revocation of permit; appeals.**

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Any drilling permit may be suspended or revoked for any material violation of the conditions of the permit by the permittee or for persistent violation of any law by the permittee in the operation of any such well. The chief building inspector shall not revoke any permit without first giving the permittee ten (10) days written notice of the nature of the violations and the intention to revoke such permit. Permittee shall at once cease drilling operations after receipt of notice of intent to revoke this permit. If, within such ten (10) day period, the permittee requests a hearing before the chief building inspector, the chief building inspector shall grant such hearing within fifteen (15) days after the date of such request. At such hearing, evidence shall be presented to establish to the satisfaction of the chief building inspector the extent and nature of the violation which constitutes grounds for the revocation, and permittee shall be given an opportunity to cross-examine all witnesses testifying at such hearing. The permittee shall thereafter be permitted at that hearing, or at a continued hearing, if a continuance is requested by the permittee, to present evidence to disprove or explain such alleged violations.

The chief building inspector shall thereupon, after hearing all the evidence, determine whether or not the permit should be revoked, and his determination thereon shall be final. If the chief building inspector determines that the permit should be revoked, permittee may appeal the decision of the chief building inspector to the building board of adjustment and appeals in accordance with the ordinances of the city. In the event that the building board of adjustment and appeals determines that said permit should be revoked, permittee shall have recourse to the appropriate courts of this state to review such action by said building board of adjustment and appeals and the substantial evidence rule shall apply. (Ord. Of 3-11-80, §46)

### **Sec. 5-197. Penalty.**

Notwithstanding any other provisions herein contained, violations of the provisions of this article shall be punishable by a fine of not to exceed two hundred dollars (\$200.00). A separate offense shall be deemed committed on each day an offense occurs or continues. (Ord. of 3-11-80, §47)

### **Sec. 5-198 to 5-220. Reserved.**

## **Article 7. General Requirements for all Licenses and Permits**

### **Sec. 5-221. Application.**

An application for a license or permit under this chapter shall be in writing and sworn to and shall contain a statement that the applicant has never been convicted of a felony or misdemeanor involving moral turpitude. The application shall also state the place, date, charge and disposition of any arrests. A conviction or pending charge of a felony or misdemeanor involving moral turpitude or any misrepresentation in the application shall be grounds for denial or revocation of the license or permit. (Ord. of 11-13-84)

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### **Article 8. Regulation of Sexually Oriented Commercial Establishments**

#### **Sec. 5-222. Distance Separation Required.**

A person commits an offense if he operates or causes to be operated within one thousand (1,000) feet of a church, a public or private elementary or secondary school, a residential dwelling unit in which one or more person maintain a residence, a public park, a hospital, or another business of a type hereinafter enumerated in the this section, a business of one of the following types:

- (1) An adult bookstore as hereinafter defined.
- (2) An adult motion picture theater a hereinafter defined.
- (3) A business or enterprise which offers for a consideration nude human modeling.
- (4) A business or enterprise that offers for a consideration physical contact between persons when one or more of such persons are nude or semi-nude.
- (5) A bar, night club, or other similar commercial establishment that offers as entertainment, for the purpose of providing sexual stimulation to the customers of such establishment, live performances by a person or persons who expose specified anatomical areas or who perform specified sexual activities.
- (6) An adult arcade as hereinafter defined.
- (7) An adult motel as hereinafter defined.
- (8) An adult theater as hereinafter defined.
- (9) An escort agency as hereinafter defined.

For the purpose of this section, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building used by another business or enterprise so enumerated or to the nearest property line of the premises of a church, a public elementary or secondary school, or public park, a hospital or to the nearest portion of a building used as a residential swelling unit in which one or more persons maintain a residence.

#### **Sec. 5-223. Exception.**

It shall be a defense to prosecution under subsection 3 above that the business or enterprise is one of the following:

- (1) A proprietary school licensed by the State of Texas.

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- (2) A college, junior college or university supported entirely or partly by taxation.
- (3) A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

### **Sec. 5-224. Sexually Oriented Commercial Establishment defined and Other Definitions.**

When used in this section, the following words shall have the following meanings:

- (1) “Adult bookstore”: An establishment which as one of its primary business purposes offers for sale, rental or trade for any form of consideration books, magazines, periodicals or other printed materials, photographs, films, motion reproductions which are distinguished or characterized by an emphasis on matters depicting, describing or related to “specified sexual activities” or “specified anatomical area”, or instruments, devices or paraphernalia which is designed for use in connection with “specified sexual activity” or which depict “specified anatomical areas.”
- (2) “Adult motion picture theaters”: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are distinguished or characterized by an emphasis on “specified sexual activity” or the exposure of “specified anatomical areas.”
- (3) “Specified sexual activities.”
  - (A) Human genitals in a state a sexual stimulation or arousal;
  - (B) Sex acts, normal or perverted, actual or stimulated, including intercourse, masturbation, oral copulation, sodomy;
  - (C) Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.
  - (D) Excretory functions as part of or in conjunction with any of the activities set forth in A through C above.
- (4) “Specified anatomical areas.”
  - (A) Less than completely and opaquely covered:
    - (1) Human genital, pubic region;
    - (2) Buttocks; and
    - (3) Female breasts below a point immediately above the top of areola; and,

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- (B) Human male genitals in a discernibly turgid state even if completely and opaquely covered.
- (5) “Semi-nude”: A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices.
- (6) “Adult arcades”: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or “Specified anatomical areas.”
- (7) “Adult motels”: A motel, hotel, or similar commercial establishment which:
  - (A) Offer accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, film, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” and which has a sign visible from a public right-of-way which advertises the availability of this type of photo graphics; or
  - (B) Offers a sleeping room for rent for a period of time that is less than (10) hours; or
  - (C) Allows a tenant or an occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (8) “Adult Theaters”: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are distinguished or characterized by an emphasis on “specified sexual activities” or the exposure of “specified anatomical areas.”
- (9) “Escort”: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who, for consideration, agrees or offers to privately model lingerie or to privately perform a striptease for another person.

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- (10) “Escort agency”: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.
- (11) “Chief of Police”: means the Chief of Police of the City of Big Spring or their designated agent.
- (12) “Establishment”: means and includes any of the following:
- (A) the opening or commencement of any sexually oriented business as a new business;
  - (B) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.
  - (C) the addition of any sexually oriented business to any other existing sexually oriented business; or
  - (D) the relocation of any sexually oriented business.
- (13) “License appeal board”: shall be the City Council with recommendations from the Planning and Zoning Commission.
- (14) “Licensee”: means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.
- (15) “Person”: means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- (16) “Customer”: means any person who:
- (A) is allowed to enter a sexually oriented business in return for the payment of an admission fee or any other form of consideration; or,
  - (B) enters a sexually oriented business and purchases, rents, or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
  - (C) is a member of and on the premises of a sexually oriented business operating as a private club.
- (17) “Employee”: means any person who renders any work or service in the scope of

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employment, or pursuant to a contract as a contractor, for a sexually oriented business for pay.

- (18) “Operates or causes to be operated” means to cause to function or to put or keep in operation. The following persons operate or cause to be operated a sexually oriented business:
- (A) owner or part owner,
  - (B) licensee or applicant
  - (C) a person who performs any of the following activities:
    - (1) operates a cash register, cash drawer or other depository on the premises;
    - (2) displays or takes orders from any customer for any merchandise, goods, entertainment or other services,
    - (3) delivers or provides to any customer any merchandise, goods, entertainment or other services that are offered on the premises or
    - (4) acts as a door attendant to regulate entry of customers or other persons into the business, and
  - (D) a person who supervises or manages other persons in the performance of any of the activities in the above subsections.
- (19) “Owner or part owner”: means the proprietor, if a sole proprietorship, any and all general partners if a partnership, a member of any association, or the corporation if a corporation.
- (20) “Premises”: means the parcel of land where a sexually oriented business is located and all buildings and improvements located on the parcel of land that are used in the operation of the sexually oriented business.
- (21) “Transfer of ownership or control”: of a sexually oriented business means and includes any of the following:
- (A) the sale, lease, or sublease of the business;
  - (B) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

## **BIG SPRING CITY CODE**

- (C) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

### **Sec 5-225. Additional Regulations for Escort Agencies.**

- (1) An escort agency shall not employ any person under the age of eighteen (18) years.
- (2) A person commits an offense if he acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

### **Sec 5-226. Additional Regulations for Adult Motion Pictures Theaters.**

- (1) The requirements and provisions of this Code remain applicable to adult motion picture theater.
- (2) A person commits an offense if he allows a person under the age of eighteen (18) years in or on the premises of an adult motion picture theater.
- (3) A person under the age of eighteen (18) years commits an offense if he knowingly appears in a state of sem-nudity in or on the premises of an adult motion picture theater.

### **Sec 5-227. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.**

- (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts "specified sexual activities" or "Specified anatomical area", shall comply with the following requirements:

- (A) The application for a sexually oriented business license shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be

required; however, each diagram should be oriented to the north or some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six(6) inches. The Chief of Police may waive the foregoing diagram for renewal applications if

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the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (B) The application shall be sworn to be true and correct by the applicant.
- (C) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Chief of Police or their designee.
- (D) It is duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (E) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's stations.
- (F) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in Subsection (E) remains unobstructed by any doors, walls, merchandise, display racks or other material at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection (A) of this Section.
- (G) No viewing room can be occupied by more than one person at any time.
- (H) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at as illumination of not less than one (1.0) footcandle as measured at the floor level.
- (I) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times when any patron is present in the premises.

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- (2) A person having a duty under Subsections (A) through (H) of Subsection (1) above commits an offense if they knowingly fail to fulfill that duty.

### **Sec 5-228. Display of Sexually explicit Materials to Minors.**

- (1) A person commits an offense if, in a business establishment open to persons under the age of seventeen (17) years, they display a book, pamphlet, newspaper, magazine, film, or video cassette, the cover of which depicts, in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual lust or perversion for commercial gain, any of the following:

- (A) human sexual intercourse, masturbation, or sodomy;
- (B) fondling or other erotic touching of human genital, pubic region, buttocks, or female breasts;
- (C) less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; or
- (D) human male genitals in a discernibly turgid state, whether covered or uncovered.

- (2) In this section “display” means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:

- (A) It is available to the general public for handling and inspection; or
- (B) The cover or outside packaging on the item is visible to members of the general public.

### **Sec 5-229. License Required.**

- (1) It shall be unlawful for a person to operate a sexually oriented business within the City without a valid license issued by the City for that particular type of business.

- (2) It shall be unlawful for a person to operate a sexually oriented business located within the City unless the license is posted at or near the principal public entrance to the premises in such a manner that it will be conspicuous to patrons who enter the premises.

- (3) In any prosecution under subsection (1) above, it shall be presumed that there was no license at the time of the alleged offense, unless a license was then posted as provided in subsection (2).

- (4) An application for a license must be made on a form provided by the Chief of Police. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must

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be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

- (5) The applicant must be qualified according to the provisions of this Chapter.
- (6) If a person who wishes to operate a sexually oriented business is an individual, they must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty (20) percent or greater interest in the business must sign the application for license as applicant. Each applicant must be qualified under Section 5-230 and each applicant shall be considered a licensee if a license is granted.
- (7) The fact that a person possesses a valid license for any other type of business does not exempt them from the requirement of obtaining a sexually oriented business license.

### **Sec 5-230. Issuance of License.**

- (1) The Chief of Police shall approve and issue any license required hereunder to an applicant or deny the issuance of the license within thirty (30) days after receipt of a complete and accurate application. The Chief of Police shall issue the license unless the Chief of Police finds one (1) or more of the following to be true:
  - (A) An applicant is under eighteen (18) years of age.
  - (B) An applicant or any applicant's spouse owes delinquent taxes, delinquent paving assessments or any other delinquent debts or obligations to the City arising out of the operation of a sexually oriented business unless an arrangement satisfactory to the City Manager has been made for the payment of such debt or obligations.
  - (C) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
  - (D) An applicant or an applicant's spouse has been convicted of a violation of a provision of this Chapter, other than the offense of operating a sexually oriented business without a license, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
  - (E) The license fee required by this Chapter has not been paid.
  
  - (F) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding twelve (12) months and has demonstrated an inability to operate or manage a sexually oriented

## **BIG SPRING CITY CODE**

business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers. Evidence of this disqualification shall consist of a pattern of arrest for disorderly conduct made on the premises of the sexually oriented business managed by the applicant.

(G) An applicant or the proposed establishment is in violation of or is not in compliance with section 5-222, 5-225, 5-226, 5-227, 5-228, 5-233 and 5-237 of this ordinance.

(H) An applicant or an applicant's spouse has been convicted of a crime:

(a) involving:

(i) any of the following offenses as described in Chapter 43 of the Texas Penal Code.

(aa) prostitution;

(bb) promotion of prostitution;

(cc) aggravated promotion of prostitution;

(dd) compelling prostitution;

(ee) obscenity;

(ff) sale, distribution, or display of harmful material to minors;

(gg) sexual performance by a child;

(hh) possession of child pornography;

(ii) any of the following offenses as described in Chapter 21 of the Texas Penal Code.

(aa) public lewdness;

(bb) indecent exposure;

(cc) indelicacy with a child;

(iii) Sexual assault or aggravated sexual assault as described Chapter 22 of the Texas Penal Code.

(iv) incest, solicitation of a child, or harboring a runaway child as described in Chapter 25 of the Texas Penal Code;

(v) criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses;

(b) for which:

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- (i) less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later case if the conviction is of a misdemeanor offense;
  - (ii) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
  - (iii) less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.
- (I) If, at the time an applicant is applying for a permit, the applicant is moving into a new structure or location or is changing the use of property so that it is necessary to obtain an occupancy permit, and the designated site or premises for the sexual oriented business fails to comply with all required City codes and ordinances necessary to obtain an occupancy permit.
  - (J) The applicant fails to have all permits and licenses required by the alcoholic beverage code and health department laws and regulations for the designated site and premises for the sexual oriented business.
- (2) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
  - (3) An applicant who been convicted or whose spouse has been convicted of an offense listed in Subsection (1) (H) may qualify for a sexually oriented business license only when the time period required by Section 5-230 (1)(H)(b) has elapsed.
  - (4) The license, if granted, shall state on its face the name of the person or person to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

### **Sec 5-231. Fees.**

The annual fee for a sexually oriented business license of FIVE HUNDRED AND NO/100 dollars (\$500.00). The fee will be used to offset the cost of administering the permits and inspections consistent with this ordinance.

### **Sec 5-232 Inspection.**

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- (1) An applicant or licensee shall permit representatives of the police department, health department, fire department, planning and zoning department, inspections department, and code enforcement department of the City of Big Spring, or Howard County to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- (2) A person who operates a sexually oriented business or his agent or employee commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the City as outlined in paragraph (1) above, at any time it is occupied or open for business.
- (3) The provisions of the Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

### **Sec 5-233. Expiration of License.**

Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 5-229. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be prevented by the filing of the application.

### **Sec 5-234. Suspension.**

The Chief of Police shall suspend a license for a period not to exceed thirty (30) days if they determine that a licensee or any employee of a licensee has:

- (1) violated or is not in compliance with Section 5-222, 5-225, 5-226, 5-227, 5-228, 5-232 or 5-237 of this Chapter; or
- (2) engaged in excessive use of alcoholic beverages while on the sexually oriented business premises; or
- (3) refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter; or
- (4) knowingly permitted gambling by any person on the sexually oriented business premises; or
- (5) demonstrated an inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers. Evidence of this grounds for suspension shall consist of a pattern of arrest for disorderly conduct.

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### **Sec 5-235.**

#### **Revocation.**

- (1) The Chief of Police shall revoke a license if a cause of suspension in section 5-234 occurs and the license has been suspended within the proceeding twelve (12) months.
  
- (2) The Chief of Police shall revoke a license if he determines that:
  - (A) a licensee gave false or misleading information in the material submitted to the Chief of Police during the application process; or
  - (B) a licensee or an employee has knowingly allowed possession, use, or sale of a controlled substance on the premises; or
  - (C) a licensee or any employee has knowingly allowed prostitution on the premises; or
  - (D) a licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended; or
  - (E) a licensee has been convicted of an offense listed in Section 5-230 (1)(H)(b) for which the time period required in Section 5-230 (1)(H)(b) has not elapsed; or
  - (F) on two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensee's premises of a crime listed in Section 5-230 (1)(H)(a), for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed; or
  - (G) a licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in section 21.01, Texas Penal Code; or
  - (H) a licensee is delinquent in payment to the City for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the sexually oriented business, after 10 days prior written notice, and a failure to discharge the tax delinquency

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- (I) a licensee fails to obtain a required occupancy permit, alcoholic beverage code permit or license, or a required health department license or permit after 10 days notice of such violation and a failure of licensee to correct such violation.
- (3) The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- (4) Subsection (2)(G) does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place with public view.
- (5) When the Chief of Police revokes a license, the revocation shall continue for one (1) year and licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. If, subsequent to revocation, the chief of Police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety(90) days have elapse since the date the revocation became effective. If the license was removed under Subsection (2)(E), an applicant may not be granted another license until the appropriate number of years required under section 5-230 (1)(H)(b) has elapsed.

### **Sec 5-236. Appeal.**

If the Chief of Police denies the issuance of a license, or suspends or revokes a license, the licensee shall have a right of appeal.

- (1) The Chief of Police shall send to the applicant, or licensee, by personal delivery or by certified mail return receipt requested, a written notice of the action taken and the reasons for the action taken. In the case of a suspension or revocation of an existing license, such written notice shall also be posted upon the business premises.
- (2) The applicant or licensee may not later than ten (10) calendar days after receiving such notice file with the Chief of Police a written request for an appeal. The filing of an appeal stays the action of the Chief of Police in suspending or revoking a license, or denying an application to continue the operation of the business, until the City Council makes a final decision and prompt judicial review.
- (3) The Chief of Police shall notify in writing the Director of Community Services and City Attorney of the appeal. The Director of Community services shall set a date for the hearing of said appeal before the planning and zoning commission with thirty (30) days of receipt of the appeal and provide notice of such hearing to the applicant or licensee at least ten (10) days prior to the hearing.

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- (4) At a hearing on appeal before the planning and zoning commission they shall hear and consider evidence offered by any interested person, including the applicant, Chief of Police, Director of Community Services or their representative. The applicant shall have the burden of proof; however, the formal rules of evidence do not apply.
- (5) Within thirty (30) days after the hearing before the planning and zoning commission, the City Council shall conduct a hearing and consider the recommendations of the planning and zoning commission and shall make a decision on the appeal. Disputes of fact shall be decided on the basis of substantial evidence. The decision of the City Council shall be final, subject to prompt judicial review by a state or federal court with jurisdiction.
- (6) An appeal to the state or federal court with jurisdiction must be filed within thirty (30) days after the order of the City Council is approved at a public meeting by the City Council conducted pursuant to the Open Meetings Law. The licensee shall bear the burden of proof in court.

### **Sec - 5-237. Transfer of License.**

A licensee shall not transfer their license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

### **Sec 2-238. Penalty for Violation.**

- (1) Any violation of this Chapter, upon conviction, is punishable as a Class C misdemeanor.
- (2) Any person violating a provision of this Chapter other Section 5-222, upon conviction, shall be fined an amount not to exceed FIVE HUNDRED AND NO/100 DOLLARS (5\$500.00) and for a violation of Section 5-222, a fine in an amount not to exceed TWO THOUSAND DOLLARS (\$2,000.00). Each day any violation of this ordinance shall continue shall constitute a separate offense.
- (3) The following are a defense to prosecution under this ordinance.
  - (A) A business operated by or employing a licensed psychologist, licensed physical therapist, licensed barber engaged in performing functions authorized under the license held; or
  - (B) A business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts.
  - (C) Any exception stated in Section 5-223.

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### **Sec 5-239. Notices.**

- (1) Any notice required or permitted to be given by the Chief of Police, or any other official of a city office, division, department or other agency under this ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Chief of Police or other city official, or any notice of address change that has been received by the Chief of Police or other city official. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Director or his designee shall cause it to be posted at the principal entrance to the establishment.
- (2) Any notice required or permitted to be given to the Chief of Police or other city official by any person under this ordinance shall not be deemed given until and unless it is received in the office of the Chief of Police or other city official.
- (3) It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Chief of Police or other city official in writing of any change of residence or mailing address.

### **Sec 5-240. Injunction.**

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of Section 5-222 of this Chapter is subject to a suit for injunction as well as prosecution for criminal violations.

### **Sec 5-241. Conditional Use Permit Required.**

No person shall operate a business of the type described in Subsection 2-222 without a conditional use permit authorizing such operation. The Director of Community Services shall provide the necessary forms, and shall establish the procedures for the application for and issuance of such permits. Such permits shall be issued by the Director of Community Services or their degree for which a fee of one hundred fifty dollars (\$150.00) shall be charged.

### **Sec 5-242. Purpose and Intent.**

- (1) It is the purpose of this Chapter to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent a concentration of sexually oriented businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended

## **BUSINESS AND OCCUPATIONS**

market.

- (2) It is the intent of the City Council that the vocational regulations of Section 5-222 of the Chapter are promulgated pursuant to State and Federal law.
- (3) The provisions of this ordinance are considered cumulative of any other laws or ordinances; and if other laws or ordinances prohibit any conduct regulated by this ordinance, such prohibition shall effective. (Ord of 1-13-98)

## CEMETERIES, PARKS AND RECREATION

### CHAPTER 6

#### Article 1. Cemeteries

**Sec. 6-1. Establishment. Control and Supervision.**

There is hereby established a permanent care cemetery of the City of Big Spring, and this section does hereby signify the willingness and intention of the City of Big Spring to act as a permanent trustee for the permanent care and upkeep of certain lots and graves in the burial grounds of the City Cemetery. (Ord. of 4-12-66, §1)

**Sec. 6-2. Definitions.**

Words and phrases, as used in this article, shall have the following meanings ascribed to them;

- (A) Cemetery. A place dedicated to and used and intended to be used for the permanent interment of the human dead.
- (B) Permanent care cemetery. A cemetery for the benefit of which a permanent care fund shall have been established in accordance with the provisions of the article.
- (C) Permanent care. To keep the sod in repair, to keep all places where interments have been made in proper order, and to care for trees and shrubs, and provide for the administration of permanent care funds.
- (D) Special care cemetery. A cemetery, or a portion of a cemetery, for the benefit of which no perpetual care has been established and in which it shall not be the duty of the city to care for the trees, sod and shrubs in such areas.
- (E) Grave. A space of ground in the cemetery intended to be used for permanent interment in the ground of the remains of a deceased person.
- (F) Lot or plot or burial space. A space in the cemetery owned by an individual, an association fraternal order or other organization and used or intended to be used for the permanent interment therein of the remains of one or more deceased persons.
- (G) Owner. Any person in whose name the lot or grave stands, as owner of the exclusive right of sepulture therein.
- (H) Monument privilege. It is permissible to place a monument on a grave space so long as the same is installed under the supervision and direction of the city. (Ord. of 4-12-66, §2)
- (I) Infant. Any child three years of age, or younger.

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- (J) Infant Burial Space. A burial space which is approximately ¼ of the size of an adult space, which is only available in designated infant grave sections.

**Sec. 6-3. Purchase of Lots: Procedure.**

Any person, associated or fraternal organization desiring to purchase a lot or grave space in the permanent care cemetery shall deposit with the City Secretary the amount listed below according to the schedule of rates as shown:

Adult Lots - with monument privileges	\$ 900.00
Infant lots – with monument privileges	\$ 250.00

The owner of a lot with monument privileges shall be entitled to place a monument on the lot, provided, however, the location or arrangement of the monument shall be directed by the City, and failure of the owner to abide by the decision of the City concerning the location or arrangement of the monument shall constitute a forfeiture of the right of the owner to place such monument upon the lot.

The deposit of said sum shall thereafter impose upon the city the obligation to permanently maintain and care for the space so designated in the certificate issued by the City Secretary. The charges prescribed by this section may be adjusted from time to time when it is determined by the city council, upon the advice of the trustees of such fund that the adjustment of such charges should be made in order to insure financial stability and efficiency of operation of the permanent care cemetery. (Ord. of 9-23-80; Ord. 7-82, 11-23-82, Ord. of 5-16-87, §6-3, Ord. of 9-28-99, Ord. of 9-23-03, Ord. of 9-28-04)

**Sec. 6-4. Certificate Issued Purchaser: Recording Required.**

Upon the deposit of such money the city secretary shall issue a certificate acknowledging receipt of such money and describing the location of the space so purchased, together with the covenant of the city to permanently care for and maintain the sod, trees, and shrubs on such space. All such certificates shall be recorded by the owner in the Deed Records of Howard County, Texas. (Ord. of 4-12-66, §4)

**Sec. 6-5. Interment Fees (Charges for Opening, Closing Graves).**

There shall be a charge for the opening and closing of each grave space in the permanent care cemetery, as set forth in the following schedule:

	<u>Adult</u>	<u>Infant</u>
Weekday before 3:00 p.m.	\$525.00	\$150.00
Weekday, 3:00 p.m. or later,		
Weekday or City-Observed Holiday	\$675.00	\$300.00

The entire interment fee prescribed above shall be deposited into the Cemetery Fund for the operation and maintenance of the cemetery. The interment fee shall include: canopy, grass carpet, chairs and lowering device. The charges prescribed by this section may be adjusted from time to time when it is determined by the City Council that the adjustment of such charges should be made in order to ensure the financial stability and efficiency of operations of the permanent care cemetery.

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(Ord. Of 9-28-99)

### **Sec. 6-6. Monuments, Markers Limited; Installation Charges.**

Except for areas designated as Old Masonic, IOOF, Old City Section, and the grave space bearing the letter "M", as shown on the plat of said Cemetery or the Amendments thereto, no markers, monuments, or other appurtenances shall be used to designated burial space or graves in the Permanent Care Cemetery other than a metal or stone plaque installed in such a manner so as to permit mowing equipment to pass over the same without striking said marker; the marker shall be no larger than the plot. All markers shall be installed in the Permanent Care Cemetery by the Funeral Home responsible for the interment in accordance with the City specification established for monument placement. (Ord. of 1-11-94)

### **Sec. 6-7. Records; Duties of City Secretary.**

The city secretary shall keep a permanent and well-bound record book in which shall be kept in alphabetical order the names of all persons depositing funds for permanent care, the amount deposited, the names and location of lots and graves of each owner, and such other information as the city council may prescribe from time to time. (Ord. of 4-12-66, §7)

### **Sec. 6-8. Permanent Care Fund: Allocation of Monies Received.**

As each lot or grave space is purchased, the entire amount of money received by the city for the purchase of said lots shall be deposited in the Cemetery Fund. As interment fees are collected (opening and closing graves), the entire amount received by the City for said interments shall be deposited in the Cemetery Fund. In addition, one hundred percent (100%) of the monument privilege fee shall be deposited in the Cemetery Fund.

Funds that have previously been placed in the Cemetery Permanent Care Fund shall remain there forever. Interest earned on the principal in the Cemetery Permanent Care Fund shall be transferred to the Cemetery Fund for general maintenance and operation of the cemetery.

The allocation of revenue between the Cemetery Fund and the Cemetery Permanent Care Fund may be adjusted from time to time when it is determined by the City Council that the adjustment of such allocation of revenue should be made in order to ensure the financial stability and efficiency of operations of the permanent care cemetery. (Ord. of 9-23-80, Ord. of 9-23-03)

### **Sec. 6-9. Permanent Care Fund: Investments of Funds.**

All permanent care funds shall be invested in a manner consistent with the duly authorized and adopted Investment Policy of the City of Big Spring. Additionally, a permanent record shall be kept by the Director of Finance showing that the principal of the Cemetery Permanent Care Fund has been maintained, as well as permanent records reflecting interest earnings and transfers of same to the Cemetery Fund. (Ord. of 4-12-66, §9, Ord. of 9-23-03)

### **Sec. 6-10. Board of Trustees.**

(Ord. of 4-12-66, §10, Ord. of 9-23-03)

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### Sec. 6-11. Designation of Permanent Care Areas.

A map, held in the custody of the city secretary, designates the areas in the burial ground in the City of Big Spring as permanent care sections, special care sections, fraternal order trusts, religious organization tracts, and any other specific designations as shown thereon. The areas so designated and classified on such map shall be developed and cared for in the manner provided in this article. The city shall have the duty to permanently care for the land, lots and burial spaces that are specifically designated by the term "permanent care" on said map. (Ord. of 4-12-66, §12)

### Sec. 6-12. City to Act as Permanent Trustee.

This article does hereby establish the intent of the City of Big Spring to act as permanent trustee for the permanent care and upkeep of certain lots and graves in the burial grounds of the city, but does in no manner obligate the city or impose upon it the duty to maintain a permanent care cemetery or any portion thereof until such time as the necessary funds have been made available and until such time as the city acquires possession of such funds or land. (Ord. of 4-12-66, §13)

### Sec. 6-13 to 6-20 Reserved.

## Article 2. City Auditorium

### Sec. 6-21. Control and Supervision.

The city auditorium shall be under the general control and supervision of the city manager, subject to the terms and provisions of this article, contract stipulations not in conflict with this article and other rules and regulations which may be enacted by the city council. (Ord. of 12-13-39, §1)

### Sec. 6-22. Application for Use.

Applications for the use of the city auditorium shall be filed with the city manager and acted upon in the order of their filing. The city manager shall pass on all applications for the use of such auditorium and shall classify such applications and determine the rate to be charged therefor in accordance with the schedule contained in this article, and shall make no deviation therefrom. The decision of the city manager shall be final in all matters relating to the use of the auditorium and rates to be charged therefor, subject to the general supervisory power of the city council. Where applications are made for the use of the auditorium for purposes not covered by this article, the city manager shall have the power to classify such applications and determine the rates to be charged. (Ord. of 12-13-39, §§ 5,7)

### Sec. 6-23. General Rates Prescribed.

The rates to be charged for the use of the city auditorium shall be determined according to the following schedule of rates, and all taxes which may be imposed by law shall be in addition to these rates:

- (A) Scheduled performances: A fee of \$75.00 shall be charged for the first three (3) hours of use or any portions of three hours.

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- (1) A fee of \$20.00 per additional hour or fraction thereof shall be charged for the time in excess of three hours.
- (B) There shall be a flat fee for rehearsals for scheduled performances of \$10.00 per day. This fee shall cover the cost of lighting, heating, ventilating and air conditioning.
- (C) Sound and lighting system operation;
  - (1) For scheduled performances there shall be a charge of \$20.00 per hour or fraction thereof for a technician to operate the sound and lighting systems.
  - (2) For rehearsals there shall be a flat fee of \$20.00 for the technician to open the building, set basic lighting and secure the building at the completion of the rehearsal. (Ord. of 3-28-88)

Note: Until the 1985-86 renovation of the auditorium is completed sometime in 1987, the auditorium may be used free of charge providing the deposit and cleaning fee and sound system and technician (if required) fee are paid in advance but the person renting the auditorium shall remain liable for any damages as specified in Section 6-34.

### **Sections 6-24 and 6-25 are hereby repealed.**

(Ord.5-27-86)

### **Sec. 6-26. Deposit; When Payable; Cleaning Fee.**

A security deposit of two hundred (\$200.00) plus a cleaning fee of two hundred dollars (\$200.00) shall be payable to the reservations officer of the city a minimum of fourteen (14) days prior to the first scheduled use of the auditorium. In the event the applicant does not use the auditorium, cancellation must be made no later than seven (7) days prior to scheduled use of the facility or said deposit shall be retained by the city as rental but said cleaning fee shall be refunded to applicant. After use of the auditorium, the deposit, less any deductions for damages and less the cost of cleaning which exceeds \$200.00, shall be refunded to applicant; said cleaning fee shall be retained by the city to defray the expense of cleaning the auditorium after said use of the auditorium. (Ord.5-27-86, Ord.9-9-86)

### **Sec. 6-27. Charge for Use of Carbon Spotlight.**

A rental rate of ten dollars (\$10.00) per hour, including operator, shall be charged for use of the city's carbon spotlight at the city auditorium.

### **Sec. 6-28. Payment for Moving Props and Equipment.**

Any lessee of the city auditorium or his agent, who finds it necessary to move props and equipment into the auditorium during other than regular working hours of the auditorium personnel, or to move props and equipment out of the auditorium during such hours, except immediately following a performance, shall pay for the time of one city employee who is required by the city to be present during such operation. There shall be a minimum one-hour charge at the rate of two dollars fifty cents (\$2.50) per hour.

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**Sec. 6-29.      Limitation on Binding Effect of Reservations.**

Reservations for the city auditorium shall not be binding until the signed contract and the deposit required by section 6-26 have been remitted to the city, except that a reasonable time necessary for communications and mail service shall be observed. (Ord. of 12-13-39, §3)

**Sec. 6-30.      Audience to Be Provided with Seats, Chairs in Aisles Prohibited.**

No admissions are to be sold to any performance or exhibition held in the city auditorium, unless the purchaser is provided with a seat. The sale of standing room will not be permitted and chairs will not be allowed in aisles. (Ord. of 12-13-39, §2)

**Sec. 6-31.      Concessions.**

No concession will be granted for the sale of any articles of food or drink within the city auditorium except such articles which, in the opinion of the city manager, will not result in any damage to the furniture or fixtures in the auditorium. Likewise, no concession will be granted which may, owing to the nature of the program, result in extreme littering of the premises. Where such concessions are granted, the concession operator must arrange for sufficient additional janitor service to clean up the litter and refuse resulting from the sale and consumption of such articles. (Ord. of 12-13-39, §4)

**Sec. 6-32.      Broadcasting or Televising Programs.**

There shall be no broadcasting or televising of any program at the city auditorium without written consent from the city manager.

**Sec. 6-33.      Responsibility of Lessees Sponsoring Programs.**

Any local organization leasing the auditorium and sponsoring a program shall be directly responsible for fully informing all principals under its sponsorship of the provisions of this article and contract provisions. A lessee shall be held liable for any undetermined unpaid charge accrued by those sponsored.

**Sec. 6-34.      Liability for Damages to Auditorium Property.**

Any person renting the auditorium shall be liable and shall pay to the city all damages done to property, save and except the usual wear and tear. (Ord. of 12-13-39, §6)

**Sec. 6-35.      Prohibited Removal of the Piano, Lighting and Sound System from the Municipal Auditorium.**

The piano, lighting, and sound system located in the Municipal Auditorium shall not be removed from the auditorium for use in any other facility or activity. (Ord. of 11-10-92)

**Sec. 6- 36 through 6- 40.      Reserved.**

## CEMETERIES, PARKS AND RECREATION

### Article 3. Dora Roberts Community Center

#### Sec. 6-41. Definition.

For the purpose of this article, the term "center" shall mean the Dora Roberts Community Center and the entire premises thereof including the meeting rooms, kitchen, and all other parts or portions thereof. (Ord. of 3-14-72)

#### Sec. 6-42. Administration.

The administrator in charge of the center shall be the Convention & Visitors Bureau Coordinator or such other person as may be designated by the City Council, who shall discharge such duties pertaining to the center as may be prescribed by the city council, the Convention & Visitors Bureau (CVB) committee, and by this article. (Ord. of 3-14-72, Ord. of 12-9-03)

#### Sec. 6-43. Written Lease Contract Required.

Written lease contract shall be required from licensee of entire center or any portion thereof, and the CVB Coordinator is hereby authorized to execute such contracts on behalf of the city. Verbal agreement to rent or lease the entire center or any portion thereof shall not be recognized under any circumstances and the regulations contained in this article and the Facility Use Guidelines and License, after acceptance, shall constitute the entire agreement and may not be varied or altered unless done so in writing signed by authorized representatives of both parties. (Ord. of 3-14-72, Ord. of 12-9-03)

#### Sec. 6-44. City's Right to Refuse to Lease.

Acting through the CVB Coordinator, the city hereby reserves the right to refuse to lease or allow the use of the facilities of the center to any individual, organization or group. (Ord. of 3-14-72, Ord. of 12-9-03)

#### Sec. 6-45. Reserving Facilities.

Reservation for use of the center facilities shall be made at the office of the CVB Coordinator at City Hall. Reservations will be on a first come, first served basis; provided, however, that the city may designate and specify times or dates for which reservations will not be accepted and the center facilities will not be used by persons, organizations or groups other than the City of Big Spring. (Ord. of 3-14-72, Ord. of 12-9-03)

#### Sec. 6-46. Rental Fees and Security and Cleaning Deposit.

All deposit fees shall be paid at the time the center is reserved. Deposit fees insure payment for cleaning or repairs of damages caused by negligence, carelessness, accident, or abuse of the premises, equipment, the center grounds, and/or parking lot which may result from the use of the center by the licensee or any person allowed into the facility by licensee whether through licensee's action or inaction. In the event repairs and/or cleaning costs exceed the amount of the deposit, licensee shall be responsible for the payment of any excess. The amount of the deposit shall be as prescribed below in Sec. 6-46 (A) through 6-46 (I).

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Rental fees are due 10 days prior to event. There will be no discounts to the rental fees for any group or organization. Rental fees are prescribed below in Sec. 6-46 (A) through 6-46(I). An early set-up fee or late clean-up fee, or both, of ten percent of the rental fee will be required if the renter chooses to set up on the day before the scheduled event or to clean up on the day after the scheduled event. However, these options will only be offered if the individual room(s) or areas in question are not rented to another individual paying full rental fees.

	Location	Rental Fee	Deposit	Deposit w/ alcohol use	Early Set up	Late Clean up
(A)	Entire Building	\$400	\$400	\$800	\$40.00	\$40.00
(B)	Ballroom	\$250	\$250	\$500	\$25.00	\$25.00
(C)	Lake Room	\$100	\$100	\$200	\$10.00	\$10.00
(D)	½ Lake Room	\$ 75	\$ 75	\$150	\$ 7.50	\$ 7.50
(E)	Classroom	\$ 50	\$ 50	\$100	\$ 5.00	\$ 5.00
(F)	Fireplace Room	\$ 50	\$ 50	\$100	\$ 2.50	\$ 2.50
(G)	Dining Room	\$ 50	\$ 50	\$100	\$ 5.00	\$ 5.00
(H)	Kitchen	\$ 25	\$ 75	\$150	\$ 5.00	\$ 5.00
(I)	Pavilion	\$ 50	\$ 50	\$100	\$ 5.00	\$ 5.00

(Ord. of 3-14-72; Ord. of 11-24-81, §1, Ord. 9-9-86, Ord. 12-9-03, Ord. 7-24-07)

**Sec. 6-47. Special Services and Equipment.**

Fees for special services, equipment and conveniences shall be charged to and paid by the renter as part of the Center’s rental fees. Special services and equipment fees are prescribed below. A refundable deposit in the amount of ½ of the rental amount of the white table linens, table settings and individual items will be required. If these items are broken or lost, the actual replacement cost will be deducted from the deposit. If the deposit does not fully cover the amount of damages or lost or broken items, the deposit will be retained and the renter will be required to pay the difference.

- (A) Public Address (PA) System \$100.00
- (B) Tables – set up \$ 2.75 each
- (C) Chairs – set up \$ .30 each
- (D) White Table Linens \$ 10.00 each
- (E) Table settings \$ 2.00 each  
(Includes Dinner Plate, Salad Plate, Beverage Glass, Coffee Mug, Wine Glass, Knife, Spoon, Dinner Fork & Salad Fork, and Linen Napkin)
- (F) Individual Items \$ .25 each  
(Items listed in Item E above)
- (G) Police, guards, etc. In any case where the services of police, guards or watchmen are needed or desired incidental to the handling of a large crowd (50 or more) or for the protection of equipment, they shall be paid by the organization leasing the center. In the event alcohol is served at a function, licensee must make arrangements to have a licensed law enforcement officer or a licensed private security officer present at all

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times when alcohol is located upon the premises whether, prior, during, or after the function is to be held. (Ord. of 3-14-72, Ord. of 12-9-03, Ord. of 7-24-07)

**Sec. 6-48. Establishment of Insurance Requirement.**

The city council shall establish all insurance requirements pertaining to the use of the center and its premises. (Ord. of 5-27-86, Ord. of 3-28-88, Ord. of 6-13-89, Ord. of 12-9-03)

**Sec. 6-49. Licensees to Indemnify City.**

By executing the Facility Use Guidelines and License, the licensee agrees to indemnify and hold harmless the City of Big Spring from any and all liability, civil, administrative or otherwise, whether through tort, contract or any other form of claim which may result from or be related to the use of the facilities by licensee. In the event suit is filed as a result of licensee's activities, licensee agrees to provide, at licensee's sole expense, a defense to such suit through legal counsel acceptable to the City of Big Spring. In the event a judgment is entered finding that the suit or claim was partially the fault of the City of Big Spring, then this indemnity and any resulting payments shall be reduced by the percentage that the fault of the City of Big Spring bears to the total liability. (Ord. of 3-14-72, Ord. of 12-9-03)

**Sec. 6-50. Termination/Cancellations of Lease; Refunds and Forfeitures.**

All rental payments under a lease agreement shall be due and payable to the city (10) days prior to the date of the event. Failure of the licensee or user to use the premises during the agreed period shall constitute a breach of contract and the payment shall be forfeited to the city, to serve as liquidated damages for breach of the contract. In case of an event cancellation, the following schedule will determine the license fees to be refunded, if any:

- |     |  |             |
|-----|--|-------------|
| (A) | Notice received 2 weeks (14 days) prior to event | Full Refund |
| (B) | Notice received 4 days – 13 days prior to event  | ½ Refund    |
| (C) | Notice received 3 days or less prior to event    | No Refund   |

(Ord. of 3-14-72, Ord. of 12-9-03)

**Sec. 6-51 – 6-69. Reserved.**

**Article 4. Parks and Recreation**

**Division 1. In General**

**Sec. 6-70. Opening and Closing Hours for Parks.**

- (A) General parks The below listed parks in the city are hereby classified as general park areas and the same shall be open for public use between the hours of 6:00 a.m. and 10:00 p.m.

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- (1) City Park
- (2) Farm Road 700 and Eleventh Place
- (3) Birdwell Park

Entry upon the premises of the above listed parks at any hour other than those prescribed above shall constitute a misdemeanor and any person who is found in the above listed parks during the prohibited hours shall be guilty of a misdemeanor and upon conviction thereof in the Corporation Court shall be subject to a fine not to exceed two hundred dollars (\$200.00).

- (B) Neighborhood parks The below listed parks are hereby designated as neighborhood parks and shall be open for public use between the hours of 6:00 a.m. and 10:00 p.m.

- (1) Westside Park
- (2) Northeast Park
- (3) Jefferson Street Park
- (4) Hillcrest (East Sixth) Park

Entry upon the premises of the above listed parks at any hour other than the hours described above shall constitute a misdemeanor offense and any person found in such parks during the prohibited hours shall be deemed guilty of a misdemeanor, and upon conviction thereof in the Corporation Court of the city, shall be subject to a fine not to exceed two hundred dollars (\$200.00). (Ord. of 9-13-66, §1; Ord. 94-83, 11-8-83, §1)

**Sec. 6-71 to 6-75.**      **Reserved.**

**Division 2. Parks and Recreation Board**

**Sec. 6-76.**      **Created; Purpose.**

There is hereby created in and for the city a board which shall be called the "City of Big Spring Parks and Recreation Board" for the purpose of acting as an advisory board to the city council concerning parks and recreation in the city. (Ord. of 2-12-63, §1)

**Sec. 6-77.**      **Composition; Appointment and Terms.**

The parks and recreation board shall be composed of seven (7) members, each of whom shall be appointed a majority vote of the City Council. Board members will be appointed for staggered three (3) year terms. If any member of the board shall be absent more than three (3) times, without prior notification, from scheduled meeting during any twelve (12) month period, the third (3<sup>rd</sup>) absence shall be construed as the member's resignation from the board for all purposes. It is the intent of the City Council that members shall, by reason of diversity of their individual occupations, constitute a board which is broadly representative of the community. (Ord. 7-82, 11-23-82, §6-77, Ord. of 2-27-01)

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**Sec. 6-78. Reserved.**

**Sec. 6-79. Qualification of Members.**

Any member appointed to the parks and recreation board shall be a qualified voter in the city and a resident of the city. (Ord. of 1-12-63, §6)

**Sec. 6-80. Members to Serve without Compensation.**

The members of the parks and recreation board shall serve without compensation. (Ord. of 2-12-63, §2)

**Sec. 6-81. Removal of Members.**

Any member of the parks and recreation board may be removed from such membership by a majority vote of the members of the city council, and upon removal, such board member shall no longer be authorized to act as a representative of the board. (Ord. of 2-12-63, §3)

**Sec. 6-82. Filling of Vacancies.**

Any vacancies occurring on the Parks and Recreation Board shall be filled by a majority vote of the City Council, and upon removal, such board member shall no longer be authorized to act as a representative of the board. Terms of appointed members shall be deemed extended until a successor is appointed. (Ord. of 8-27-74, Ord. of 2-27-01)

**Sec. 6-83. Responsibility; Recommendations to City Manager.**

The primary responsibility of the parks and recreation board shall be to advise the city council of the current needs of the city in regard to parks and recreation, and to assist in the future planning of parks and recreation programs in the city. All recommendations concerning current and future needs shall be made to the city manager who in turn shall convey such recommendations to the city council. (Ord. of 2-12-63, §5)

**Sec. 6-84. Meetings; Quorum.**

The Parks and Recreation Board shall fix the time and place for meetings of the board, provided that such board shall meet at least once each month. Any four (4) members of the Board constitute a quorum necessary to cause official action to be taken on any matter. All meetings shall be open to the public. (Ord. of 2-12-63, §4; Ord. 7-82, 11-23-82, §6-84, Ord. of 2-27-01)

**Sec. 6-85. Adoption of Rules and Regulations.**

The parks and recreation board shall adopt such rules and regulations as it may deem best for its efficient operation. (Ord. 2-12-63, §4)

**Sec. 6-86. Staff Liaison.**

The Parks Director serves as staff liaison to the Parks Board and shall act as Secretary of the Board responsible for keeping the minutes and other official records of the Board. (Ord. of 2-12-63, §5, Ord. of 2-27-01)

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**Sec. 6-87. Board Cannot Bind City Council.**

The parks and recreation board shall act in an advisory capacity only and shall not have the authority to bind or obligate the city council in any manner whatsoever concerning the establishment and maintenance of park and recreation facilities in the city. (Ord. of 2-12-63, §5)

**Sec. 6-88 to 6-89. Reserved.**

**Division 3. Shadow Retreat Pavilion and Old Settlers Pavilion**

**Sec. 6-90. Reservations Authorized and Fees Determined.**

Any individual or group may, upon advance payment of a reservation fee for the amount prescribed herein to the City of Big Spring Parks Department, shall have exclusive use for the entailed pavilion and its immediate environs and appurtenant facilities as applicable for the purpose of picnics, outdoor preparation and serving of food, and other lawful functions for which said pavilion should ordinarily be used during the reservation. A detailed receipt will be given by the Parks Department for proof of rental. The rental of any pavilion located within the Comanche Trail Park will begin at 8:00 a.m. on the day of selected rental and end at 10:00 p.m.. The rental of the Heart of the City Pavilion will begin at 8:00 a.m. on the day of selected rental and end at midnight. The fee paid will be considered as an entire day rental. No partial day rentals will be scheduled.

(A) Old Settlers Pavilion	\$25.00
(B) Belaski Pavilion	\$25.00
(C) Haynes Pavilion	\$25.00
(D) Heart of the City Pavilion	\$50.00

Upon rental of the Heart of the City Pavilion, a one time per use cleaning deposit of Fifty Dollars (\$50.00) shall be assessed at the time of rental and prior to use of the facility. Following the use of the facility, all necessary cleaning or repair expenses shall be paid and the balance refunded. (Ord. of 5-14-68, Ord. of 5-27-86, Ord. of 6-14-05)

**Sec. 6-91. Basis of Granting Reservation.**

All reservations will be granted on a first come, first served basis; however, no reservation will be granted for a time more than one year subsequent to the making of the making of the request. (Ord. of 5-14-68)

**Sec. 6-92. Use of Facilities; Unusual Noise, Etc.**

It shall be unlawful for any occupant of Shadow Retreat Pavilion and Old Settlers Pavilion to fail to yield and vacate said pavilion, its immediate environs and appurtenant facilities, upon request of a person or group having a bona fide reservation provided for in section 6-90 above; and no person may interfere by creating unusual noise or obnoxious behavior with the peaceable enjoyment of the pavilion facilities by the person or group having reserved the same. (Ord. of 5-14-68)

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**Sec. 6-93. Park Rules to Be Observed: Driving and Parking.**

Persons or groups occupying and using the pavilion facilities shall observe all rules of behavior as any person using city park facilities and shall not drive or park: vehicles on any areas except the roadways and parking spaces established for those purposes. (Ord. of 5-14-68)

**Sec. 6-94. Penalty.**

Any person violating any section of this division shall be punished by a fine of not less than ten dollars (\$10.00) nor more; than two hundred dollars (\$200.00). (Ord. of 5-14-68)

**Division 4. Miscellaneous Regulations**

**Sec. 6-95. Prohibited uses of Cosden Lake (Comanche Trail Lake).**

(A) It shall be unlawful for any person to fish, boat, wade, swim, bathe, or in any other way trespass upon or into or make any use of any waters located in the city park which water is part of the lake or impoundment of water upon any of the land located west of the dam extending across the lake commonly known as the "Big Spring" and more particularly described in that one certain deed from First National Bank in Dallas, Texas, Trustee of the Cosden Petroleum Corporation Pension Trust, to the City of Big Spring, Texas, dated the 20th day of September, 1967, and filed of record in the Howard County Deed Records in Volume 389 on page 194. (Ord. of 8-11- 81) (Ord. of 3-26-91)

(B) It shall be unlawful for any person to swim or operate a motor or power driven boat upon that portion of the city-owned body of water being a part of the lake known as Cosden Lake (Comanche Trail Lake) and being further described as the impoundment of water located on east of the damn extending across the lake and more particularly described as the land conveyed to the City of Big Spring by the Fort Worth National Bank, as Trustee for the Dora Roberts Foundation Trust on the 24th day of December, 1970, and filed or record in the Howard County Deed Records. (Ord. no. 68071, 7-9-89; Ord. of 8-11-81; Ord. of 7-11-89) (Ord. of 3-26-91)

(1) Added: Provided however, the use of an electrical powered trolling motor may be used upon the waters identified in 6-95(b) (above). The Parks & Recreation Board shall have the authority to publish days of "non-boat use" of this portion of the Lake for specific events.

VALIDITY

In any section, paragraph, subdivision, clause, phrase or provision of this Ordinance shall be adjudged invalid or held unconstitutional. The same shall not affect the validity of this Ordinance as a whole or any part or provisions thereof other than the part so decided to invalid or unconstitutional. (Ord. of 11-4-93)

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- (C) In the above portion of Cosden Lake (now known as Comanche Trail Lake) described in section 6-95 (b) fishing is permitted, it shall be unlawful for any person to catch, take, or attempt to catch or take any fish, or to possess any fish taken by any method, means, or device, except by ordinary pole and line, rod and reel, fly rod, handling equipped with not more than two (2) hooks, throw-line equipped with not more than two (2) hooks. The use of any trotline, jug line, net, seine, trap, or any other device not herein authorized is prohibited, and the possession of any tackle not authorized by this section within the limits of Comanche Trail Lake (formerly known as Cosden Lake) property shall be prima facie evidence of violation of this section. (Ord. 94-83, 11-18-83, §2) (Ord. of 4-9-91).

**Sec. 6-96. Pollution of Water of Cosden Lake Prohibited.**

It shall be unlawful for any person to dump or dispose of trash, garbage, refuse, litter or anything of any nature, or to in any way pollute the waters of the lake impoundment described in the foregoing section 6-95. (Ord. No. 680701, 7-9-68)

**Sec. 6-97. Disposal of Refuse, Garbage, Etc. in City Parks.**

It shall be unlawful for any person to deposit or dispose of any refuse, waste, trash, garbage or litter in or upon any city park property except in barrels, cans or other receptacles provided for the purpose of trash and garbage disposal. (Ord. No. 680701, 7-9-68)

**Sec. 6-98. Penalty.**

Any person violating sections 6-95, 6-96, and 6-97 of this article shall be punished by a fine of not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00). (Ord. No. 680701, 7-9-68)

**Sec. 6-99. Use of Bicycles, Vehicles, Motor Vehicles, Horses in City Parks and Recreational Areas.**

- (A) **Definitions.** The following words and phrases, when used in this section, shall, for the purpose of this section, have the meaning respectively ascribed to them in the section. Whenever any words or phrases used in this section are not defined herein, but are defined in the state laws regulating the operation of vehicles or horses, any such definition therein shall be deemed to apply to such words and phrases used herein.
- (1) **Bicycle.** Every device propelled by human power upon which any person rides, having two (2) tandem wheels either of which is over nineteen (19) inches in diameter.
  - (2) **Motor vehicle.** Every vehicle which is self-propelled.
  - (3) **Vehicles.** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including, but not limited to, motorcycles, dune buggies, automobiles and motor scooters.
  - (4) **Horse.** Any large solid footed mammal domesticated by man and used as a beast of burden, draft animal, or for riding, including, but not limited to, ponies, mules and donkeys.

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- (B) **Use of maintained roads.** Designated parking areas and authorized riding trails required. It shall be unlawful for any person who is a driver, owner or operator of any bicycle or motor vehicle to drive, ride, operate or propel same upon, across or over any hills, trails or other public property located within the boundaries of any city park or recreational area, except upon maintained roads and designated parking areas. It shall also be unlawful for any person who is the owner or rider of any horse to ride or allow same to be ridden upon, across or over any hills, trails, or other public property located within the boundaries of any city park or recreational area except upon maintained roads and designated parking areas and authorized riding trails.
  
- (C) **Signs.** The director of public works is hereby directed to erect and maintain signs at the entrance of all city parks and recreational areas and other conspicuous places therein. Such signs shall state that the riding or driving of bicycles, motor vehicles or horses upon hills, trails or public property other than maintained roads and parking areas or authorized riding trails is prohibited by city ordinances and violators shall be subject to fine.
  
- (D) **Penalty.** Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon lawful conviction thereof shall be subject to a fine, not to exceed two hundred dollars (\$200.00) for each offense. (Ord. of 7-13-71, §1)

### **Sec. 6-100. Amplification Equipment in Parks.**

It shall be unlawful for any person to use electric amplification equipment in any park owned or maintained by the City of Big Spring, without first obtaining a permit from the city manager. Such permit to be issued without fee or charge. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine, not to exceed two hundred dollars (\$200.00) for each offense. (Ord. of 9-10-74)

### **Sec. 6-101. Comanche Trail Park Camp Ground and Moss Lake Recreational Area.**

All camping shall be in recognized and approved recreational vehicles, motor homes, camping trailers, tent trailers, pickup campers and tents. The use of any of the nine (9) designated spaces at Comanche Trail Park Camp Ground and designated areas at Moss Creek Lake Recreation Area shall be limited to these devices. (Ord. 94-83, 11-8-83, §3)

### **Sec. 6-102. Camping Limits.**

In order to afford the public the greatest possible use of the camping facilities, continuous occupancy of any of the facilities by the same person or persons shall be restricted to the following limits:

- (A) **Comanche Trail Park Ground** five (5) consecutive days in any thirty (30) day period.
  
- (B) **Moss Creek Lake Recreation Area** ten (10) consecutive days in any thirty (30) day period. (Ord. 94-83, 11-8-83, 9-22-87, §3)

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**Sec. 6-103. Peace and Quiet.**

To maintain adequate peace and quiet in the camping area, it shall be unlawful for a person to:

- (A) Conduct himself in a manner that unreasonably disturbs other persons in the campgrounds between the hours of 10:00 p.m. and 6:00 a.m. daily.
- (B) Create a disturbance by causing excessive noise by any means. (Ord. 94-83, 11-8-83, §3)

**Sec. 6-104. Storing of Supplies and Equipment.**

All excess baggage, supplies, camping equipment, etc., shall be out of sight and not create an unsightly appearance in any of the designated camping areas. (Ord. 94-83, 11-8-83, §3)

**Sec. 6-105. Disposal of Waste Material.**

Drainage of wastewater and raw sewage directly in the ground is prohibited in the camping area. Disposal of wastewater and raw sewage from self-contained campers shall be allowed only at the designated sewage disposal locations. All camping areas shall be free and clean of all trash, litter and kept in an orderly manner at all times. (Ord. 94-83, 11-8-83, §3)

**Sec. 6-106. Camping Fee.**

There shall be a camping fee of five dollars (\$5.00) per day for each camping space at Comanche Trail Park Camp Ground. Daily camp fees shall cover a period of 6:00 A.M. on the day of issuance to 6:00 A.M. of the following day. (Ord. of 9-22-87)

**Sec. 6-107. Reservation Requirements.**

The reservation application for the use of the following facilities within Comanche Trail Municipal Park shall reflect the approval of the TABC if the lessee proposes sale or serving and delivery of alcoholic beverages in accordance with the provisions set out in the "Texas Alcoholic Beverage Code" (TABC) and the Big Spring Code. (Ord. of 11-26-91).

Dora Roberts Community Convention Center  
Comanche Trail Municipal Amphitheater  
Old Settlers Pavilion

**Sec. 6-108 to 6-109. Reserved**

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**Article 5. Moss Creek Lake**

**Sec.6-110. Application of this Article.**

The provisions of this article shall apply to Moss Creek Lake and to the surrounding city-owned property located in Howard County. (Ord. of 7-14-59)

**Sec. 6-111. Admission Regulations.**

(A) Entering Moss Creek Lake Except for duly authorized city employees and officers and except for public officials on official business acting within the course and scope of their official duties, no person shall enter the Moss Creek Lake area without paying the fee set out in subsection (b) below.

(B) Admission & Permit Fees

**Entrance Permit** . . . . . \$ 3.00 per vehicle and .50 per additional person (not to exceed \$5.00). All fees other than overnight camping fees expire at 10:00 p.m. on the date of purchase.

**Yearly Permit** . . . . . \$100.00 per family

(Limited to immediate family members residing in same household, includes boat launching and camping fees.)

The annual permit shall be effective for one (1) calendar year from date of purchase and must be available for the Caretakers review when requested. This permit allows entry of a vehicle and an attached trailer or camper. Any additional vehicles shall obtain an additional permit.

**Full Service RV Hookups** . . . . . \$ 15.00 per over night stay. The permit expires at 12:00 noon on the day following the date of purchase. (Includes water, electricity and septic system hook-up)

**Limited Service RV Hookups** . . . . . \$12.00 per over night stay. The permit expires at 12:00 noon on the day following the day of purchase. (Includes water and electricity only)

**Full Service RV Hookup Weekly** . . . . . \$70.00 per week. The permit expires at 12:00 noon on the seventh day after the day of purchase.

**Pavilion Rental** . . . . . \$25.00 per 24-hour period. Fee for pavilion must be paid before reservation will be secured. Rental includes a camping permit for one vehicle. Additional vehicles must obtain additional permits.

**Overnight Camping Permit** . . . . . \$9.00 per over night stay. The permit expires at 12:00 noon on the day following the date of purchase. (Includes entrance fee, NO discounts for 65 years or older or children 12 or under apply due to this is a per vehicle only charge)

**Boat Launching Permit** . . . . . \$2.00

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**Motorcycle Course** . . . . . \$5.00 per motorbike. Entrance permit NOT included. (Ord. of 8-23-94, Ord. of 1-24-95, Ord. of 3-28-00, Ord. of 8-28-01, Ord. of 3-23-04)

- (C) Fee exemptions; revocation of permit No admission fee shall be charged for children under twelve (12) years of age or adults sixty-five (65) years of age or older. No permit fees shall be refunded for any reason. City of Big Spring employees and their family (spouse, children) are exempt from all permit fees with the exception of the RV park fees. City employees must provide all information required on the envelope and include their first and last name and employee number. This will aid the caretaker in insuring their status is valid, and an employee of the City of Big Spring.

The lake attendant may revoke a permit or refuse to issue a permit issued under this section for any period not exceeding one (1) year, if the holder thereof or applicant for a permit violates or has in the past violated any provisions of this chapter or any rule or regulation governing the lake in its surrounds. Notice of said revocation shall be given in writing and the holder or applicant may appeal to the city manager by filing a notice of appeal with the city manager within ten (10) days after the notice of revocation. Failure to so appeal shall render the action of the lake attendant final. (Ord. of 12-18-79; Ord. of 6-28-83, Ord. of 3-28-88, §6-111, Ord. of 3-28-00, Ord. of 3-23-04)

- (D) Hours of Operation. Entrance to the area surrounding the lake shall open at 7:00 a.m. and close at 10:00 p.m.. When the entrance gate is closed no one shall leave Moss Creek Lake area other than these posted hours except for duly authorized city employees and officers on official business acting within the course and scope of their official duties, except in the event of an emergency. Any persons entering the lake property after 10:00 p.m. must pay the camping permit fee unless they are utilizing the RV Park in which case RV fees will apply.

The paintball course will operate only when the area is open and supervised. Paintball markers or other devices used for the play of paintball may not be used or fired in any other area of the lake. Normal operating hours will be from 9:00 a.m. to dusk, Saturday and Sunday or when the lakes caretaker deems the area to be open for play. In the event a match cannot be supervised the field will be closed to play. All players must have a signed and dated Acknowledgment of Course Rules and waiver on file with the lakes caretaker before they are allowed to play. Participants under the age of 18 must have a parent or legal guardian sign the form which must be witnessed by the lake staff. This acknowledgement will remain valid for one calendar year and kept on file in the lake concession area. The lake caretaker or staff may at anytime request identification to insure that a person has a signed acknowledgement on file. Anyone found to be in the course when closed shall be subject to penalties outlined in Sec. 6-121 subsection D.

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The Dirt Bike Course will be open from 7:00 a.m. to dusk Monday thru Sunday. No riding of an ATV, Motor Cross or Enduro style vehicles is allowed in any other area of the lake. Anyone found to be in or on the course outside of designated hours listed, driving or riding of any ATV, Motor Cross or Enduro style vehicles in any area of the lake other than the Dirt Bike Course shall be subject to penalties outlined in Sec. 6-121 subsection D.

When the store at the Moss Creek Facility is closed, payment for all permits must be placed in an envelope provided at the drop box and deposited in the drop box prior to entry into the lake area. All information requested on the envelope must be correctly filled out for the permit to be valid. Failure to provide correct information & permit fee will result in penalties outlined in Sec. 6-121 subsection D. (Ord. 94-83, 11-8-83, §3, Ord. of 1-24-95, Ord. of 3-28-00, Ord. of 3-23-04)

- (E) **Rules and Regulations** The city council shall have the authority to adopt reasonable rules and regulations governing the lake or its surrounding area owned by the city which are not inconsistent with this article, and any violation of this article or said rules and regulations shall constitute a misdemeanor and shall be punishable in accordance with the applicable penalty provisions of this Code. (Ord. 94-83, 11-8-83, §3, Ord. of 5-27-86)

### **Sec.6-112. Boats / Jet Ski's.**

No boat, aquaplane or other water vehicle operating upon the waters of Moss Lake may enter inside of the marked area bordering the intake tower or swimming area. Posted no wake areas will be enforced. Speed limits & operation of said vehicles will be according to state law. (Ord. of 5-22-79, Ord. of 11-10-98, Ord. of 8-28-01, Ord. or 3-23-04)

### **Sec. 6-113. Application of State Laws.**

The general laws of the state, as the same are or may be amended, will control the taking of fish from Moss Creek Lake, save and except as specifically provided through proper ordinances and regulations passed by the City Council.

### **Sec. 6-114. Method of Fishing.**

It shall be unlawful for any person to catch, take or attempt to catch or take any fish from Moss Creek Lake, or to possess any fish taken by any method, means of device, except by ordinary pole and line, rod and reel, fly rod, hand-line equipped with not more than two (2) hooks, throw-line equipped with not more than two (2) hooks, jug-line equipped with not more than two (2) hooks, and by bow and arrow; provided, however, only rough fish may be taken by bow and arrow and provided further that bow and arrow fishing shall be granted only upon issuance of a special permit by the director of public works and said fishing shall be limited to certain designated areas which areas are to be established by the director of public works who is hereby authorized to erect signs and markers for this purpose. The use of any trotline, net, seine, trap, or any other device not herein authorized is prohibited, and the possession of any tackle not authorized by this section with the limits of Moss Creek Lake property shall be prima facie evidence of violation of this section. (Ord. of 7-14-59; Ord. of 4-11-71; Ord. 94-83, 11-8-83, §3)

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**Sec. 6-115. Swimming, Etc. Unlawful Except in Designated Areas; Swimming Prohibited in Areas.**

It shall be unlawful for any person to wade, swim, dive or float in Moss Creek Lake except in areas expressly designated for that particular activity. Swimming in Moss Creek Lake is expressly prohibited except in area designated as swimming places. (Ord. of 6-15-76; Ord. of 10-9-84)

**Sec. 6-115.1 Skiing Allowed on Moss Creek Lake.**

Skiing by use of a self-contained unit such as a Jet Ski or Wave Runner is allowed on Moss Creek Lake. Nothing may be towed or otherwise pulled behind a self contained skiing unit. Water skiing by means other than self contained units is prohibited except as may be specifically allowed by written contract executed by the authority of the City Council. A boat launch permit for each jet ski or boat having the means of propulsion by motor or wind must be paid, along with any other required permit. (Ord. of 11-9-93, Ord. of 8-23-94, Ord. of 1-24-95, Ord. of 3-23-04)

**Sec. 6-115.2 Pets must be Restrained.**

All dog, cats or other pets shall be kept within an enclosure or on a leash at all times. (Ord. of 3-23-04)

**Sec.6-116. Fishing and Boating Prohibited Around Water Intake Tower.**

No Fishing or boating activities will be permitted around the water intake tower at Moss Creek Lake within the areas designated by signs and floats.(Ord. of 6-16-76)

**Sec.6-117. Discharge of Firearms, Fireworks and Hunting.**

The firing of any firearms of any kind within the Moss Creek Lake facility or on the lake property is strictly prohibited. No person shall hunt with any firearm or other devices upon the waters of the lake or on the lake property in any manner at any time. Paintball Markers may be used at the Moss Creek Lake facility only in the area designated. (Ord. of 6-15-76; Ord.94-83,11-8-83,§3, Ord. of 3-23-04)

**Sec.6-118. Disposal of Refuse, Waste, Etc.**

It shall be unlawful for any person to deposit or dispose of any refuse, waste, or other inorganic matter in the waters of Moss Creek Lake or at any place on the lake property except in barrels or containers provided for that purpose. (Ord. of 7-14-59)

**Sec. 6-119. Destruction of Trees and Shrubs.**

It shall be unlawful for any person to cut, burn or destroy any living tree or shrub within the limits of the Moss Creek Lake property. (Ord. of 7-14-59)

**Sec. 6-120. Release of City from Liability for Damages.**

Each permit issued pursuant to the provisions of this article shall be conditioned that, by the acceptance of such permit, the holder thereof releases the city fully and completely from any and all damages that might be sustained by the holder thereof or his or her wife or husband, children or guests using, enjoying or being on Moss Creek Lake or the area surrounding such lake and owned and operated by the city. No person may use Moss Creek Lake or the area surrounding such lake and owned and operated by the city, without releasing the city from liability from any an all damages

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that might be sustained by such person and their children and guests, whether a permit is required or not. Use of the premises shall constitute acceptance of this release. (Ord. of 7-14-59, §10)

### Sec. 6-121. Use of Bicycles, Vehicles, Motor Vehicles, Horses at Moss Creek Lake.

- (A) **Definitions** The following words and phrases, when used in this section, shall, for the purpose of this section, have the meaning respectively ascribed to them in the section. Whenever any words or phrases used in this section are not defined herein, but are defined in the state laws regulating the operation of vehicles or horses, any such definition therein shall be deemed to apply to such words and phrases used herein.
- (1) **Bicycle** Every device propelled by human power upon which any person rides, having two (2) tandem wheels either of which is over nineteen (19) inches in diameter.
  - (2) **Motor vehicle** Every vehicle which is self-propelled.
  - (3) **Vehicles** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including, but not limited to, motorcycles, dune buggies, automobiles and motor scooters.
  - (4) **Horse** Any large solid footed mammal domesticated by man and used as a beast of burden, draft animal, or for riding, including, but not limited to, ponies, mules and donkeys.
- (B) **Use of maintained roads, designated parking areas and authorized riding trails required.** It shall be unlawful for any person who is a driver, owner or operator of any bicycle or motor vehicle to drive, ride, operate or propel same upon, across or over any hills, trails or other public property located within the boundaries of any city park or recreational area, except upon maintained roads and designated parking areas. It shall also be unlawful for any person who is the owner or rider of any horse to ride or allow same to be ridden upon, across or over any hills, trails, or other public property located within the boundaries of any city park or recreational area except upon maintained roads and designated parking areas and authorized riding trails.
- (C) **Signs.** The director of public works is hereby directed to erect and maintain signs at the entrance of all city parks and recreational areas and other conspicuous places therein. Such signs shall state that the riding or driving of bicycles, motor vehicles or horses upon hills, trails or public property other than maintained roads and parking areas or authorized riding trails is prohibited by city ordinances and violators shall be subject to fine.
- (D) **Penalty.** Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon lawful conviction thereof shall be subject to a fine, not to exceed two hundred dollars (\$200.00) for each offense. (Ord. of 2-10-70, §§1-4; Ord. of 7-13-71, §1)

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**Sec. 6-122 to 6-135. Reserved.**

**Article 6. Amphitheater**

**Sec. 6-136. Rental Rates Nonprofit Use, Prescribed.**

(A) Rental rates nonprofit use without the selling, serving and delivery of alcoholic beverages:

- (1) 1st 24 hours or fraction thereof:..... \$50.00
- (2) 2nd 24 hours or fraction thereof:..... \$50.00

(B) Rental rates nonprofit use with approval by the TABC to sell, serve and deliver alcoholic beverages:

- (1) 1st 24 hours or fraction thereof:..... \$150.00
- (2) 2nd & subsequent 24 hours or fraction thereof: ..... \$150.00

(C) There shall be no charge for rehearsals in conjunction with any scheduled performance providing there is no conflict with other scheduled uses. (Ord. of 11-26-91).

**Sec. 6-137. Reservations.**

All reservations for use of the amphitheater to include rehearsal shall be made with the permit clerk of the City of Big Spring. (Ord. of 11-27-79, Ord. of 3-28-88, §41)

**Sec. 6-138. Cleanup Deposit Nonprofit Use.**

There shall be a refundable deposit for use of the amphitheater as follows:

- Nonprofit use without alcoholic beverages:..... \$ 25.00
- Nonprofit use with TABC approval to sell,  
serve and deliver alcoholic beverages:..... \$500.00

The area of cleanup responsibility shall be as defined in Section 6-139b., attachment no. 1. (Ord. of 11-26-91).

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**Sec. 6-139. Activities for Profit.**

(A) Any person or corporation desiring to conduct any commercial (for Profit) activity in the amphitheater shall make application in the office of Public Works on a form provided for same. Said application shall not be considered complete until such time as the fees prescribed below are paid. (Ord. 07-09-91).

First 24 hours or any part of use:.....\$250.00  
Second 24 hours or any part of use:.....\$250.00  
Cleanup Deposit:.....\$500.00  
(Refundable upon approval of the area's cleanliness by the City of Big Spring)

(B) Cleanup. The lessee is responsible for the cleanup of the areas indicated on attachment #1 of this section. Failure to clean the area to the approval of the City of Big Spring will result in the forfeit of the cleanup deposit. (Ord. 07-09-91).

(C) Cancellation. the lessee may cancel any reservation for the use of the amphitheater under this section anytime up to 72 hours of the lease date without penalty. Cancellation less than 72 hours prior to the scheduled event will result in a forfeit of \$125.00 of the use fee for the first 24 hours or fraction thereof. (Ord. 07-09-91).

(D) Seating capacity limit on ticket sales. The lessee shall limit the attendance of patrons allowed into the amphitheater to no more than 3,900, the seating capacity of the facility.(Ord. 07-09-91).

(E) Parking. The lease of the amphitheater shall include the use of the parking areas designated on attachment #1 of this section. Any deviations to this plan shall be approved in advance by the Chief of Police. All overflow or excess parking shall be off site and the responsibility of the lessee. (Ord. 07-09-91).

(F) Ingress/egress to concerts. All ingress and egress to and from the amphitheater shall be via Starlight Drive from Highway 87. The lessee shall be responsible for the proper notification of the public regarding the ingress/egress routes to the amphitheater (portable signs are allowed to be used for this purpose). The City of Big Spring will provide the barricades to block the roads as depicted on attachment #1. The roads will be blocked not less than three (3) hours prior to the scheduled start of activities. (Ord. 07-09-91).

(G) Security. The lessee must employ security personnel who are thoroughly familiar with the entire park complex and who are Certified Peace Officers in the State of Texas. The security personnel shall coordinate with the Big Spring Police Department who will approve the number and type of personnel being proposed for each event. (Ord. 07-09-91).

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- (H) Concessions. The lessee shall provide on the application for use, the type, number of concession stands, as well as products to be dispensed. All concession stands shall be located at the rear of the amphitheater.(Ord. § 07-09-91)
- (I) Sanitary Facilities. Temporary sanitary facilities shall be provided by the lessee; A minimum of four (4) units shall be required and the Director of Public Works and/or Health Officer may adjust this number upward as needed. The temporary facilities shall be removed or serviced within twenty-four (24) hours following the expiration of the lease.(Ord. 07-09-91).
- (J) Indemnification. The applicant for the commercial use of the amphitheater shall indemnify the City of Big Spring against any claims and/or damages that arise from the use through the providing of a surety bond or policy in the amount of \$100,000/\$300.000 in the form and content approved by the City Attorney.(Ord.07-09-91).

**Sec. 6-140. Seating Capacity Limit of the Amphitheater.**

The lessee shall limit the attendance of patron~ allowed into the amphitheater to no more than 3,900, the seating capacity of the facility. (Ord. of 11-26-91).

**Sec. 6-141. Parking.**

The lease of the Amphitheater shall include the use of the parking areas designated on attachment +1 of this section All overflow or excess parking shall be off site and the responsibility of the lessee (Ord of 11-26-92.)

**Sec 6-142. Ingress/egress to Amphitheater.**

The Lessee shall coordinate with the Big Spring Police Chief of the requirements for ingress/egress and at his discretion all ingress and egress to and from the amphitheater shall be via Starlight Drive from Highway 87 The lessee shall be responsible for proper notification of the public regarding the ingress/egress routes to the amphitheater (portable signs are allowed to be used for this purpose) The City of Big Spring will provide the barricades to block the roads as depicted on attachment 1 The roads will be blocked not less than (3) hours prior to the scheduled start of the activities (Ord of 11-26-91).

**Sec 6-143. Security.**

The Lessee must employ security personnel who are thoroughly familiar with the entire park complex who are Certified Peace Officer in the State of Texas The security personnel shall coordinate with the Big Spring Police Department who will approve the number and type of personnel being proposed for each event (Ord of 11-26-91)

**Sec 6-144. Concessions.**

The Lessee shall provide on the reservation application for use, the type, number of concession stands, as well as products to be dispensed All concession stands shall be located at the rear of the amphitheater (Ord of 11-26-91).

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**Sec 6-145. Sanitary Facilities.**

Until such time as permanent facilities are constructed, temporary sanitary facilities shall be provided by the lessee A minimum of four (4) units shall be required and the Director of Public Works and/or Health Officer may adjust this number upward as needed The temporary facilities shall be removed or serviced within twenty-four (24) hours following the expiration of the lease (Ord of 11-26-91)

**Sec 6-145a. Indemnification.**

The application for the commercial use of the amphitheater shall indemnify the City of Big Spring against any claims and/or damages that arise from the use through the providing of a surety bond or policy in the amount of 100,000/300,000 in the form and content approved by the City Attorney (Ord of 11-26-91).

**Article 7. Comanche Trail Golf Course.**

**Sec 6-146. Golf Course Fees.**

The following fees shall be paid for the use of the Municipal Golf Course:

(A) **Daily Green Fees:**

Week Day.....	\$15.00
Week Day - Senior Citizen age 65 or over.....	\$12.50
Week Day - Junior golfer under age 18.....	\$12.50
Weekend and Holiday.....	\$20.00
Weekend and Holiday - Senior Citizen age 65 or over.....	\$20.00
Weekend - Junior Golfer under age 18.....	\$20.00

Twilight Discount – A 50% discount shall apply to all daily green fees if play starts after designated times. During daylight-saving time (1<sup>st</sup> Sunday of April/Last Sunday of October) the twilight discount will be available to golfers who begin play at 4:30 p.m. or later. During any period other than daylight-saving time, the twilight discount will begin at 3:30 p.m.. (Ord. of 8-24-04, Ord. of 1-25-05)

(B) **Annual Green Fees:**

All annual green fees for the golf course will run for the period of April 1 through March 31 of each year. Individuals or families desiring to purchase annual green fees must do so prior to April 10<sup>th</sup> of each year. No annual green fees shall be sold after this date save and except initial applications for annual membership after April 10, which may be prorated for the months remaining in the annual membership.

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Individual – Unlimited Play.....	\$500.00
Individual - Unlimited Play Senior (65 or older).....	\$500.00
Individual - Limited Play Senior (65 or older).....	\$375.00
Individual - Limited Play Junior (17 or younger).....	\$110.00
Family . . . . .	\$600.00
Family – Unlimited Senior (65 or older) . . . . .	\$600.00
Family – Limited Senior (65 or older). . . . .	\$475.00

Unlimited Play means that a golfer can play on the course anytime it is open for business. However, the golfer must schedule a tee time before he/she can play the course. Additionally, when tournaments are scheduled, the course is not considered open for business.

Limited Play means that a golfer is not allowed to play on weekends or holidays unless they pay the applicable daily green fees and have a scheduled tee time.

Family Play is a family membership defined as two members of a family living in the same household.

(C) **Shed Fees:**

Annual locker rent.....	\$ 25.00
Senior cart shed rent annually . . . . .	\$360.00
Annual cart shed rental . . . . .	\$360.00

1. All golf cart sheds shall be rented on an annual basis only. The rental period will be in effect from October 1<sup>st</sup> through September 31<sup>st</sup> of each year. Cart shed rental fees become delinquent on October 10<sup>th</sup>.
2. All cart shed renters must have a current annual membership and a current annual trail fee in the cart shed renter's name.

(D) **Cart Trail Fees:**

There shall be a privilege fee assessed for the use of private carts on Comanche Trail Municipal Golf Course. This amount is payable by either an annual or daily fee. The annual private cart privilege fee shall be in effect from October 1<sup>st</sup> through September 30<sup>th</sup> of each year. Private cart privilege fees shall be delinquent on October 10<sup>th</sup>. The carts provided by the golf superintendent are exempt from the provisions of this subsection regarding the payment of privilege fees.

Annual private cart fee with a current annual green fees card. . . . .	\$200.00
Daily private cart fee. . . . .	\$ . . 5.00

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(E) **Golf Course Fund:**

At the end of each fiscal year, it shall be the responsibility of the Finance Director to determine whether the operations of the golf course produced an operating deficit. If there was an operating surplus, whereby total revenues exceeded total expenses, the Finance Director shall transfer the surplus from the general fund to the Golf Course Improvement Fund. If there was an operating deficit, whereby total expenses exceeded total revenues, the Finance Director shall transfer funds from the Golf Course Improvement to the general fund. The amount of the transfer shall be the total amount of the operating deficit, if there are sufficient funds in the Golf Course Improvement Fund to cover the entire deficit. In no case shall a transfer be made to the general fund which would cause the Golf Course Improvement Fund to incur a cash deficit. Use of funds from the Golf Course Improvement Fund for golf course improvements cannot deplete the fund to a balance of less than \$5,000.00 dollars, with said balance required to be available to cover any future operating deficit.

(F) **Miscellaneous:**

- (1) City of Big Spring employees and retirees green fees shall be \$130.00 annually. This fee will allow the employee or retiree and one designated family member living in the same household to play the course.
- (2) The golf superintendent's family members, golf course employees and up to two (2) of the golf superintendent's paid staff are not subject to being charged green fees.
- (3) The City Manager may grant reciprocal course courtesy agreements to visiting golf professionals and/or superintendents.

(Ord. of 11-27-79, §4-10-84, §5-27-86, §7-8-86, §2-24-87, §9-24-91, §3-23-93, §10-24-95, §3-23-93, §3-24-98, Ord. of 9-24-02, Ord. of 10-8-02, Ord. of 1-25-05)

**Sec. 6-147. Tournaments.**

There shall be four (4) tournaments allowed each fiscal year at the Comanche Trail Golf Course. Two (2) of these tournaments will not require the payment of green fees and/or trail fees and the remaining two (2) will require the remittance of \$200.00 per day. These shall be:

- (1) City Championship, no fee
- (2) Best of the Rest, \$200/day fee
- (3) Big Spring Chicano Association Scholarship Tournament, \$200/day
- (4) Permian Basin Ladies' Golf Association, no fee (Weekday play)

The Parks and Recreation Board may consider and approve any additional tournaments for bonafide charitable causes and shall have the authority to set fees and conditions for such tournament save and except that all such tournaments shall require the payment of a minimum of \$200.00 for course use. (Ord of 6-27-00)

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**Sec. 6-148. Golf Cart Rules and Fees.**

- (A) All golf cart sheds shall only be leased to one person, however, a persons spouse may be included on the lease.
- (B) No golf cart shed leased may be assign, sublet or sold.
- (C) A waiting list will be established in the Assistant City Manager’s office in which vacancies for golf cart sheds will be filled. Unless a person’s name is on the list it will not be considered for future vacancies. It is the potential lessee’s responsibility to provide current information on how to contact them if a vacancy occurs and failure to provide such information will cause their name to be removed from the list.
- (D) Private carts may not be used by any other person except the lessee’s immediate family members (i.e. spouse and children).
- (E) Persons that ride on golf carts who are not an immediate family member as defined in sub-section “d” shall be required to pay a fee that is one-half of the current trail fee.
- (F) A first violation of sub-section “d” will result in a penalty in the amount of the current cart rental rate. A first violation of sub-section “e” will result in a penalty in the amount of the current trail fee. Any subsequent violation(s) or failure to pay any cart fees or penalties will result in the person being barred from playing golf at the Comanche Trail golf Course for a period of two (2) months. (Ord. of 08-26-97)

**Sec. 6-149 to 6-155. Reserved.**

**Article 8. Figure Seven Tennis Center**

**Sec. 6-156. Fees Prescribed.**

The following fees shall be prescribed for the use of the Tennis Center:

Hourly Student Bee	\$ 1.00
Hourly Adult Fee	\$ 1.50
Daily Fee	\$ 3.00
Monthly Student Membership	\$ 8.00
Monthly Adult Membership	\$ 10.00
Monthly Family Membership	\$ 16.00
Annual Student Membership	\$ 80.00
Annual Adult Membership	\$100.00
Annual Family Membership	\$160.00

(Ord. of 11-27-79, °60; Ord. 7-82, 11-23-82, §6-156, Ord. of 5-27-86)

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**Sec. 6-157. Tennis Tournaments.**

There shall be a total of five (5) tennis tournaments that may be held at the Figure Seven Tennis Center wherein the fees prescribed in Section 6-156 are waived. The Parks and Recreation Board shall recommend to the tennis center manager the five (5) tournaments to be held each calendar year. The tennis center manager shall be responsible for the conduction of these tournaments and shall remit to the City of Big Spring \$25.00 for each tournament held under the provisions of this section. (Ord.9-9-86)

**Sec. 6-158 to 170. Reserved.**

**Article 9. Potton House**

**Sec 6-171. Rules and Regulations.**

The Heritage Museum Board of Directors, with the approval of the City Council, is hereby empowered to promulgate such rules and regulations as it may deem necessary or expedient for the efficient operation of the Potton House. (Ord of 2-26-80; Ord. 12-20-88; Ord of 11-13-90).

**Sec. 6-172 to 6-180. Reserved.**

**Article 10. Ballfield Recreational Areas**

**Sec.6-181. Softball Player Fee Prescribed.**

- (A) Each youth or adult softball/baseball team desiring to play on the City ball field recreation areas shall register and pay a season fee of Two Hundred Dollars (\$200.00) per team in order to play on any league in the City of Big Spring.
- (B) The teams shall register in the office designated by the City Manager no less than thirty (30) days prior to the start of each season.
- (C) It will be the responsibility of the league president to insure that all teams in their league have paid the required fee.
- (D) The provisions of this Section are waived when there is a separate Quid Pro-Quo agreement negotiated between any league and the City of Big Spring.  
(Ord. 11-10-92, Ord. 3-12-02, Ord. 5-11-04)

(Ord. 5-27-86, Ord. 8-11-87, Ord. 5-24-88, 5181; Ord. 4-25-89)

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**Sec. 6-182. Big Spring Ball Field Recreation Area Rental Fee.**

For all non-league activities, including but not limited to tournaments, special games, and other uses of the Big Spring Ball Field Recreation Areas, there shall be a fee assessed as follows:

A one time per use cleaning deposit of Fifty Dollars (\$50.00) shall be assessed at the time of rental and prior to use of the facility. Following the use of the facility, all necessary cleaning or repair expenses shall be paid and the balance refunded.

The rental fee shall be assessed at \$75.00 per field per day. For purposes of rental by group, a day shall consist of a 24-hour period commencing at midnight. All organizations, teams, or individuals desiring to rent a ball field facility shall make application in the office of the Parks Department no fewer than 14 days prior to the proposed date of use. Said application shall include a reservation of the date or dates the fields are to be utilized, the name of the organization, league, or individual requesting the reservation, the field or fields desired, and the authorized applicant shall agree to comply with any proposed rules or regulations for the use of the Big Spring Ball Field Areas as promulgated by the Board of Park and Recreation and the Parks Department Manager. At the special request of the applicant, the office of the Director of Public Works may authorize the use of both Cotton Mize field and Stink Creek Park during the daylight hours. (Ord. 8-11-87, §182, Ord. 5-11-04)

**Sec. 183-190. Reserved.**

**Article 11. Comanche Trail Park Municipal Swimming Pool**

**Sec. 6-191. Fees Prescribed.**

Daily Entrance Fee.....\$2.00  
(Ord. of 6-11-96, Ord. of 4-23-02)

**Sec. 6-192. Private Party Costs.**

Private party rental fees for a scheduled two hour period shall be as follows:

Up to 25 individuals.....\$ 75.00  
26 to 50 individuals.....\$100.00  
50 individuals & over.....\$125.00  
Cleaning Deposit.....\$ 50.00

The cleaning deposit provided above shall be paid prior to use of facility. Following the use of the facility, all necessary cleaning or repair expenses shall be paid and the balance refunded.

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The individual desiring to reserve the pool shall make reservations with the parks department secretary at 432-264-2376 (Ord. of 5-27-86, Ord. of 4-26-88, §191-192; Ord. of 6-13-89; Ord. of 4-27-04)

**Sec. 192-200.**      **Reserved.**

**Article 12. Fees and Deposits**

**Sec.201.**      **Fees and Deposits; Exemptions.**

No fee or deposit in this chapter shall be waived or reduced by the City Manager with the following exceptions. The City Manager may reduce or waive any fee or deposit required under this Chapter for the Municipal Auditorium or Amphitheater if it is being utilized by a 501(c) nonprofit organization, the Big Spring Independent School District, Howard College or Howard County. (Ord. of 5-12-86, Ord. of 8-9-94, Ord. of 1-13-98)

# FINANCE

## Chapter 7

### Article 1. Sales and Use Tax

#### Sec. 7-1. Sales tax retained.

- (A) The City of Big Spring by majority vote of its governing body, hereby votes to retain the taxes authorized by the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) on the receipts from the sale, production, distribution, lease or rental of, and the use, storage, or other consumption of gas and electricity for residential use, as authorized by Section 6 of House Bill No. 1, Acts 1978, 65th Legislature, Second Called Session. (Ord. of 4-24-79)
- (B) A one half of one percent Local Sales and Use Tax authorized by Section 321.101 (b) Municipal Sales and Use Tax Act for the reduction of property taxes shall become effective within the City of Big Spring on October 1, 1990. (Ord. of 06-26-90).
- (C) A one half of one percent Local Sales and Use Tax authorized by Article 5190.6, Section 4A, Vernon's Texas Civil Statutes for the benefit of an Industrial Development Corporation shall become effective within the City of Big Spring on October 1, 1990. (Ord. of 06-26-90).

Note: The voters of the city, at an election held December 16, 1967, approved a one percent (1%) city sales and use tax as authorized by VACS Art. 1066c.

#### Sec. 7-2. Adoption of state law relative to payment of taxes and penalties.

The provisions of Article 7336, Vernon's Annotated Civil Statutes of the State of Texas, as amended, shall apply and to and govern the payment of taxes due and owing to the city and penalties in connection therewith, to the same extent as if such article had been, by the terms thereof, made applicable to city taxes. (Ord. of 3-20-35,§1)

#### Sec. 7-3. Homestead exemption for aged.

Under the authority of Section 1-b (b) of Article VIII of the Constitution of Texas, three thousand dollars (\$3,000) of the assessed value of residence homesteads, as now defined by law, of persons sixty-five (65) years of age or older on January 1 of any calendar year shall be exempt from ad valorem taxation by the City of Big Spring for such year. Any person claiming such exemption for his or her property shall, prior to April 30 of the tax year for which such exemption is claimed, render such property as a homestead upon a form prepared by the city tax assessor-collector for such purpose and submit such proof of age and ownership of the property as he may reasonably require. This exemption shall become effective beginning with the 1974 tax year. (Ord. of 5-8-73, §1)

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### Sec. 7-4. Taxation of telecommunication services.

A tax is hereby authorized on all telecommunications services sold within the City of Big Spring. For purposes of this section, the sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.

The rate of the tax imposed by this section shall be the same as the rate imposed by the City of Big Spring, Texas, for all other local Sales and Use Taxes as authorized by the legislature of the State of Texas.

The City Secretary shall forward to the Comptroller of the State of Texas by United States Registered Mail a copy of this ordinance along with a copy of the minutes of the City Council's vote and discussion on this ordinance. This section shall become effective as of October 1, 1987. (Ord. of 6-29-87)

### Sec. 7-5 to 7-6. Reserved.

## Article 2. Hotel Occupancy Tax

### Sec. 7-7. Definition of terms.

The following words, terms and phrases are, for the purpose of this article, except where the context clearly indicates a different meaning, defined as follows:

- (A) Hotel. Any building or buildings, trailer, railroad pullman car not being utilized for the transportation of travelers, or other facility in which the public may, for a consideration, obtain sleeping accommodations. The terms shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, railroad pullman cars parked on a siding or other area and used for sleeping accommodations not involving the transportation of travelers, dormitory space where bed space is rented to individuals or groups, apartments not occupied by "permanent residents" as that term is hereinafter defined, and all other facilities where rooms or sleeping facilities or spaces are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums, or nursing homes.
- (B) Consideration. The cost of the room, sleeping space, bed or dormitory space or other facilities in such hotel and shall not include the cost of any food served or personal services rendered to the occupant not related to cleaning and readying such room or space for occupancy, and shall not include any tax assessed for occupancy thereof by any other governmental agency.
- (C) Occupancy. The use or possession, or the right to use or possession of any room, space, or sleeping facility in a hotel for any purpose.

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- (D) Occupant. Anyone who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms, or sleeping space or facility in a hotel under any lease, concession, permit, right of access, license, contract or agreement.
- (E) Person. Any individual, company, corporation or association owning, operating, managing or controlling any hotel.
- (F) City Secretary. The City Secretary of the City of Big Spring.
- (G) Quarterly period. The regular calendar quarters of the year, the first quarter being composed of the months of January, February and March; the second quarter being the months of April, May and June; the third quarter being the months of July, August and September; and the fourth quarter being the months of October, November and December.
- (H) Permanent resident. Any occupant who has or shall have the right to occupancy of any room or rooms or sleeping space or facility in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year. (Ord. of 7-10-73, §1)

**Sec. 7-8. Levy of tax; rate; exception; use.**

- (A) There is hereby levied a tax upon the occupant of any room or space furnished by any hotel whence such cost of occupancy is at the rate of two dollars (\$2.00) or more per day, such has to be equal to seven percent (7%) of the consideration paid by the occupant of such room, space or facility to such hotel, exclusive of other occupancy taxes imposed by other governmental agencies effective as of October 1, 1973. (Ord. of 7-26-77; Ord. 100-83, 11-27-83, §1)
- (B) No tax shall be imposed hereunder upon a permanent resident.
- (C) No tax shall be imposed hereunder upon an occupant of any room or space rented from a corporation or association organized and operated exclusively for religious, charitable or education purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (D) All revenue derived from the occupancy tax imposed in (a) hereof will be used only for the purposes specified below; provided, however, any revenues from a tax in excess of four percent (4%) of the consideration paid by an occupant of the sleeping room to the hotel may only be used for the purposes specified in subdivisions (1), (2), and (3) below and further no more than 1% of said consideration may be used for the purposes specified in subdivision (4) below:

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- (1) The acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation and maintenance of convention center facilities including, but not limited to, civic center convention buildings, auditoriums, coliseums, civic theaters, museums and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of convention center facilities;
- (2) The furnishing of facilities, personnel and materials for the registration of convention delegates or registrants;
- (3) For advertising for general promotional and tourist advertising of the city and its vicinity, and conducting a solicitation and operating program to attract conventions and visitors either by the city or through contracts with persons or organizations selected by the city; (Ord. of 7-10-73, §1)
- (4) The encouragement, promotion, improvement and application of the arts, including music, (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms;
- (5) Historical preservation and restoration projects or activities at or in the immediate vicinity of convention center facilities or historical preservation and restoration projects or activities located elsewhere in the city that would be frequented by tourists and visitors to the city. (Ord. of 7-12-77; Ord. 100-83, 11-27-83; §1; Ord. of 11-13-84)

### **Sec. 7-9. Collection.**

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in section 7-8 hereof for the City of Big Spring. (Ord. of 7-10-73)

### **Sec. 7-10. Reports.**

- (A) On the last day of the month following each monthly reporting period, every person required in Section 7-9 hereof to collect the tax imposed herein, shall file a report with the city secretary showing the consideration paid for all room occupancies, and any other information as the city secretary may reasonably require. Such person shall pay the amount of tax collected from occupants during the period of the report at the time of filing the report. (Ord. of 7-10-73, 9-8-87, §1)(Ord. of 01-26-93).
- (B) An exception to the monthly report required to be filed under Section 7-10 (a) shall be that the filing of a report is not required until the total amount due to the City exceeds one hundred dollars (\$100.00) or until the end of a calendar quarter, whichever comes

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first. A report will be filed at the end of the second month of a calendar quarter if the amount due to the City exceeds one hundred dollars (\$100.00).(Ord. of 01-26-93).

### **Sec. 7-11. Rules and regulations.**

The city secretary shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied herein, and shall upon reasonable notice have access to books and records necessary to enable him to determine the correctness of any report filed as required by this article and the amount of taxes due under the provisions of this article. (Ord. of 7-10-73, §1)

### **Sec. 7-12. Penalties.**

If any person shall fail to collect the tax imposed herein, or shall fail to file a report as required herein, or shall fail to pay to the city secretary the tax as imposed herein when said report for payment is due, or shall file a false report, then such person shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine not to exceed two hundred dollars (\$200.00). In addition, such person who fails to remit the tax imposed by this article within the time required shall forfeit five percent (5%) of the amount due as a penalty, and after the first thirty (30) days shall forfeit an additional five percent (5%) of such tax. Provided, however, that the penalty shall never be less than one dollar (\$1.00). Delinquent taxes shall draw interest at the rate of six percent (6%) per annum beginning sixty (60) days from the date due on the tax imposed by this article. (Ord. of 7-10-73)

### **Sec. 7-13. Collection from purchaser of hotel tax owed by seller to City upon sale of hotel.**

- (A) If a person who is liable for the payment of an amount under this Article is the owner of the hotel and sells the hotel, the successor to the seller or the seller's assignee or purchaser shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the City Secretary showing that the amount has been paid or a certificate stating that no amount is due. If the seller does not provide said receipt or certificate to the purchaser within ten days from the date the hotel is sold to the purchaser, then the purchaser shall, within five days after the expiration of said ten day period, request in writing by certified mail, return receipt requested, the certificate or statement referred to in Subsection (c) of this Section. If tax is due purchaser shall pay said tax to the City Secretary within five days of receipt from the City Secretary of a statement of the amount of tax required to be paid before a certificate of no tax due may be issued (this liability of the purchaser shall be limited in accordance with Subsection (b) below.
- (B) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.
- (C) The purchaser of a hotel may request that the City Secretary issue a certificate stating that no taxes are due or issue a statement of the amount required to be paid before a certificate may be issued. The City Secretary shall issue the certificate or statement

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within 60 days after receiving the written request by certified mail, return receipt requested or within 60 days after the day on which the records of the former owner of the hotel are made available for audit, whichever period expires later, but in either event the City Secretary shall issue the certificate or statement within one year after the date of receiving the request.

- (D) If the City Secretary fails to mail the certificate or statement by certified mail, return receipt requested, within one year after the purchaser's written request is received as specified in Subsection (c) of this Section, the purchaser is released from the obligation to withhold the amount of the purchase price specified in this section or pay the amount due.
- (E) The period of limitation during which the City Secretary may assess tax against the purchaser under this Section is four years from the date when the former owner of the hotel sells the hotel or when a determination is made against the former owner, whichever event occurs later. At any time within three years after a deficiency determination against the purchaser has become due and payable the City Secretary may bring an action in a court of competent jurisdiction in the name of the City of Big Spring to collect the delinquent amounts together with penalties and interest.
- (F) The provisions of this Section are similar to the provisions in Section 156.204 of the Tax Code of the State of Texas relating to collection of the state hotel tax from a purchaser of a hotel. (Ord. of 4-8-86)

### **Sec. 7-14. Convention and Visitors Bureau Board.**

#### (A) Composition of the Board

The Convention and Visitors Bureau Board shall be composed of the following:

1. Three City Council members, each of whom shall be appointed by a majority vote of the City Council;
2. The City Manager;
3. The Director of Finance;
4. The President Elect of the Big Spring Chamber of Commerce Board of Directors;
5. An at large member appointed by majority vote of the City Council.

All members shall be entitled to vote on any measure brought before the Board.

#### (B) Terms of Office

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All members with the exception of the at-large member shall serve during their term of office with the City of Big Spring or the Chamber of Commerce. Councilmembers shall be subject to reappointment following their reelection to their respective council seats. The at large member shall serve a term of three years. All members are subject to removal by the City Council at the will of the Council.

(C) Filling of Vacancies

Any vacancies occurring on the Convention and Visitors Bureau Board shall be filled in the same manner as the original appointment. With the exception of the City Manager and Finance Director, the terms of appointed members shall be deemed extended until a successor is appointed. In the event the City Manager or Finance Director is removed from office they shall immediately cease to serve as board members.

(D) Meeting: Quorum

The Convention and Visitors Bureau Board shall fix the time and place for meetings of the Board. Any four (4) members of the Board constitute a quorum necessary to cause official action to be taken on any matter. All meetings shall be open to the public.

(E) Staff Liaison

The Convention and Visitors Coordinator serves as staff liaison to the Convention and Visitors Bureau Board and shall act as Secretary of the Board responsible for keeping the minutes and other official records of the Board.

(F) Powers of the Board

The City Council hereby delegates to the Convention and Visitors Bureau Board the power to manage the Hotel Motel Tax Fund and to make final decisions regarding expenditures and programs to be supported by the fund within the confines of the annual budget adopted by the City Council. The board shall have the authority to execute contracts in its own name and shall have the authority to file suit if necessary to enforce such contracts. The Board shall have primary authority to manage the Dora Roberts Community Center and is authorized to make such regulations as the Board may deem necessary for the management of the Center.

(G) Reporting

The Board shall make a report to the City Council at least annually describing the status of all projects undertaken by the Board and all funds under the control of the Board. The Convention and Visitors Bureau budget shall be prepared as a part of the budget of the City of Big Spring and as such shall be under the control of the City Council. (Ord.

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of 2-24-04)

### **7-15. Reserved.**

## **Article 3. Ad Valorem Tax**

### **Sec. 7-16. Appointment of city tax assessor and collector.**

The city council shall appoint a suitable qualified person as the city tax assessor and collector. Without limiting the generality of the foregoing, the city council shall have the right to appoint the tax assessor and collector of any other taxing unit within Howard County, Texas, to also serve as the city tax assessor and collector, provided that this type of appointment is not prohibited by law. The words "city tax assessor and collector" mean the tax assessor and collector of the City of Big Spring, Texas. (Ord. of 3-22-83, §7-16)

### **Sec. 7-17. Duties of city tax assessor and collector.**

The city tax assessor and collector shall perform all duties required by law relating to assessing and collecting the City of Big Spring ad valorem taxes and any additional duties connected thereto required by the city council. Notwithstanding anything in this Code to the contrary, any duties formerly imposed on the city tax assessor and collector which do not relate to city ad valorem taxation (e.g., duties relating to hotel occupancy tax, alcoholic beverage permits, and public dance hall licenses) shall be performed by the city secretary and not by the city tax assessor and collector. (See §§7-7 et seq, 2-1 et seq, and 5-38 et seq.) (Ord. of 3-22-83, §7-17)

## **Article 4. Exemptions of the City**

### **Sec. 7-18. Exemption of city from garnishment.**

Pursuant to Subdivision 5 of Article 1175 of the Texas Revised Civil Statutes no fund of the city shall be subject to garnishment and neither the city nor any of its officers or agents shall ever be required to answer in any garnishment proceedings. But nothing in this section shall be construed to limit the solemn and imperative duty of the city to discharge as promptly as possible every legal obligation established against it. (Cross reference Article XII, Section 4 of the City Charter for further exceptions regarding garnishment and execution.) (Ord. of 10-8-85)

## **Article 5. Bingo Tax**

### **Sec. 7-19. Levy of Tax Rate.**

There is hereby levied a tax upon the gross receipts on the conduct of bingo games, such tax to be Two Percent (2%) of the gross receipts of all bingo games conducted in the City.

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### Sec. 7-20. Adoption of Bingo Enabling Act.

The definitions; authorization for gross receipts tax; restrictions on bingo games; application and issuance of license; prohibited practices; control and supervision; suspension of licenses; inspection of premises; frequency and time of games; examination of records; disclosure of information; and all other sections of the Bingo Enabling Act of the State of Texas shall be adopted as the regulatory authority for this article. A copy of the referenced Bingo Enabling Act shall be on file in the office of the City Secretary. (Ord. of 9-22-87)

# **EMERGENCY MANAGEMENT OF DISASTERS**

## **Chapter 8**

### **Sec. 8-1. Emergency Management Director.**

There exists the office of Emergency Management Director of the City (hereinafter called "the director") which shall be held by the mayor in accordance with state law.

- (A) An emergency management coordinator may be appointed by and serve at the pleasure of the director.
  
- (B) The director shall be responsible for conducting a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in Section 8-4 of this chapter. He may delegate authority for execution of these duties and responsibilities set forth in Section 8-4 of this chapter. He may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director. (Ord. of 6-28-60, §§1,4; Ord. 17-82, 12-28-82, §8-1)

### **Sec. 8-2. Powers and duties of director.**

The powers and duties of the director shall include an ongoing survey of actual or potential major hazards which threaten life and property within the city; and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur. As part of his responsibility in hazard mitigation, the director shall supervise the development of an emergency plan for the city, and shall recommend that plan for adoption by the city council along with any and all mutual aid plans and agreements which are deemed essential for the implementation of such emergency management plan. The powers of the director shall include the authority to declare a state of disaster, but such action may be subject to confirmation by the city council at its next meeting. The duties of the director shall also include the causing of a survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein, as well as a continuing study of the need for amendments and improvements in the emergency management plan. (Ord. of 6-28-60, §4; Ord.17-82, 12-28-82, §8-2)

### **Sec. 8-3. City County Emergency Management Council.**

The mayor is hereby authorized to join with the county judge of the County of Howard, Texas, and the mayors of the other cities in said county in the formation of an emergency management council for the county; he shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a county-wide program of emergency management insofar as said program may affect the city. (Ord. of 6-28-60, §3; Ord. 17-82, 12-28-82, §8-3)

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### **Sec. 8-4. Duties and responsibilities of Emergency Management Director.**

The duties and responsibilities of the emergency management director shall include the following:

- (A) The direction and control of the actual disaster operations of the emergency management organization as well as the training of emergency management personnel.
- (B) The determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.
- (C) The maintenance of necessary liaison with other municipal, county, district, state, regional, federal, or other emergency management organizations.
- (D) The marshaling, after declaration of a disaster as provided for above, of all necessary personnel, equipment or supplies from any department of the city to aid in carrying out the provisions of the emergency management plan.
- (E) The issuance of all necessary proclamations as to the existence of a disaster and the immediate operational effectiveness of the city emergency management plan.
- (F) The issuance of reasonable rules, regulations or directives which are necessary for the protection of life and property in the city. Such rules and regulations shall be filed in the office of the city secretary and shall receive widespread publicity unless publicity would be of aid and comfort to the enemy.
- (G) The supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county and with other municipalities within the county, for the county-wide coordination of emergency management efforts.
- (H) The supervision of, and final authorization for, the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.
- (I) The authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes. (Ord. of 6-28-60, §4; Ord. 17-82, 12-28-82, §8-4)

## **EMERGENCY MANAGEMENT OF DISASTERS**

### **Sec. 8-5. Organization.**

The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as all organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan. Such plan shall set forth the form of the organization, establish and designate divisions and functions, assign tasks, duties and powers, and designate officers and employees to carry out the provisions of this chapter. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the State Division of Emergency Management of the State of Texas and of the Federal Government. (Ord. of 6-28-60, §5; Ord. 17-82, 12-28-82, §8-5)

### **Sec. 8-6. Violations, sirens or warning device.**

Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this chapter and shall be subject to the penalties imposed by this chapter. (Ord. of 6-28-60, §8; Ord. 17-82, 12-28-82, §8-6)

### **Sec. 8-7. Existing ordinances, etc. superseded.**

At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede and override all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith. (Ord. 17-82, 12-28-82, §8-7)

### **Sec. 8-8. Construction of chapter.**

This chapter shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule or regulation. (Ord. of 6-28-60, §10; Ord. 17-82, 12-28-82, §8-8)

### **Sec. 8-9. Exercise of governmental functions.**

This chapter is an exercise by the city of its governmental functions for the protection of the public peace, health and safety and neither the city, the agents and representatives of said city, nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of this chapter shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license of privilege, or otherwise permits the city to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person. (Ord. of 6-28-60, §11; Ord. 17-82, 12-28-82, §8-9)

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### **Sec. 8-10. No public funds expended without prior city council approval.**

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this chapter without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the city council. (Ord. of 6-28-60, §12; Ord. 17-82, 12-28-82, §8-10)

### **Sec. 8-11. Violations.**

It shall be unlawful for any person willfully to obstruct, hinder or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this chapter, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this chapter. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the emergency management organization of the city, unless authority to do so has been granted to such person by the proper officials. Convictions for violations of the provisions of this chapter shall be punishable by fine not to exceed two hundred dollars (\$200.00). (Ord. 17-82, 12-28-80, §8-11)

### **Sec. 8-12. Oath or affirmation of employee, etc.**

Each employee or any individual that is assigned a function or responsibility shall solemnly swear or affirm to support and defend the Constitution of the United States, laws of the State of Texas and the Ordinances of the City. (Ord. of 6-28-60, §6; Ord. 17-82, 12-28-82, §8-12.)

# **FIRE PREVENTION**

## **Chapter 9**

### **Article 1. General**

#### **Sec.9-1. National Fire Codes Adopted.**

The National Fire Codes, Volumes 1-16, published by the National Fire Protection Association in 1981, are hereby adopted by the city council of the City of Big Spring for the purpose of prescribing regulations governing the conditions hazardous to life and property from fire or explosion. Not less than two copies of said National Fire Codes have been and are now filed in the office of the city secretary of the City of Big Spring and the same are hereby adopted and incorporated as fully as if set out at length herein. (See section 12-5 for penalty).

#### **Sec. 9-2 to 9-11. Reserved.**

### **Article 2. Fire Marshal**

#### **Sec. 9-12. Office created independent of other departments.**

The office of city fire marshal is hereby created, and such office shall be independent of other city departments, the fire marshal reporting directly to the city manager. (Ord. of 4-14-31, §1)

#### **Sec. 9-13. Appointment, qualifications and removal.**

The fire marshal shall be appointed by the city manager, subject to the approval of the city council. The fire marshal shall be properly qualified for the duties of his office and shall be removed only for cause. (Ord. of 4-14-31, §1)

#### **Sec. 9-14. Duty to investigate fires.**

The fire marshal shall investigate the cause, origin and circumstances of every fire occurring within this city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. (Ord. of 4-14-31, §2)

#### **Sec. 9-15. Inspection of Premises, etc.**

The fire marshal, upon complaint of any person having an interest in any building or property adjacent, or without complaint, shall have the right, at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the city, and it shall be his duty, monthly or more often to enter upon and make or cause to be entered upon and made, a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto.

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Whenever he shall find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or system, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible, inflammable and refuse materials, or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to firemen or occupants, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of the building or premises. If the owner or occupant deems himself aggrieved by such order he may, within five (5) days, appeal to the city council, which shall investigate the cause of the complaint and, unless by its authority the order is revoked, such order shall remain in force and be forthwith complied with by the owner or occupant. Any owner or occupant who fails to comply with such order shall be deemed guilty of a misdemeanor. (Ord. of 4-14-31, §8-11)

### **Sec. 9-16. Right of entry.**

The fire marshal shall have the authority, at all times of day or night, when necessary in the performance of the duties imposed upon him by the provisions of this article, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and good discretion. (Ord. of 4-14-31, §7)

### **Sec. 9-17. Record of fires.**

The fire marshal shall keep in his office a record of all fires, together with all facts, statistics and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this article. (Ord. of 4-14-31, §2)

### **Sec. 9-18 to 9-32. Reserved.**

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**Chapter 10**

**Article 1. In General**

**Sec. 10-1. General statement of policy.**

A fair and reasonable opportunity, without discrimination, shall be accorded to all operators to qualify or compete for available airport facilities and the furnishing of selected aeronautical services subject to the minimum standards and requirements established by the city and set forth in Article 2.

Contingent upon qualifications, meeting the established minimum standards, the execution of a written agreement with the city, and the payment of the prescribed rentals, fees and charges, the operator shall have the right and privilege of engaging in and conducting the authorized activities on the city's airport as specified by the written contract. The granting of such right and privilege, however, shall not be construed in any manner as affording the operator any exclusive right of use of the premises and facilities of the airport, other than those premises which may be leased exclusively to him, and then only to the extent provided in a written agreement. The city reserves and retains the right for the use of the airport by others who may desire to use the same, pursuant to applicable federal, state and local laws, ordinances, codes, minimum standards, and other regulatory measures pertaining to such use. The city reserves the further right to designate the specific airport areas in which aeronautical services may be conducted. Such designation shall give consideration to the nature and extent of the operation and the lands available for such purpose, consistent with the orderly and safe operation of the airport. (Ord. of 6-22-82, §10-1)

**Sec. 10-2. Definitions of a commercial aviation operator- activities.**

A commercial aviation operator is defined as a person, firm or corporation engaging in any activity which involves or makes possible the operation of aircraft, or which contributes to, or is required for the safety of aircraft operations for profit. Authorized activities shall be strictly limited to any one, or a combination, of the following aeronautical services performed in full compliance with the specific activity standards hereinafter set forth.

- (A) Aircraft sales (new and/or used)
- (B) Airframe and power plant repair facilities
- (C) Aircraft rental
- (D) Flight training
- (E) Line services (aircraft fuels and oil dispensing)
- (F) Specialized aircraft repair services (radios, propellers, instruments and accessories)
- (G) Aircraft charter and air taxi
- (H) Specialized commercial flying services
- (I) Multiple services
- (J) Commercial aviation operators subleasing from another commercial operator on the airport

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(K) Non-profit flying clubs and similar non-profit corporations even though they may provide flight instruction, rental aircraft, and other services for their members only, are not considered commercial aviation operators for purpose of these standards. Any other activities not specifically provided for in the minimum standards, will normally be subject to negotiation. (Ord. of 6-22-82, §10-2)

**Sec 10-3. Pre-qualifications requirements.**

The prospective operator shall submit in written form to the city manager or his designated representative at the time of his application the following information and, thereafter, such additional information as may be requested by the city:

(A) Intended scope of activities.

As a condition precedent to the granting of an operating privilege on the airport, the prospective operator must submit a detailed description of the scope of the intended operation and location, and the means and methods to be employed to accomplish the contemplated operating standards and requirements, in order to provide high-quality service to the aviation and general public in the Big Spring air service area, including the following:

- (1) The services to be offered
- (2) The amount of land to be leased
- (3) The building space to be constructed or leased
- (4) The number and type of aircraft to be provided
- (5) The number of persons to be employed
- (6) The number and types of insurance coverage to be maintained
- (7) Evidence of financial capability to perform and provide the proposed services and facilities
- (8) The intended location and layout plan of any proposed or future development.

(B) Financial responsibility.

The prospective operator must provide a statement, satisfactory to the city, in evidence of his financial responsibility, from a bank or trust company doing business in the area or from such other source that may be acceptable to the city and readily verified through normal banking channels. The prospective operator must also demonstrate financial capability to initiate operations and for the construction of improvements and appurtenances that may be required commensurate with the concept of the proposed operation, or operations, and shall also indicate his ability to provide working capital to carry on the contemplated operations, once initiated.

(C) Experience.

The prospective operator shall furnish the city with a statement of his past experience in the specified aviation services selected by him and to be supplied by him on the city's airport. (Ord. of 6-22-82, §10-3)

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**Sec. 10-4. General requirements.**

(A) Requirement of a written agreement.

Prior to the commencement of operations, the prospective operator will be required to enter into a written agreement with the city, which agreement will recite the terms and conditions under which he will operate his business on the airport, including but not limited to the term of agreement; the rentals, fees and charges; the rights, privileges and obligations of the respective parties and other relevant covenants. Neither the conditions herein contained nor those set forth in the schedule of minimum standards and requirements represent a complete recitation of the provisions to be included in the written agreement. Such contract provisions, however, will not change or modify the minimum standards requirements, or be inconsistent therewith.

(B) Site development standards.

(1) Physical facilities.

- (a) The minimum space requirements as hereinafter provided shall be satisfied with one (1) building, attached buildings, or separate buildings. A hangar building shall have at least one (1) door that will accommodate aircraft for that particular operation.
- (b) The operator shall provide a paved walkway within the leased area to accommodate pedestrian access to the operator's office from the parking lot, and telephone facilities for customer use. Floor space allotments shall include office, customer lounge, and restroom facilities, all properly heated and lighted.

(2) Personnel.

The operator shall have in his employ, and on duty during operating hours, trained personnel in such numbers as are required to meet the minimum standards and requirements set forth in an efficient manner for each aeronautical service being performed. The operator shall also provide a responsible person in the office to supervise the operations in the leased area on the airport and with authorization to represent and act for, and on behalf of, the operator during all business hours.

All personnel hereinafter required to hold Federal Aviation Administration certificates and ratings shall maintain such certificates and ratings.

(C) Insurance.

The operator shall procure and maintain insurance of the types and in the minimum limits set forth in the schedule of minimum standards for the respective categories of aeronautical services. The insurance company, or companies, writing the required policy or policies shall be licensed to do business in the State of Texas.

Where more than one aeronautical service is proposed, the minimum limits will vary dependent upon the nature of individual services in such combination. All insurance, which the operator is required by the city to carry and keep in force shall include the City of Big Spring, the city council, the airport and industrial park steering committee and aviation committees, the airport

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board, the city manager of the City of Big Spring, and the officers, agents and employees of the City of Big Spring as additional named insured. The operator shall furnish evidence of his compliance with this requirement to the city manager or his designated representative and will furnish additional certification as evidence of changes in insurance not less than ten (10) days prior to any such change, if the change results in a reduction in overages, and not more than five (5) days after such change if the change results in an increase in overages. The applicable insurance coverage shall be in force during the period of construction of the operator's facilities and/or prior to his entry upon the airport for the conduct of his business.

(D) General lease clauses.

These lease clauses shall be contained as a minimum in all leases between the city and operator engaged in any aeronautical service on the airport.

- (1) Notwithstanding any other or inconsistent provision of this agreement, during the performance of this agreement, lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration for this agreement, does hereby covenant and agree, as a covenant running with the land, that:
  - (a) No person on the grounds of race, color, religion, sex, or national origin shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination in the use of the premises.
  - (b) In the construction of any improvements on, over or under the premises, and the furnishing of services therein or thereon, no person on the grounds of race, color, religion, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
  - (c) Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub-title A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1954, and as said regulations may be amended.
  - (d) In the event of breach of any of the above nondiscrimination covenants, lessor shall have the right to terminate this agreement and to reenter and repossess the premises and hold the same as if said agreement had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 have been followed and completed, including expiration of appeal rights.
- (2) Aircraft service by owner or operator of aircraft. No right granted herein shall operate to prevent any person or persons, firm or corporation operating aircraft on the airport from performing any services on its own aircraft with its own regular employees (including, but not limited to, maintenance and repair) that it may choose to perform.
- (3) Non-exclusive rights. It is not the intent of this agreement to grant to lessee the exclusive right to provide any or all of the services described in this article at any time during the term of this agreement. Lessor reserves the right, at its sole discretion, to

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grant others certain rights and privileges upon the airport which are identical in part or in whole to those granted to lessee. However, lessor does covenant and agree that:

- (a) It shall enforce all minimum operating standards or requirements for all aeronautical endeavors and activities conducted at the airport;
  - (b) Any other operator of aeronautical endeavors or activities will not be permitted to operate on the airport under rates, terms or conditions which are more favorable than those set forth in this agreement; and,
  - (c) It will not permit the conduct of any aeronautical endeavor or activity at the airport except under an approved lease and operating agreement.
- (4) Airport development. The city reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the views of the operator, and without interference or hindrance. If the physical development of the airport requires the relocation of the operator, the city agrees to provide a comparable location with similar facilities, and agrees to relocate all operator-owned buildings or provide similar facilities for the operator at no cost.
- (5) City's rights. The city reserves the right (but shall not be obligated to the operator) to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the same together with the right to direct and control all activities of the operator in this regard.
- (6) War or national emergency. During any time of war or national emergency, the city shall have the right to lease the landing area or any part thereof to the United States Government for military use and, if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended or modified in whatever manner is appropriate to the situation.
- (7) Airport obstructions. The city reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent the operator from erecting, or permitting to be erected, any building or other structure on the airport which, in the opinion of the city, would limit the usefulness of the airport or constitute a hazard to aircraft.
- (8) Subordination. This agreement shall be subject and subordinate to the provisions of the Indenture and the Amendment to Indenture whereby the lessor derived title to the premises from the United States and to any existing or future agreement between lessor and the United States, or any agency thereof, relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or operation of the airport; provided, however, that lessor shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of lessee in and to the premises, and to

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compensation for the taking thereof, interference therewith and damage thereto, caused by such agreement or by actions of lessors of the United States pursuant thereto.

- (9) Compliance with laws, etc. Lessee shall comply with all federal, state and local laws, rules and regulations which may apply to the conduct of the business contemplated, including rules and regulations promulgated by lessor, and lessee shall keep in effect and post in a prominent place all necessary and/or required licenses or permits.
- (10) Indemnity. To the extent not covered by insurance carried in favor of lessor, lessee shall keep and hold harmless lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of lessor or lessee, by reason of death or injury to persons or loss or damage to property, resulting from lessee's operations, or anything done or omitted by lessee, under this agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of lessor or its agent or employees.
- (11) Misrepresentation. This agreement constitutes the entire understanding between the parties, and as of its effective date supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing signed by both parties.

(E) Miscellaneous.

The prospective operator may select one, or a combination of the aeronautical services covered by the city's minimum standards and requirements. Where more than one activity is proposed, the minimum requirements will vary (dependent upon the nature of individual services in such combination) but will not necessarily be cumulative in all instances. Because of these variables, the applicable minimum standards on combinations of services will be discussed with the prospective operator at the time of his application or, otherwise, during lease negotiations.

The pertinent minimum standards and requirements for any commercial aviation operator will be predicated upon the nature of his initial business venture. If at a later date the business is expanded to encompass new and additional types of services, the negotiated minimum standards established for these additional services shall immediately apply. (Ord. of 6-22-82, §10-4)

**Secs. 10-5 to 10-10. Reserved.**

**Article 2. Minimum Standards for Commercial Aeronautical Activities and Services**

**Sec. 10-11. Aircraft sales (new and/or used).**

(A) Statement of concept.

An aircraft sales operator is a person or persons, firm, or corporation engaged in the sale of new and/or used aircraft through franchises, or licensed dealership or distributorship (either on a retail or wholesale basis) of an aircraft manufacturer or otherwise; and provides

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such repair, services and parts as necessary to meet any guarantee or warranty on new and/or used aircraft sold by him.

(B) Minimum standards.

- (1) The operator shall lease from the city an area not less than eighteen thousand (18,000) square feet of ground space to provide for outside display and storage of aircraft on which shall be erected a building providing at least three thousand (3,000) square feet of floor space for aircraft storage, and at least eight hundred (800) square feet of floor space for office, restrooms, customer lounge and telephone facilities for customer use; auto parking space with minimum accommodations for ten (10) automobiles (no on-street parking), a paved walkway, all within the leased area and sufficient to accommodate the operator's activities.
- (2) The operator shall provide necessary and satisfactory arrangements for the repair and servicing of aircraft, but only for the duration of any sales guarantee or warranty period. Servicing facilities may be provided through written agreement with a repair shop operator at the Big Spring Airport. The operator shall meet the requirements set forth by the franchisor for parts inventory and shall have the minimum number of aircraft as set forth by the franchisor.
- (3) The operator performing the services under this category will be required to carry the following types of insurance in the limits specified:
  - (A) Aircraft Liability:
    - Bodily Injury (Each Accident)
    - Each person ..... \$100,000
    - For more than one person ..... \$300,000
    - Passenger Liability
    - Each passenger, each accident..... \$75,000
    - Property Damage
    - Each accident ..... \$50,000
  - (B) Comprehensive Public Liability and Comprehensive Property Damage:
    - Bodily Injury (Each Accident)
    - Each person ..... \$100,000
    - Property Damage
    - Each accident ..... \$50,000
  - (C) Hangar Keepers Liability (If applicable)
  - Each accident ..... \$300,000
- (4) The operator shall have his premises open and services available five (5) days a week.
- (5) The operator shall have in his employ (and on duty during operating hours) trained personnel in such numbers as are required to meet the minimum

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standards and requirements set forth in an efficient manner, but never less than one (1) person possessing the minimum requirements of the FAA to perform the duties required in this activity.

**Sec. 10-12. Repair station facilities (airframe, power plant).**

(A) Statement of Concept.

An aircraft engine and airframe maintenance and repair operator is a person, firm or corporation (or a combination of) providing airframe and power plant overhaul and repair services, with at least one (1) person currently certified by the Federal Aviation Administration with ratings appropriate to the work being performed. This category of aeronautical services shall also include the sale of aircraft parts and accessories, but such is not an exclusive right.

(B) Minimum standards.

(1) The operator shall lease from the city an area of not less than eighteen thousand (18,000) square feet of ground space on which shall be erected a building providing at least three thousand (3,000) square feet of floor space for airframe and power plant overhaul and repair services and at least eight hundred (800) square feet of floor space for office, restrooms, customer lounge and telephone facilities for customer use; auto parking with minimum accommodations for ten (10) automobiles (no on-street parking), a paved walkway, all within the leased area and sufficient to accommodate the operator's activities.

(2) The operator shall provide sufficient equipment, supplies and availability of parts to perform maintenance in accordance with manufacturers' recommendations or equivalent for the types of aircraft upon which he performs maintenance.

(3) The operator performing the services under this category will be required to carry the following types of insurance in the limits specified:

(A) Aircraft Liability:

Bodily Injury (Each Accident)

Each person ..... \$100,000

For more than one person ..... \$300,000

Property Damage

Each accident ..... \$ 50,000

(B) Comprehensive Public Liability and Comprehensive Property Damage:

Bodily Injury (Each Accident)

Each person ..... \$100,000

For more than one person ..... \$300,000

Property Damage

Each accident ..... \$ 50,000

(C) Hangar Keepers Liability:

Each accident ..... \$300,000

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- (4) The operator shall have his premises open and services available five (5) days a week.
- (5) The operator shall have in his employ (and on duty during operating hours) trained personnel in such numbers as are required to meet the minimum standards and requirements set forth in an efficient manner, but never less than one (1) person currently certified by the Federal Aviation Administration with rating appropriate to the work being performed and with access to an AI. (Ord. of 6-22-82, §10-12)

**Sec. 10-13. Aircraft rental.**

(A) Statement of concept. An aircraft rental operator is a person, firm or corporation engaged in the rental of aircraft to the public.

(B) Minimum standards.

- (1) The operator shall lease from the city an area of not less than eighteen thousand (18,000) square feet of ground space on which shall be erected a building providing at least three thousand (3,000) square feet of floor space for aircraft storage, and at least eight hundred (800) square feet of floor space for office, restrooms, customer lounge and telephone facilities for customer use; auto parking space with minimum accommodations for ten (10) automobiles (no on-street parking), a paved walkway, all within the leased area and sufficient to accommodate the operator's activities.
- (2) The operator shall have available for rental, either owned or under written lease to operator, a sufficient number of aircraft properly certified to handle the proposed scope of his operation, but not less than four (4) certified and currently air-worthy aircraft, at least two (2) of which must be four-place aircraft.
- (3) The operator performing the services under this category will be required to carry the following types of insurance in the limits specified:

(A) Aircraft Liability:

Bodily Injury (Each Accident)

Each person..... \$100,000

For more than one person ..... \$300,000

Passenger Liability

Each passenger, each accident ..... \$ 75,000

Property Damage

Each accident..... \$ 50,000

(B) Comprehensive Public Liability and Comprehensive Property Damage:

Bodily Injury (Each accident)

Each person ..... \$100,000

For more than one person ..... \$300,000

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<u>Property Damage</u>	
Each accident.....	\$ 50,000
(C)Hangar Keepers Liability (If applicable)	
Each accident.....	\$300,000

(4) The operator shall have his premises open and services available seven (7) days a week.

(5) The operator shall have in his employ (and on duty during operating hours) trained personnel in such numbers as are required to meet the minimum standards set forth in an efficient manner. (Ord. of 6-22-82, §10-13)

**Sec. 10-14. Flight training.**

(A) Statement of concept. A flight training operator is a person, firm or corporation engaged in instructing pilots in dual and solo flight training, in fixed and/or rotary wing aircraft, and provides such related ground school instruction as is necessary preparatory to taking a written examination and flight check ride for the category or categories of pilots' licenses and ratings involved.

(B) Minimum standards:

(1) The operator shall lease from the city an area of not less than eighteen thousand (18,000) square feet of ground space on which shall be erected a building providing at least three thousand (3,000) square feet of floor space for aircraft storage, and at least twelve hundred (1,200) square feet of floor space for office, restrooms, customer lounge and telephone facilities for customer use; auto parking space with minimum accommodations for ten (10) automobiles (no on-street parking), a paved walkway, all within the leased area and sufficient to accommodate the operator's activities.

(2) The operator shall have available for use in flight training, either owned or under written lease to operator, a sufficient number of aircraft properly certificated to handle the proposed scope of his student operation, but not less than three (3) properly certificated aircraft, at least one (1) of which must be a four-place aircraft, and at least one (1) of which must be equipped for and capable of use in instrument flight instruction.

(3) The operator performing the services under this category will be required to carry the following types of insurance in the limits specified:

(A)Aircraft Liability:	
<u>Bodily Injury (Each Accident)</u>	
Each person .....	\$100,000
For more than one person .....	\$300,000
<u>Property Damage</u>	
Each accident .....	\$100,000

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(B)Comprehensive Public Liability and Comprehensive Property Damage:	
<u>Bodily Injury (Each Accident)</u>	
Each person .....	\$100,000
For more than one person .....	\$300,000
<u>Property Damage</u>	
Each accident.....	\$100,000
(C) Hangar Keepers Liability:	
Each accident .....	\$300,000

(4) The operator shall have his premises open and services available five (5) days a week.

(5) The operator shall have on duty, on a full-time basis, at least one (1) flight instructor who has been currently certificated by the Federal Aviation Administration to provide the type of flight training offered; and shall have available on call, on a part-time basis, at least one (1) flight instructor who has been currently certificated by the Federal Aviation Administration to provide the type of flight training offered which shall include at least private, commercial and instrument ratings. (Ord. of 6-22-82, §10-14)

**Sec. 10-15. Line services (aircraft fuels and oil dispensing).**

(A) Statement of concept. Line services shall include the sale and into-plane delivery of recognized brands of aviation fuels, lubricants and other related petroleum products. The operator shall provide servicing of aircraft, including ramp assistance and the parking, storage and tiedown of aircraft.

(B) Minimum standards. The operator shall lease from the city an area not less than eighteen thousand (18,000) square feet of ground space on which shall be erected a building providing at least eight hundred (800) square feet of floor space for office, restrooms, customer lounge and telephone facilities for customer use; auto parking space with a minimum accommodations for ten (10) automobiles (no on-street parking), a paved walkway, all within the leased area and sufficient to accommodate the operator's activities.

(C) Fuel storage. Facilities for two (2) twelve hundred (1,200) gallon trucks of aircraft fuels if two popular grades of fuel are available, must be provided by the operator in a fuel storage area to be designated by the city manager, or his authorized representative. The charges for the use of airport property for storage facilities will be negotiated prior to contract establishment. Above-ground storage will be permitted in a city designated fuel farm.

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(D) Refueling. The operator will provide pumps for dispensing the aviation fuel at a central location. If a mobile dispenser is provided, it shall have metered fuel dispensers for the number of grades of fuel sold by the operator, separate dispensing pumps and meters for each grade of fuel. The mobile dispenser shall meet all applicable safety requirements and shall have a reliable metering device subject to independent inspection.

(E) Product quality control and safety.

- (1) Must identify delivery of fuel as to proper grade.
  - (a) Be sure all compartments and valves are sealed. Record seal numbers.
  - (b) Color and military specifications.
  - (c) Check truck tank sump for contamination, by use of industry accepted methods.
- (2) Check storage tanks for water and contamination. Neither will exceed industry accepted standards.
- (3) All turbine fuels must be filtered before entering storage tanks.
- (4) Daily checks for water and contamination must be made, by use of industry accepted methods.
- (5) Fuel may be removed only through an industry approved filtration system.
- (6) Filters must be of multiple cartridge type provided with visual filter container contamination equipment. The filters must also be equipped with differential pressure measuring equipment.
- (7) All equipment, mobile and otherwise, must be color coded, placarded and identifiable in accordance with industry accepted standards.
- (8) For turbine fuels, under-tank loading will be required.
- (9) At the beginning of each day, unless the trucks are refilled during the working day from underground storage, a visual sump check of both the tank and filter will be made to determine contamination.
- (10) For turbine fuel, in addition, a mechanical or chemical check will also be made.
- (11) In addition to the above preventative measures, the vendor will also be required to make weekly, monthly, semi-annual and annual filtration equipment inspections to determine that they meet industry accepted standards, and the vendor will replace same as required.

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- (12) At all places in the foregoing where inspections are required, the vendor will be responsible for keeping duplicate written records in an acceptable form, and at the end of each month will, upon request, provide the city manager or his designated representative with the duplicate copy.
  
- (13) The vendor will be required to provide safety facilities to meet the requirements established by the owner.
  
- (F) Minor repair service. The operator shall provide such minor repair service not requiring a certificated mechanical rating, and cabin services, to general aviation aircraft as can be performed efficiently on the ramp or other apron parking area, but only within the premises leased to the operator or upon such other areas as the city manager or his designated representative may authorize.
  
- (G) Equipment needed. The operator shall procure and maintain tools, jacks, towing equipment, tire repairing equipment, energizers and starters, air compressor, and fire extinguishes, as appropriate and necessary for the servicing of general aviation aircraft using the airport. All equipment shall be maintained and operated in accordance with local, state and federal industrial codes.
  
- (H) Insurance requirements
  - (1) Comprehensive Public Liability and Comprehensive Property Damage:  
Bodily Injury (Each Accident)  
Each person ..... \$100,000  
For more than one person ..... \$300,000  
Property Damage  
Each accident ..... \$ 50,000
  - (2) Hangar Keepers Liability (If applicable):  
Each accident ..... \$300,000
  - (3) Motor Vehicle Liability:  
Bodily Injury (Each Accident)  
Each person ..... \$100,000  
For more than one person ..... \$300,000  
Property Damage  
Each accident ..... \$ 50,000
  
- (I) The operator shall have his premises open and available five and one-half (5-1/2) days per week, but be subject to call twenty-four (24) hours per day seven (7) days a week.
  
- (J) Employee requirements. The operator shall have in his employ, and on duty during operating hours, trained personnel in such numbers as are required to meet the minimum standards and requirements set forth in an efficient manner. (Ord. of 6-22-82, §10-15)

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**Sec. 10-16. Specialized aircraft repair services radios, propellers, Instruments and accessories.**

(A) Statement of concept. A specialized aircraft repair service operator is a person or persons, firm or corporation engaged in a business capable of providing a shop or a combination of Federal Aviation Administration certified shops for the repair of aircraft radios, propellers, instruments and accessories, but such is not an exclusive right.

(B) Minimum standards:

(1) The operator shall lease from the city an area of not less than eighteen thousand (18,000) square feet of ground space on which shall be erected a building providing at least eight hundred (800) square feet of floor space to house all equipment, and to provide an office, shop, restrooms, customer lounge and telephone facilities for customer use; auto parking accommodations for five (5) automobiles (no on-street parking), a paved walkway, all within the leased area and sufficient to accommodate the operator's activities and operations. The avionics portion of the services offered must maintain current the qualifications of Class I and Class II FAA designated repair station.

(2) The operator shall obtain and maintain, as a minimum, the repair station certificates as required by the Federal Aviation Administration, which are applicable to the operation or operations contemplated. The operator may furnish one, or if desired, any combination of the services mentioned above.

(3) The operator performing the services under this category will be required to carry the following types of insurance in the limits specified:

(A) Comprehensive Public Liability and Comprehensive Property Damage:

Bodily Injury (Each Accident)

Each person ..... \$100,000  
For more than one person ..... \$300,000

Property Damage

Each accident ..... \$ 50,000

(B) Hangar Keepers Liability

Each accident ..... \$300,000

(4) The operator shall have his premises open and services available five (5) days a week.

(5) The operator shall have in his employ and on duty during operating hours trained personnel in such numbers as are required to meet the minimum standards set forth in this category in an efficient manner, at least one of who is currently certificated as Federal Aviation Administration-rated radio, instrument or propeller repairman.

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**Sec. 10-17. Aircraft charter and air taxi.**

(A) Statement of concept. An aircraft charter (commercial operator) and an air taxi operator is a person or persons, firm or corporation engaged in the business of providing air transportation (persons or property) to the general public for hire, either on a charter basis (commercial operations) or as an air taxi operator, as defined in the Federal Aviation Act of 1958, or as said Act may be supplemented or amended from time to time.

(B) Minimum standards

(1) The operator shall lease from the city an area of not less than eighteen thousand (18,000) square feet of ground space on which shall be erected a building providing for at least three thousand (3,000) square feet of floor space for aircraft storage, and at least twelve hundred (1,200) square feet of floor space for office, restroom, customer lounge and telephone facilities for customer use; auto parking space with minimum accommodations for ten (10) automobiles (no on-street parking), a paved walkway, all within the leased area and sufficient to accommodate the operator's activities.

(2) The operator shall provide aircraft necessary to meet FAR Part 135, Section 135.31, which is quoted below:

(A) Each certificate holder must have the exclusive use of at least one aircraft that meets the requirements for at least one kind of operation authorized in his operations specifications. In addition, for each kind of operation for which he does not have the exclusive use of an aircraft, he must have available for use under a written agreement (including arrangements for performing required maintenance) at least one aircraft that meets the requirements for that kind of operation. However, this paragraph does not prohibit the operator from using the aircraft for other than air taxi or commercial operations, or require him to have exclusive use of each aircraft that he uses.

(B) For the purposes of paragraph (A) of this section, a person has exclusive use of an aircraft if he has the sole possession, control, and use of it for flight, as owner, or has a written agreement (including arrangements for the performance of required maintenance) giving him that possession, control and use for at least six (6) consecutive months.

(3) The operator performing the services under this category will be required to carry the following types of insurance in the limits specified:

(A) Aircraft Liability:

Bodily Injury (Each Accident)

Each person ..... \$100,000  
For more than one person ..... \$300,000

Passenger Liability

Each passenger, each accident..... \$ 75,000

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Property Damage

Each accident..... \$100,000

(B)Comprehensive Public Liability and Comprehensive Property Damage:

Bodily Injury (Each Accident)

Each person..... \$100,000

For more than one person ..... \$300,000

Property Damage

Each accident..... \$100,000

(C)Hangar Keepers Liability

Each accident..... \$300,000

(4) The operator shall have his premises open and services available seven (7) days a week.

(5) The operator shall have in his employ and on duty during operating hours, trained personnel in such numbers as are required to meet the minimum standards set forth in this category in an efficient manner, but never less than one (1) Federal Aviation Administration currently certificated commercial pilot and otherwise appropriately rated to permit the flight activity offered by operator. The operator shall have available sufficient qualified operating crews and satisfactory number of personnel for checking in passengers, handling of luggage and ticketing. The prospective operator shall provide reasonable assurance of a continued availability of qualified operating crews and approved aircraft within a reasonable or specified maximum notice period.

(C) Air taxi companies not based on Big Spring Airport and Industrial Park

Air taxi companies, not based on Big Spring Airport and Industrial Park, but who are providing scheduled service to and from the airport, are exempted from these minimum standards and requirements. (Ord. of 6-22-82, §10-17)

**Sec. 10-18. Specialized commercial flying service.**

(A) Statement of concept. A specialized commercial flying services operator is a person, firm or corporation engaged in air transportation for hire for the purpose of providing the use of aircraft for the activities listed below:

- (1) Nonstop sightseeing flights that begin and end at the same airport within a 25-mile radius of the airport
- (2) Crop-dusting, seeding, spraying and bird chasing
- (3) Banner towing and aerial advertising
- (4) Fire fighting
- (5) Power line or pipeline patrol
- (6) Any other operations specifically excluded from Part 135 of the Federal Aviation Regulations

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(B) Minimum standards

(1) The operator shall lease from the city an area of not less than eighteen thousand (18,000) square feet of ground space, on which shall be constructed auto parking space with minimum accommodations for five (5) automobiles (no on-street parking), a paved walkway, all within the leased area and sufficient to accommodate the operator's activities. Section 10.18 (a) 1. above will require a building with a minimum of eight hundred (800) square feet.

In case of crop-dusting, aerial application, or other commercial use of chemicals, operator shall provide a centrally drained, paved area of not less than three thousand (3,000) square feet for aircraft loading, washing and servicing. Operator shall also provide for the safe storage and containment of noxious chemical materials. Such facilities will be a location on the Big Spring Airport and Industrial Park which will provide the greatest safeguard to the public.

(2) The operator shall provide and have based on his leasehold, either owned or under written lease to operator, not less than one (1) airworthy aircraft, suitably equipped for, and meeting all the requirements of the Federal Aviation administration and applicable regulations of the State of Texas with respect to the type of operations to be performed.

In the case of crop dusting or aerial application, the operator shall provide tank trucks for the handling of liquid spray and mixing liquids. The operator shall also provide adequate ground equipment for the safe handling and safe loading of dusting materials.

(3) The operator performing the services under this category will be required to carry the following types of insurance in the limits specified:

(A) Aircraft Liability:

Bodily Injury (Each Accident)

Each person..... \$100,000

For more than one person ..... \$300,000

Passenger Liability (Where applicable)

Each passenger, each accident..... \$100,000

Property Damage

Each accident..... \$ 50,000

(B) Comprehensive Public Liability and Comprehensive Property Damage:

Bodily Injury (Each accident)

Each person..... \$100,000

For more than one person ..... \$300,000

Property Damage

Each accident..... \$ 50,000

(C) Hanger Keepers Liability (Where applicable)

Each accident..... \$300,000

(4) The operator shall have in his employ, and on duty during operating hours, trained personnel in such numbers as may be required to meet the minimum standards herein set forth in an efficient manner, but never less than one (1) person holding a current Federal Aviation Administration

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commercial certificate, properly rated for the aircraft to be used and the type of operation to be performed. (Ord. of 6-22-82, §10-18)

**Sec. 10-19. Multiple services.**

(A) Statement of Concept. A multiple services operator is a person or persons, firm or corporation engaged in any two (2) or more of the aeronautical services for which minimum standards have been hereinbefore provided.

(B) Minimum standards:

(1) The operator shall lease from the city an area of not less than thirty-six thousand (36,000) square feet of ground space for aircraft storage, parking and other use in accordance with the services to be offered, on which shall be erected a building providing at least four thousand (4,000) square feet for aircraft storage, and at least twelve hundred (1,200) square feet for office, restrooms, customer lounge and telephone facilities for customer use; auto parking space with minimum accommodations for fifteen (15) automobiles (no on-street parking), a paved walkway, and a paved aircraft apron, all within the leased area and sufficient to accommodate the operator's activities and operations to be provided.

If flight training is one of the multiple services offered, the operator shall provide classroom and briefing room facilities in the aforementioned building.

If crop-dusting, serial application, or other commercial use of chemicals are part of the multiple services offered, the operator shall provide a centrally-drained, paved area of not less than three thousand (3,000) square feet for aircraft loading, washing, and servicing. Operator shall also provide for the safe loading and unloading, storage, and containment of noxious chemical materials. Such facilities will be in a location on the Big Spring Airport and Industrial Park.

The building for aircraft storage will not be required if none of the individual services provided requires such a building under these standards. The standards for multiple services involving only line services, specialized repair services, and specialized commercial flying services will require only eighteen thousand (18,000) square feet of ground space, eight hundred (800) square feet of office space, and parking for five (5) automobiles.

(2) The operator shall comply with the aircraft requirements, including the equipment thereon, for each aeronautical service to be performed except as hereinafter provided.

Multiple uses can be made of all aircraft except aircraft used for crop-dusting, aerial application, or other commercial use of chemicals.

The operator, except if he is performing combinations of multiple services for which aircraft are not required, shall have available and based at the airport, either owned by the operator or under written lease to the operator, not less than two (2) certified and currently airworthy aircraft, suitably equipped and capable of flight, to meet the minimum standards and requirements as hereinbefore provided for each aeronautical service to be performed. The operator shall provide the equipment and services required to meet the minimum standards as hereinbefore provided for each aeronautical service the operator is performing.

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(3) The operator shall procure and maintain, during the term of his agreement, as a minimum, insurance coverage which is equal to the highest of the minimum limits set for the respective categories of aeronautical services being performed by the operator.

(4) The operator shall have in his employ, and on duty during operating hours, trained personnel in such numbers as are required to meet the minimum standards and requirements set forth, in an efficient manner, for each aeronautical service being performed by the operator. Multiple responsibilities may be assigned to meet the personnel requirements for each aeronautical service being performed by the operator. (Ord. of 6-22-82, §10-19)

**Sec 10-20. Commercial aviation of operator's subleasing from another commercial operator on the airport.**

(A) Standards for sublease operations. Such operators shall meet all of the minimum standards established by the city for the category, or categories of services, to be furnished by the operator, except for the lease of land and construction of facilities. (Ord. of 6-22-82, §10-20)

# GARBAGE AND OTHER REFUSE

## Chapter 11

### Article 1. In General

#### Sec. 11-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning herein ascribed to them:

- (A) Wet garbage.  
Animal or vegetable matter, such as waste material from kitchens, grocery stores, butcher shops, restaurants, cafes, hotels, rooming and boarding houses, such as scraps of meat, bread, bones, peelings of fruit and vegetables.
- (B) Dry garbage.  
Refuse, trash and rubbish, such as feathers, paper boxes, glass, ashes, cinders, old clothes and shoes, broken dishes and utensils, oil, iron, tin, zinc and all kinds of junk and useless material and waste of every description, including grass, shrubs, and tree trimmings and cuttings.
- (C) Garbage.  
Wet and/or dry garbage.
- (D) Business.  
As used herein, shall mean any commercial operation or any usage of property for other than residential purposes, involving the employment of any individual, or the sale or manufacture of any product. (Ord. of 4-24-84, §11-1)
- (E) Municipal Solid Waste: (M.S.W.).  
Solid Waste resulting from or incidental to municipal, community, commercial, institutional and recreation activities, including wet and dry garbage, rubbish, street cleanings, dead animals and all other solid waste other than industrial solid waste.
- (F) Hazardous Waste.  
Any solid waste identified or listed as hazardous waste by the USEPA.
- (G) Industrial Solid Waste.  
Solid Waste resulting from and incidental to any process of industry or manufacturing or mining or agricultural operations:
  - CLASS I Toxic, corrosive, flammable, strong sanitized or irritant that presents a danger to human life.
  - CLASS II That waste that is not Class I or III (G)
  - CLASS III Inert, insoluble materials. Rock, brick, glass, dirt, plastics.

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(H) Special Waste:

- (1) Small quantities of Hazardous Waste
- (2) Health Care Facility Waste i.e. Medical
- (3) Municipal Water and waste water sludge
- (4) Septic tank waste
- (5) Grease and grit traps waste
- (6) Slaughter house waste
- (7) Dead animals
- (8) Used acid batteries
- (9) Oil filters
- (10) ACM or PCB materials
- (11) White goods which contained Freon, unless certified free by licensed service person. (Ord. 9-14-93)

**Sec. 11-2. Containers Required for Wet Garbage.**

Each owner, occupant, tenant or lessee using and occupying any residence, building, house or structure within the corporate limits of the city as a place of abode or as a place of business is hereby required to keep and maintain, at all times and at a convenient place at his house, dwelling or place of business, disposable garbage containers in sufficient numbers to properly receive and hold all wet garbage being disposed of from his premises. Each such garbage container shall be made of plastic or other disposable material and of good sound construction and shall be capable of being secured from leaking and be fly-tight. The capacity of such containers shall be not less than ten (10) gallons and not more than thirty (30) gallons. The disposable containers shall be placed unbroken in the city furnished containers. (Ord. of 4-24-84, §11-2)

**Sec. 11-3. Garbage to Be Placed in Proper Container.**

Each person in the city having garbage to be disposed of is hereby required to place the same in the garbage containers provided by the city. It is hereby declared to be unlawful for any person to place any garbage on the ground or in an open box or container or to store same in any receptacle other than containers meeting the requirements of this chapter. (Ord. of 4-24-84, §11-3)

**Sec. 11-4. Rock and Dirt Not to Be Placed in Containers.**

No rocks or dirt shall be placed in any containers maintained in accord with this chapter. (Ord. of 4-24-84, §11-4)

**Sec. 11-5. Disposal of Manure, Offal, Remodeling Material and Other Waste Not Collected by City.**

Manure from private stables, offal and refuse from animals and fowl, night soil, dead animals and fowl, refuse from the remodeling of buildings, and all other waste not mentioned in Section 11-1, hereinafter called "refuse", shall be kept in a suitable receptacle separate from the containers required by this chapter for garbage and shall not be dumped in the alleys or retained on the premises so as to become a nuisance, and the same shall be disposed of by the owner thereof. It shall be the duty of the supervisor of the sanitation department to see that such refuse is properly disposed of by the owner when so ordered. Said refuse shall be hauled away from the premises of

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the owner at his own expense and by his own means and said refuse shall not be considered "garbage" and shall not be picked up by the garbage trucks of the city. (Ord. of 4-24-84, §11-5)

### **Sec. 11-6. Collection by City Generally; Private Collection of Brush, Etc.**

The collection of Municipal Solid Waste in the city shall be a part of the duties of the city sanitation department, the employees of which shall make periodic M.S.W. pickups throughout the city from the M.S.W. containers provided by the city and/or citizens of the city as required by this chapter. It shall be unlawful for any person, firm or corporation other than employees of the City Sanitation Department to collect M.S.W. in the city. The private collection of brush, shrubs, leaves, grass and tree trimmings and cutting for hire or otherwise, shall be allowed notwithstanding the provisions of this section. Provided however, such brush, shrubs, grass, and tree trimmings and cuttings shall be transported in a covered vehicle to the city compost facility, Perimeter Road, Air Park. Such deposits of exclusive organic matter shall be exempt from the tipping fees.(Ord. of 4-24-84, §11-6)(Ord. of 9-14-93).

### **Sec. 11-7. Placement of Containers for Collection; Roll-out Trash Containers-deposit upon Loss or Destruction or Replacement by 1-1/2 Yard Container; Payment for Replacement Roll-out Containers upon Additional Loss Or Destruction or Replacement by 1-1/2 Yard Container At the Curb Side.**

- (A) The city will, in selected locations as determined by the supervisor of sanitation and approved by the director of public works, place containers of varying capacity for the collection of garbage. Each person, firm or corporation shall be notified by the supervisor of sanitation of the container location assigned to that person, firm or corporation. The use of other containers except by permission of the sanitation department is not permitted.

The supervisor of sanitation shall place the appropriate sized containers throughout the city in such a manner that they will serve all residential accounts. The allocation of containers for commercial activities will be on a volume needed basis. Where there are a number of small volume businesses adjacently located, the supervisor of sanitation shall place an appropriate sized container to serve these commercial accounts. Where the volume of garbage from any one commercial account is sufficient to justify a separate container for that establishment, the supervisor of sanitation shall so place a container at that location.

Notwithstanding conflicting provisions herein, apartment projects and mobile home parks may place garbage containers at a designated location, within the project or mobile home park, for collection. The location shall be subject to the approval of the supervisor of the sanitation department. (Ord. of 4-24-84, §11-7)

- (B) The City of Big Spring shall provide roll-out individual trash containers to residential accounts where it is impractical to service the collection of solid waste through the utilization of 1-1/2 yards or larger containers subject to the following conditions:

The occupant of a residence shall be responsible for the safe keeping of the container. The containers shall be rolled out on the morning of the scheduled pick up and shall be returned to a place of safe keeping after it has been serviced by the Sanitation Department.

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The first loss or destruction of a container from an individual residence shall leave two options available to the occupant:

Option One: To pay a \$50.00 deposit for receipt of the second container.

Option Two: To have a 1-1/2 yard container placed at the curb side.

An additional loss or destruction of a roll-out container, the occupant shall be required to pay the city cost for the replacement container, or the City will place a 1-1/2 yard container at the curb side.(Ord. 6-10-86)

**Article 2. Charges for City Collection of Municipal Solid Waste and Balefill**

**Sec. 11-8 Blocking Access to Garbage Containers**

It shall be unlawful for any person, firm or corporation to block access to solid waste containers placed by the authority of the Supervisor of Sanitation so as to hinder the collection of solid waste. In the event a solid waste container is located in a street there is a rebuttable presumption that the container was placed by the authority of the Supervisor of Sanitation if it located within ten (10) feet of the driveway of the residence to which it is assigned. Violations of this section shall be punished by a fine in accordance with Section 11-17 of this chapter. (Ord. of 1-27-04)

**Sec. 11-8.(1) Collection Charges for Municipal Solid Waste**

(A) Rates for residences:

- (1) Single family dwelling units..... \$13.50
- (2) Multi-family and/or mobile home parks  
Each unit or space..... \$13.50

Providing, however, a vacancy rate of 5% shall be allowed on each complex wherein the total units/spaces are greater than twenty (20).

(B) Commercial with maximum of one collection each week:

- (1) 3/4 cu. yd. Container..... \$16.80
- (2) 1.5 cu. yd. Container..... \$24.70
- (3) 3 cu. yd. Container..... \$32.30
- (4) 4 cu. yd. Container..... \$47.80

(C) Commercial with maximum of two collections weekly:

- (1) 3 cu. yd. Container..... \$64.60
- (2) 4 cu. yd. Container..... \$95.60

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- (D) Commercial with maximum of four collections weekly:
  - (1) 3 cu. yd. Container..... \$129.20
  - (2) 4 cu. yd. Container..... \$191.20
  
- (E) Roll-off container service:
  - (1) Monthly lease..... \$175.00
  - (2) Balefill charge – per ton..... \$ 30.00
  - (3) Service Charge (scheduled except Wed.,Sat.,Sun.)..... \$ 46.80
  - (4) Service charge (scheduled Wed.,Sat.,Sun.)..... \$ 70.20
  - (5) Service charge (unscheduled except Wed.,Sat.,Sun.)..... \$100.00
  - (6) Service charge (unscheduled Wed.,Sat.,Sun.)..... \$152.00
  
- (F) Balefill – All City of Big Spring and Howard County Residents:
  - (1) Residential Customers –  
Gate fee – daily charge..... \$ 5.00  
The daily gate fee applies to all residents of Big Spring and  
Howard County for dumping of residential garbage.
  - (2) Non-Permitted Commercial Customers –
    - (a) Per ton charge..... \$ 30.00
    - (b) Minimum Charge from 1 to 1,000 lbs..... \$ 12.00
  - Permitted Commercial Haulers –
  - (3) (a) Per ton charge.....\$ 30.00
  - (b) Minimum charge from 1 to 1,000 lbs.....\$ 12.00
  
- (G) Balefill: Non City/County non hazardous waste
  - (1) Vehicle surcharge..... \$ 10.00
  - (2) Per ton charge..... \$ 47.00
  
- (H) Private Compactor Service – Municipal Solid Waste:
  - (1) Balefill charge – per ton.....\$ 30.00
  - (2) Service charge (scheduled except Wed.,Sat.,Sun.).....\$ 46.80
  - (3) Service charge (scheduled Wed.,Sat.,Sun.)..... \$ 70.20
  - (4) Service charge (unscheduled except Wed.,Sat.,Sun.).....\$ 100.00
  - (5) Service charge (unscheduled Wed.,Sat.,Sun.).....\$ 152.00
  
- (I) Commercial and residential accounts may, in some areas share the same container. In the event, each shall pay the respective fees.

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- (J) All residential, business and commercial establishments within the corporate limits shall be required to subscribe to the City's M.S.W. collection and disposal service and pay the charges provided therefore by this chapter.
  
- (K) Municipal Solid Waste Collection services to Customers Outside the city limits and contiguous thereto. Customers, commercial or residential, who are outside the city limits and contiguous thereto and are located next to a present city M.S.W. truck route who cannot economically be annexed into the city may apply for M.S.W. service hereunder pursuant to a contract which is terminable by either party upon a 30-day notice subject to the following conditions:
  - (1) Completing an application in the Public Works Office
  - (2) Paying the rate that customers within the City pay, plus
    - (a) The regulatory agency surcharge, and container lease base rate.
  
- (L) Municipal Solid Waste collection services to customers Outside the city limits and not contiguous thereto. Customers, commercial or residential, who are outside the city limits and are not contiguous thereto may apply for service and subject to a review and approval may be authorized to enter into a contract which is terminable by either party on 30 days notice on the following conditions:
  - (1) Completing an application in the Public Works Office.
  - (2) Paying the rate that customers within the City pay, plus
  - (3) The regulatory agency surcharge, and container lease rate
  - (4) Paying mileage surcharge based on the current operational cost of a truck and driver from the city limits to the container and back to the city limits for each trip made to the container. Said surcharge shall be established by the Director of Public Works.
  
- (M) Special Waste: Any waste which by its physical nature will require special handling by site personnel, shall be received in the balefill only with prior written approval.
  - Per ton charge..... \$ 50.00
  - Minimum charge..... \$150.00
  
- (N) Paper Recycling: Containers will be provided for recycling efforts of private companies, with collection the City every Wednesday. Fee will be charged each time container is collected and emptied.
  - Container fee-per container. . . . . \$ 20.00

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(O) Environmental Fee: Each unit shall be charged an environmental fee of \$1.25.

(Ord. of 9-14-93, Ord of 1-24-95, Ord. of 12-27-95, Ord. of 9-24-96, Ord. Of 09-23-97, Ord. of 9-28-99, Ord. of 9-25-01, Ord. of 10-28-03, Ord. of 9-28-04, Ord. Of 12-14-04)

**Sec. 11-9. Failure to Pay.**

The charge fixed in this article for the removal and disposal of M.S.W. at the sanitary balefill shall be entered by the Finance Director as a charge against each owner, occupant or lessee on the water and wastewater bills of the city. Should any person fail or refuse to pay the charges fixed against him and his place of abode or his place of business when due, the city shall be authorized to cut off and disconnect the water and waste water services to his place of abode or business against which M.S.W. Service fees have been fixed and assessed, and, in addition thereto, shall be authorized to discontinue M.S.W. Services until said fees have been paid in full. (Ord. of 4-24-84, §11-9) (Ord. 09-14-93)

**Sec. 11-10. No Credit for Vacancy of Premises.**

No credit will be given on the M.S.W. Service charges fixed by this article to any owner, occupant or lessee of any residence or place of business for vacancy thereof, unless the city is notified by said person and said person requests the city to disconnect or stop water, waste water and M.S.W. service to said premises. (Ord. of 4-24-84, §11-10) (Ord. of 05-22-90) (Ord. 09-14-93)

**Sec 11-11. Compost Fees.**

The following fees shall be paid for the following materials at the City of Big Spring Compost:

Compost Fees:

Pallets. . . . .	\$1.00 each
Fresh Wood. . . . .	\$5.00 per cubic yard
Firewood by the cord. . . . .	
1/4 cord. . . . .	\$25.00
1/2 cord. . . . .	\$50.00
Full cord. . . . .	\$75.00
Wood Chips. . . . .	
Grade 1. . . . .	\$15.00 per cubic yard
Grade 2. . . . .	\$10.00 per cubic yard
Compost. . . . .	\$20.00 per cubic yard
Vermin Compost. . . . .	\$45.00 per cubic yard
Used Fencing. . . . .	\$10.00 per cubic yard
Tree Stumps. . . . .	
Small. . . . .	\$1.00
Medium. . . . .	\$2.00
Large. . . . .	\$3.00
Worm Castings. . . . .	\$ 2.50 per quart
. . . . .	\$ 7.50 per gallon

(Ord. of 12-08-98; Ord. of 3-11-03)

**BIG SPRING CITY CODE**

**Sec 11-12 - Sec 11-13.**            **Reserved.**  
(Ord. of 3-11-97)

**Article 3. Permits**

**Sec. 11-14.**    **Permit for Private Collectors.**

(A)    Required.

No person except the duly authorized agents and employees of the city or those persons exempted by section 11-6 shall collect, remove and dispose of M.S.W., empty M.S.W. receptacles, or convey or transport garbage or M.S.W. on the streets, alleys and public thoroughfares of the city, for compensation. (Ord. of 09-14-93)

(B)    Application.

Any person desiring a permit to bring Municipal Solid Waste into the balefill from outside the city limits shall make application therefor to the City Manager or his authorized representative. Such application shall contain:

- (1)    The name and address of the applicant
- (2)    The trade name under which the applicant does or proposes to do business
- (3)    The number of vehicles to be used in said business
- (4)    Whether or not the applicant has been convicted of the violation of any national, state or municipal law
- (5)    Whether or not the applicant, or any person with whom he has been associated or employed, has a claim or judgement against him for damages resulting from the negligent operation of a vehicle
- (6)    The financial ability and responsibility of the applicant; his ability to respond to damages in the event of damage to persons or damage to property by reason of the negligent operation of a vehicle on the streets or public thoroughfares of the city
- (7)    The nature and character of the service the applicant proposes to render
- (8)    The experience he has had in rendering said service
- (9)    Patrons for whom he proposes to render this service, and any other information the city manager may require. (Ord. of 05-22-90).

(C)    Applicant to furnish list of customers.

No person shall be issued a permit under this article unless he furnishes the city manager, or his authorized representative, a list showing the names of all of his customers. Any addition or deletion of customers after the permit is issued shall be promptly reported to the city manager, or his authorized representative, by the permittee and failure to do so shall be grounds for revocation of the permit. (Ord. of 05-22-90).

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- (D) Fee.  
The fee for a permit required by this article shall be THREE HUNDRED FIFTY DOLLARS and No/100 (\$350.00) for each vehicle which the applicant uses in his business. Such fee shall be payable in advance before the permit is issued and shall not be prorated. The permittee, in addition, shall be required to pay the balefill dumping fee of twenty five dollars (\$25.00) per ton and other surcharges prescribed in this chapter.(Ord. of 05-22-90) (Ord. of 09-14-93, Ord. of 9-23-97, Ord. of 9-28-00)
- (E) Investigation; issuance.  
Upon receipt of an application for a permit required by this article, the city manager or his authorized representative shall make or cause to be made an investigation to determine if the applicant is a fit and proper person to conduct said business and whether or not the public convenience and necessity require the granting of said permit. Upon favorable findings, the permit shall be issued. (Ord. of 05-22-90).
- (F) To be attached to vehicle or carried on person; inspection.  
Every permit issued under this article shall be attached to the vehicle used for the collection and removal of M.S.W. or shall be in the possession of the person rendering said service, and shall be subject to inspection at all times. (Ord. of 05-22-90) (Ord. of 09-14-93)
- (G) Not transferable.  
No permit issued under this article shall be transferable.
- (H) Expiration; renewal.  
A permit issued under this article shall expire on September thirtieth (30th) next after its issuance and shall be renewed by payment of the required fees and compliance with all other provisions of this article. (Ord. of 09-14-93)
- (I) Revocation.  
A permit issued under this article may be removed by the city manager at any time such action is deemed to be in the best interest of the public. (Ord. of 4-24-84, §11-14)

### Article 4. Enforcement

#### Sec. 11-15. Inspections to Enforce.

It is hereby made the duty of the Foreman of the M.S.W. Collection Department to make regular inspection trips to determine whether garbage is being properly disposed of and to further determine if containers of the kind required by this chapter have been obtained by the persons required to use the same under this chapter. It is hereby made the duty of said Foreman to file a

**BIG SPRING CITY CODE**

complaint against any person violating any provision of this chapter is order that said person may be prosecuted therefor. (Ord. of 4-24-84, §11-15) (Ord. of 09-14-93)

**Sec. 11-16. Unauthorized Usage of City Furnished Containers.**

Any person or persons, firm or corporation, who place or remove or cause to be placed or removed, garbage or refuse in a container not specifically assigned to that person, firm or corporation shall be guilty of a misdemeanor. (Ord. of 4-24-84, §11-16, Ord. of 10-22-96)

**Sec. 11-17. Penalty.**

Any person or persons, firm or corporation who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than five dollars (\$5.00) nor more than one thousand dollars (\$1000.00) for each offense, and each violation hereof shall be deemed a separate offense and each day's continuance or failure to comply herewith shall constitute a separate and distinct offense for each of said days. (Ord. of 4-24-84, §11-17)

**Article 5. Revenue Allocation for City Collection and Landfill Collection Charges.**

**Sec. 11-18.**

The passage of this amendment to Chapter 11 of the Big Spring Code establishes revised charges which will result in the collection of additional revenues. The additional revenues represent .46451 percent of the total collections. The additional revenues and interest generated there from are hereby directed to be deposited into restricted accounts as follows:

<u>ACCOUNT NO.</u>	<u>PERCENT OF TITLE</u>	<u>TOTAL REVENUES</u>
002-1005	Regulatory Agency Surcharge Fund	0.46451%

**Sec. 11-19.**

The City Council shall, at any such time the majority of the Council teems appropriate, review the allocation of the revised charges. Save and except, however, there shall be a mandatory review by Council at a public meeting following the fifth (5th) anniversary of passage of this ordinance. (Ord. of 05-22-90, Ord. of 02-11-92).

**Sec. 11-20. Revenue Allocation for City Collection & Landfill Collection Charges.**

The City Finance Director is hereby directed to place in the "Regulatory Agency Surcharge Fund" Account #002-1005, (Section 11-18) Fifty (50) percent of the revenues derived from the contract with Pack Rat Service, Inc., Andrews, Texas, for the waste hauled from the City of Ozona, Texas. These funds are to be held in escrow for the required closing of the Signal Mountain Baler and shall not be allocated for any other purpose. (Ord. of 04-12-92).

**GARBAGE AND OTHER REFUSE**

# GENERAL AND MISCELLANEOUS PROVISIONS

## Chapter 12

### Article 1. General Provisions

#### Sec. 12-1. How code designated and cited.

The ordinances embraced in this and the preceding and following chapters and sections shall constitute and be designated the "Big Spring City Code" and may be so cited.

#### Sec 12-2. Catch lines of sections.

The Catch lines of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the Catch lines are amended or reenacted.

#### Sec. 12-3. Definitions and rules on construction.

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

(A) City. The words "the city" or "this city" shall mean the City of Big Spring in the County of Howard and State of Texas.

(B) City secretary, chief of police or other city officers. The words "city secretary", "chief of police", or other city officers or departments shall be construed to mean the city secretary, chief of police or such other municipal officers or departments, respectively, of the City of Big Spring.

(C) Council. Whenever the words "council", "the council", or "city council" are used, they shall mean the city council of the City of Big Spring.

(D) Councilman. Whenever the words "councilman" or "city councilman" are used, they shall mean a member of the city council, herein defined.

(E) Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

(F) County. The words "county", "the county" or "this county" shall mean Howard County, Texas.

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

## **BIG SPRING CITY CODE**

(H) Highway. The term "highway" shall include any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway in the city, dedicated or devoted to public use.

(I) Joint authority. Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

(J) Month. The word "month" shall mean a calendar month.

(K) Number. Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular.

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

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

(N) Owner. The word "owner" applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

(O) Person. The word "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals.

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

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

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

(S) Signature or subscription. The words "signature" or "subscription" shall include a mark when a person cannot write.

(T) State. The words "the state" or "this state" shall be construed to mean the State of Texas.

## **GENERAL AND MISCELLANEOUS PROVISIONS**

(U) Street. The term "street" shall include 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.

(V) Tense. Words used in the past or present tense included the future as well as the past and present.

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

(X) Year. The word "year" shall mean a calendar year.

### **Sec. 12-4. Amendments or additions to code.**

All ordinances passed subsequent to the adoption of 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 therein. When subsequent ordinances repeal any chapter, section or subsection or any 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.

Amendments to any of the provisions of this code shall be made by amending such provisions by specific reference to the section number of this code in the following language: "That section of the Big Spring City Code is hereby amended to read as follows:" \_\_\_\_ " The new provisions shall then be set out in full as desired.

In the event a new section not heretofore existing in the code is to be added, the following language shall be used: "That the Big Spring City Code is hereby amended by adding a section, to be numbered \_\_\_, which said section reads as follows:..." The new section shall then be set out in full as desired.

### **Sec. 12-5. General penalty for violations of code or ordinance; continuing violations.**

Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor or wherever in said 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 said provision of this code or said ordinance shall be punished by a fine not to exceed two hundred dollars (\$200.00); provided, however, the foregoing notwithstanding, the violation of any provision of this code or any ordinance governing fire safety, zoning, or public health and sanitation, including dumping of refuse, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00); provided, however, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Notwithstanding anything to the contrary in this code, the maximum penalty allowed by applicable state law shall be the maximum authorized penalty for a violation of a provision of this code or city ordinance. A separate offense shall be deemed committed on each day any violation of this code or ordinance occurs or continues. (Ord. 79-83, 10-11-83, §1; Ord. of 10-22-85)

## **BIG SPRING CITY CODE**

### **Sec. 12-6. 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 by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code since the same would have been enacted by the city council without the incorporation of this code of any such unconstitutional phrase, clause, sentence, paragraph or section.

### **Sec . 12-7. Special expenses - dismissal of cases due to defendant's actions.**

The Municipal Court, by and through the Municipal Judge or the Court Clerk, is hereby authorized to charge and collect a special expense for services performed in cases in which the laws of this state require that the case be dismissed because of actions by or on behalf of the defendant which are subsequent to the date of the alleged offense. Such actions are limited to compliance with the provisions of Subsection (a), Section 143a, Uniform Act Regulating Traffic On Highways (Art. 6701d, Vernons Texas Civil Statutes). Such special expense shall be in the amount of \$10.00, or the actual expenses incurred, whichever is less.

This subsection is authorized though Article 45.06, Code of Criminal Procedure, and Article 6701d, Vernon's Texas Civil Statutes. (Rod. of 10-13-87)

### **Sec. 12-8. Municipal Court Security Fee.**

The Municipal Court, by and through the Municipal Judge or the Court Clerk is hereby authorized to charge and collect a special fee of \$3.00 collected from each defendant convicted in municipal court as a security fee as a cost of court as authorized by Vernon's Ann. CCP article 102.017. The fee is collected by the clerk of the court and remitted to the treasurer for deposit in the municipal court building fund. Money in the fund may be used only to finance the following items when used for the purpose of providing security services for buildings housing a municipal court:

- (1) The purchase or repair of x-ray machines and conveying systems;
- (2) Hand held metal detectors;
- (3) Walk through metal detectors;
- (4) Identification cards and systems;
- (5) Electronic locking and surveillance equipment;

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- (6) Bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (7) Signage;
- (8) Confiscated weapon inventory and tracking systems; and
- (9) Locks, chains, or other security hardware.

(Ord of 9-26-95)

### **Sec 12-9. Authority to issue citations to appear in municipal court.**

The directors or chiefs of the following City Departments and their authorized representatives shall have the power to issue one or more citations to any person to appear in Municipal Court, if there is probable cause to believe that the person is criminally responsible for any offense within the jurisdiction of the Municipal Court;

Police Department, Fire Department, Engineering Department, and Code Enforcement and Inspection Department.

(Ord. of 12-12-95)

### **Sec. 12-10. Municipal Court Technology Fund Established and Fee Authorized.**

The Municipal Court, by and through the Municipal Judge or the Court Clerk is hereby authorized to charge and collect a special fee of \$4.00 Dollars from a defendant convicted of a misdemeanor offense in municipal court as a technology fee as a cost of court as authorized by VERNON'S ANN. CODE CRIM. PRO. Article 102.0172. The fee is collected by the clerk of the court and remitted to the municipal treasurer for deposit in the "municipal Court Technology Fund". Money in the fund may only be used to finance the following items when used for the purpose of providing financing for the purchase of technological enhancements for municipal court.

The fund may only be used to finance the purchase of technological enhancements for the municipal court, including:

1. computer systems;
2. computer networks;
3. computer hardware;
4. computer software;
5. imaging systems;
6. electronic kiosks;
7. electronic ticket writers; and
8. docket management systems.

(Ord. Of 8-24-99)

### **Sec 12-11 to 12-26. Reserved.**

# **BIG SPRING CITY CODE**

## **Article 2. Fair Housing**

### **Sec. 12-27. Definitions.**

For the purpose of this article the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words so used in the present tense include the future; words in the masculine gender include the feminine; words in the plural number include the singular, and words in the singular number include the plural.

(A) Discriminators housing practice. An act that is unlawful under sections 12-28, 29, 30 of this article.

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

(C) Family includes a single individual.

(D) Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.

(E) To rent includes to lease, to sublease to let, and otherwise to grand for a consideration the right to occupy premises not owned by the occupant. (Ord. of 10-9-79, §1)

### **Sec. 12-28. Discrimination in the sale or rental of housing.**

Except as exempted by section 12-31, it shall be unlawful for any person to:

(A) Refuse to sell or rent, after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race color, sex, religion or national origin.

(B) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion or national origin.

(C) Make, print, publish or cause to be made, printed or published any notice, statement, or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or

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discrimination based on race, color, sex, religion or national origin, or any intention to make any such preference, limitation or discrimination.

(D) Represent to any person because of race, color, sex, religion or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(E) For profit or with the hope or expectation of profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion or national origin.

(F) For profit or with the hope or expectation of profit to influence or attempt to influence, by any words, acts, or failure to act, any seller, purchaser, landlord or tenant of a dwelling so as to promote the maintenance of racially segregated housing or so as to retard, obstruct, or discourage racially integrated housing. (Ord. of 10-9-79, §2)

### **Sec. 12-29. Discrimination in the financing of housing.**

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or their financial assistance, because of:

(A) The race, color, sex, religion or national origin of such person or of any person associated with him in connection with such loan or such other financial assistance; or

(B) The race, color, sex, religion or national origin of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given. (Ord. of 10-9-79, §3)

### **Sec. 12-30. Discrimination in the provision of brokerage services.**

It shall be unlawful for any person to deny access to or membership in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership or participation, on account of race, color, sex, religion or national origin. (Ord. of 10-9-79, §4)

### **Sec. 12-31. Exemptions and exclusions.**

(A) There shall be exempted from the application of section 12-29 hereof all transactions involving:

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

(2) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four such rooms are offered.

(3) The sale or rental of any single house by a private individual who owns such house, provided that:

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

(b) The sale is made without the publication, posting or mailing of any advertisement or written notice in violation of section 12-28(C) of this article (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title); and

(c) The owner does not own more than three (3) single family houses at the time of the sale; and

(d) The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portions of the proceeds from the sale or rental of more than three (3) such single family houses at any one time.

(e) If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to any such sale within any twenty-four (24) month period.

(B) Nothing in this article shall prohibit a religious organization, association, or society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such person, unless membership in such religion is restricted on account of race, color, sex or national origin.

## **GENERAL AND MISCELLANEOUS PROVISIONS**

(C) Nothing in this article shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose, provides lodging which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(D) Nothing in this article shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased, or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation. (Ord. of 10-9-79, §5)

### **Sec. 12-32. Fair housing administrator.**

The mayor shall appoint and council shall confirm a fair housing administrator (hereinafter referred to as "administrator"), who shall have the responsibility for implementing this article. The administrator may delegate his authority to investigate and conciliate complaints to other city employees under his direction. (Ord. of 10-9-79, §6)

### **Sec. 12-33. Complaints.**

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

(B) If at any time the administrator shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the administrator may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

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

(D) All complaints shall be filed within sixty (60) days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the administrator shall provide notice of the complaint by furnishing a copy of such complaint to the persons named therein

## **BIG SPRING CITY CODE**

who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.

(E) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths. (Ord. of 10-9-79, §7)

### **Sec. 12-34. Investigation.**

(A) Upon the filing or referral of a complaint as herein provided the administrator shall cause to be made a prompt and full investigation of the matter stated in the complaint.

(B) During or after the investigation, but subsequent to the mailing of the notice of complaint, the administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the

provisions of this chapter. Nothing said or done in the course of such informal endeavors may be made public by the administrator, by the complainant or by any other party to the proceedings without the written consent of all persons concerned.

(C) Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within thirty (30) days of the filing of the complaint with the administrator, if the administrator has made a determination that a discriminatory housing practice has in fact occurred, the administrator shall recommend to the city attorney that such violations be prosecuted in the municipal court. With such recommendations, the administrator shall refer his entire file to the city attorney. The city attorney shall, within thirty (30) days after such referral, make a determination as to whether to proceed with prosecution of such complaint in municipal court. If the city attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (39) days after such determination or as soon thereafter as practicable. (Ord. of 10-9-79, §8)

### **Sec. 12-35. Cumulative legal effect.**

This article is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue. (Ord. of 10-9-79, §9)

### **Sec. 12-36. Unlawful intimidation.**

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he or they have complied with the provisions of this article, because he or they have exercised his or their rights under this article, or enjoyed the benefits of this article, or because he or they have made a charge, testified or assisted in any manner in any investigation, or in any proceeding hereunder or have made any report to the administrator. (Ord. of 10-9-79, §10)

### **Sec. 12-37. Cooperation with secretary of housing and urban development.**

The administrator and the city attorney are authorized to cooperate with the secretary of housing and urban development and the U.S. attorney general pursuant to the provisions of Title VIII, Fair

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Housing Act of 1968, Public Law 90-284, and may render such service to the secretary as they shall deem appropriate to further the policies of this article. (Ord. of 10-9-79, §11)

### **Sec. 12-38. Education and public information.**

In order to further the objectives of this article, the administrator may conduct educational and public information programs. (Ord. of 10-9-79, §12)

### **Sec. 12-39. Penalty.**

Any person, firm or corporation violating any provision of this article shall be guilty of a misdemeanor, and upon conviction shall be fined a sum not to exceed two hundred dollars (\$200.00) for each violation. A separate and distinct offense shall be deemed committed on each day a violation continues after passage of seventy-five (75) days from the date of filing of the initial complaint with the administrator.

Any person, firm or corporation violating any provision of this article may be enjoined by a suit filed by the city in a court of competent jurisdiction, and this remedy is in addition to any other penalty provision. (Ord. of 10-9-79, §13)

### **Sec. 12-40. Severability.**

If any provision, section, subsection, sentence, clause or phrase of this article, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this article or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the city council of the City of Big Spring in adopting and of the mayor in approving this article, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation, and to this end all provisions of this article are declared to be severable. Ord. of 10-9-79, §14)

### **Sec. 12-41 to 12-49. Reserved.**

## **Article 3. Burglar, Robbery, and Fire Alarm Systems**

### **Sec. 12-50. Purpose and Scope.**

(A) The purpose of this ordinance is to insure that alarm systems within the City of Big Spring are maintained or of sufficient quality to adequately serve the purposes for which they are designed, to conserve the resources of the emergency response services of the City of Big Spring and to protect police officers and fire department employees in the course of their duties.

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(B) This article governs the burglary, robbery, and fire alarm systems in operation within the corporate limits of the City of Big Spring, provides penalties for violations and establishes a system of administration.

(Ord. of 4-12-88)

### **Sec. 12-51. Definitions.**

For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein:

(A) "Alarm Systems" means the assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry, illegal activity, smoke, fire, or sprinkler system activation, requiring urgent attention to which police and/or fire department personnel are expected to respond. Excluded from this definition are:

(1) Those alarm systems which when activated, either turn on lights or emit loud noises or both, without any telephonic or electrical impulse being transmitted to any alarm system central dispatch or the Big Spring Police and Fire Department dispatcher's office.

(2) Audible alarms affixed to automobiles or other motor vehicles.

(B) "Alarm User" means the person, firm, partnership, association, corporation, company, organization, state or subdivision thereof of any kind in control of any building, structure or facility wherein an alarm system is maintained.

(C) "Automatic Dialing Device" means a device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response.

(D) "Police and Fire Department Dispatcher's Office" is the City facility used to receive emergency and general information from the public to be dispatched to respective police and fire department officials for response.

(E) "Burglar Alarm Systems" means an alarm system signaling an entry or attempted entry into the area protected by the alarm system.

(F) "Robbery Alarm System" means an alarm system signaling the robbery or attempted robbery of a person.

(G) "Fire Alarm" means an alarm system used to detect heat, fire, smoke, or activation of a sprinkler system in a protected area.

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(H) "Alarm Coordinator" means that individual designated by the Chief of Police to enforce the provisions as set forth in this ordinance.

(I) "False Alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the owner or lessee of an alarm system or his employees or agents. Such terminology does not include alarms caused by hurricanes, tornadoes, earthquakes, or other violent conditions or Acts of God. At any time an alarm system is activated during times other than a hurricane, tornado, earthquake or other violent conditions and such alarm is not the result of an illegal entry or an attempted illegal entry, fire, or situation requiring emergency personnel, such alarm will be considered false under this definition.

(J) "Police Chief" means the Chief of Police of the City of Big Spring or his designated representative.

(K) "Fire Chief" means the Chief of Fire of the City of Big Spring or his designated representative.

(L) "Police" or "Fire Department" means the Police Department or the Fire Department of the City of Big Spring or any authorized agent thereof.

(M) "False Alarm Fee" means a fee as required by this ordinance to compensate for Police and Fire Units responding to alarm area after two false alarms within a month.

### **Sec. 12-52. Violations.**

(A) Each alarm user, will be allowed a maximum of two false burglar alarms, robbery alarms or fire alarms in each month. The receipt of a third false alarm in a month shall constitute a violation of this ordinance. (Ord. of 4-12-88)

### **Sec. 12-53. Penalty.**

(A) Following the receipt of a third false alarm within a month, and after notice and an opportunity of a hearing as described below, the alarm system shall be disconnected from the police and fire dispatch office until a \$150.00 false alarm fee has been paid. (Ord. of 4-12-88)

### **Sec 12-54. Notification.**

(A) In order to properly notify the alarm user of his or her status relative to the number of false alarms received by the alarm coordinator's office, the following notification schedule will be created:

(1) First false alarm - No action; written record of alarm shall be maintained in the alarm coordinator's office.

(2) Second false alarm - Upon receipt of the second false alarm, the alarm coordinator or his designee shall notify in writing the particular alarm user that there has been a second false alarm

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received by the alarm coordinator's office relative to the specific alarm user. In addition, the written notification shall contain a warning statement that upon the receipt of a third false alarm actuated from the premises, the alarm system may be disconnected.

(3) Third false alarm - Upon receipt of a third false alarm, the alarm coordinator or his designee shall notify the alarm user of the receipt of a third false alarm by personal service of the notice upon the individual or corporate officer responsible for the alarm system. The notice shall contain the warning that unless the alarm user requests a hearing before the Municipal Court of Big Spring within 3 working days the alarm system shall be disconnected from the police and fire dispatchers office and shall remain disconnected until the \$150.00 false alarm fee is paid.

(4) Hearing - In the event an alarm user requests a hearing, the Municipal Court shall set the case for its next regular docket to determine whether there has been a violation of this ordinance. (Ord. of 4-12-88)

### **Sec. 12-55. Miscellaneous Provisions.**

No person shall conduct any test or demonstration of an alarm system designed to make direct connection with the Big Spring Police and Fire Dispatch Office without first obtaining permission from the alarm coordinator. (Ord. of 4-12-88)

# HEALTH, SAFETY, AND NUISANCES

## CHAPTER 13

### Article 1. Unsanitary, Unsightly, and Public Nuisance Conditions on Property.

#### Sec. 13-1. Stagnant Water,

It shall be unlawful for the owner of any lot or other premises in the City to allow or permit holes or places where water may accumulate and become stagnant or be or remain on such lot or premises or to allow or permit the accumulation of stagnant water thereon, or to permit the same to remain thereon. (Ord. of 7-28-59, 11, Ord. of 5-27-08)

#### Sec. 13-2. Accumulation of Carrion. Filth. Etc,

It shall be unlawful for the owner of any lot, building, house, establishment or premises in the City to allow or permit any carrion, filth, garbage, or any other impure or unwholesome matter of any kind to accumulate or remain thereon. (Ord. of 7-28-59, 12, Ord. of 5-27-08)

#### Sec. 13-3. Definitions.

For the purpose of this Article the following words shall have the meaning herein described to them:

(A) *“Abate.”* The word “abate” shall mean to eliminate or remedy by removal, repair, rehabilitation, demolition, or other means;

(B) *“Any and all other objectionable, unsightly or unsanitary matter of whatever nature”.* The words “any and all other objectionable, unsightly or unsanitary matter of whatever nature” shall include all uncultivated vegetable growth objects and matter not included within the meaning of terms as herein used or any other matter or thing which is liable to produce or tend to produce unhealthy, unwholesome or unsanitary condition;

(C) *“Building.”* The word “building” shall mean a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property;

(D) *“Garbage.”* The word “garbage” shall mean decayable waste from a public or private establishment or restaurant. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial by-product;

(E) *“Lot or parcel of real estate”.* The words “lot or parcel of real estate” as herein used shall be held to include, in addition to those grounds within the respected boundaries, or lots, or parcels of ground, the additional real property located between the property line and the curb of adjacent streets where curb line has been established and also to the center of adjacent alleys;

(F) *“Premises.”* The word “premises” shall mean all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious

purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure

appurtenant to the property;

(G) *Rubbish.* All refuse, tin cans, old vessels of all sorts, useless articles, discarded clothing and bottles of all sorts, and other nondecayable waste;

(H) *“Undeveloped Lot.”* The words “undeveloped lot” shall mean land which has not been cleared, either fully or partially, and is in an undisturbed natural condition for this part of the State of Texas;

(I) *Weeds.* The word “weeds” as herein used shall include all rank of uncultivated vegetable growth or matter which;

- (1) has grown to more than 12 inches in height; or
- (2) creates an unsanitary condition or becomes a breeding place for mosquitoes, rodents, vermin, or other disease-carrying pests regardless of the height of the growth; or
- (3) endangers property or is liable to be a fire hazard.

(Ord. of 7-28-59, °2, Ord. of 03-11-97, Ord. of 5-27-08)

**Sec. 13-4. Accumulation of Weeds, Rubbish, Garbage and Other Matter Declared a Public Nuisance and Unlawful.**

(A) Violation – Public Nuisance. Whenever and wherever weeds, rubbish, garbage, or any other objectionable, unsightly and unsanitary matter of whatever nature as defined herein shall exist, covering or partly covering the surface of any lot or parcel of real estate within the corporate limits of the City or within 5000 feet outside the corporate limits of the City, such condition is hereby declared to be a public nuisance and unlawful and the prompt abatement of such condition shall be a public necessity. The person owning or having supervision or control of the lot or parcel of real estate shall be subject to the penalties provided in Section 13-10 if such condition is not promptly abated.

(B) Exeptions. The owner of any undeveloped property within the corporate limits of the City of Big Spring zoned on the official zoning map as Agrcultural “A,” or any undeveloped property within five thousand (5000) feet of the corporate limits of the City, may allow vegetation to achieve its natural height, provided that the following clear zones are maintained to a height not to exceed twelve (12”).

- (1) The clear zone will be maintained for two hundred feet (200') from contiguous occupied property lines.
- (2) Two Hundred feet (200') behind the property line along all public right-of-way. (Ord. of 5-25-93, Ord. of 5-23-95)
- (3) The clear zone shall be maintained within an adjoining half of a public right-of-way or adjoining half of an alley/easement.

(Ord. of 03-11-97, Ord. of 5-27-08)

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### Sec. 13-5. Abatement.

(A) It shall be the duty of the person owning or having possession or control of any lot or parcel upon which conditions as defined in Section 13-4 exist to promptly remove or abate such condition or to cause any and all other action necessary to comply with this article.

(B) If the person owning or having possession or control of any lot or parcel shall fail to abate or correct such condition following notice in accordance with Section 13-7, the City may cause the same to be done and pay therefore, and charge the cost and expense incurred in having such work done for improvements made to the owner of such property. If such costs and expenses are unpaid, the City shall have the right to fix a lien or file suit seeking payment in a court of competent jurisdiction. Pending removal of such condition by the City, appropriate signage identifying the condition may be erected upon the subject property.

(C) The cost of work done on improvements made in abating such condition, shall lwhen performed by private independent contractors or the City, be assessed according to the actual cost to the City and any fees incurred per lot or parcel of land.

(Ord. of 7-28-59, °3, Ord. of 03-11-97, Ord. of 5-27-08)

### Sec. 13-6. Additional Authority to Abate Dangerous Weeds.

(A) Within the corporate limits of the City or within 5000 feet of the corporate limits of the City, the City may abate, without notice, weeds that:

- (1) have grown higher than 48 inches, except as allowed in Section 13-4 (B) above; and
- (2) are an immediate danger to the health, life, or safety of a person or property.

(B) Not later than the tenth (10<sup>th</sup>) day after the date the City abates weeds under this section, the City shall give notice to the property owner.

(C) The notice shall contain:

- (1) an identification, which is not required to be a legal description, of the property;
- (2) a description of the violations of the ordinance that occurred on the property;
- (3) a statement that the municipality abated the weeds; and
- (4) an explanation of the property owner's right to request an administrative hearing about the City's abatement of the weeds.

(D) If a property owner files a written request for a hearing within thirty (30) days of the date of the abatement notice, the City shall conduct an administrative hearing on the abatement of the weeds under this section.

(E) An administrative hearing conducted under this section shall be conducted not later

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than the 20<sup>th</sup> day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the City's abatement of the

weeds.

(Ord. of 7-28-59, p, Ord. of 03-11-97, Ord. of 5-27-08)

**Sec. 13 -7. Notice and Hearing.**

(A) Notice. Before exercising the abatement powers granted in Sections 13-5 of this Chapter, the City must send notice in writing to the owner according to the appraisal records of Howard County, of the lot, lots or other premises at least ten (10) days prior to the City's entry upon the same. The notice must be given:

- (1) personally to the owner in writing;
- (2) by letter addressed to the owner at the owner's address as recorded in the Howard County appraisal district records; or
- (3) if personal service cannot be obtained or the owner's post office address is unknown:
  - (i) by publication at least twice within ten consecutive days;
  - (ii) by posting the notice on or near the front door of each building on the property to which the violation relates; or
  - (iii) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

If the notice is mailed to a property owner in accordance with this section, and the U.S. Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

(B) Annual Notice. The City, in the notice of violation, may inform the owner that if the owner commits another violation of the same kind or nature that poses a public nuisance on or before the first anniversary of the date of the notice, the City, without further notice, may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this Subsection occurs within the one-year period, and the City had not been informed in writing by the owner of an ownership change, then the City without notice may do the work and make the improvements required and pay for the work done or improvements made and charge the expenses to the owners of the property and then assess its expenses as provided for in Sections 13-5 and 13-8.

(C) Contents of Notice. The notice of violation shall at a minimum contain the following:

- (1) The name of the owner, if known, of the premises proposed to be entered upon by the City;
- (2) The address or legal description of the premises proposed to be entered upon by the City;
- (3) The offending conditions existing on the lot, tract or parcel of land;
- (4) A statement that the recipient has seven (7) days from the date of receipt of the

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notice to correct the violation, that if he or she fails to do so, the City will enter upon the premises and remedy the same, and that the City is entitled to attach a lien to the

property to secure payment for the services rendered; and

(5) A statement that the recipient is entitled to a hearing before the City Manager or his designee if requested in writing in the office of the City Secretary within five days of receipt of the notice; and

(6) If an annual notice is given, it shall state, in addition to the foregoing, that the City may enter upon the premises to remedy any violation at thirty (30) day intervals during the year.

(D) **Hearing.** Any person or entity receiving a notice of violation under this Section, and making a written request to the office of the City Secretary for a hearing no later than five days after receipt of the notice, shall have the right to meet with the City Manager or his designee within ten (10) days of receipt of such notice to assert any legal defense as to why the City should not proceed with abatement and attachment of a lien as provided in this Section. (Ord. of 7-28-59, 14, Ord. of 03-11-97, Ord. of 10-14-97, Ord. of 5-27-08)

### **Sec. 13-8. Filing of Liens.**

Whenever any work is done or improvements are made by the City under the provisions of Section 13-5, 13-6, or 13-7(B), the Mayor or his designee, on behalf of the City shall file a statement of expenses incurred thereby with the County Clerk. Such statement shall give the name of the owner, if known, the legal description of the property, the amount of such expense(s) and the date(s) on which the work was done or the improvements made. (Ord. of 7-28-59, 14, Ord. of 03-11-97, Ord. of 5-27-08)

### **Sec. 13-9. Prohibitions and Remedies of Article Not Exclusive.**

The numerations of the unlawful conditions and the remedy for abating the same as set out in this article shall not be exclusive but cumulative. (Ord. of 7-28-59, 14, Ord. of 03-11-97, Ord. of 5-27-08)

### **Sec. 13-10 Penalty for Violation of this Article.**

In addition to the other remedies contained in this Article, in the event the owner or person having possession or control of such property shall fail or refuse to abate such condition, that person shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than two hundred and fifty dollars (\$250.00) nor more five hundred dollars (\$500.00) for the first (1<sup>st</sup>) offense and not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000.00) for subsequent offenses. Each day such violation continues shall constitute a separate offense. (Ord. of 5-27-08)

### **Sec. 13-11 to 13-19. Reserved.**

**Article 2. Rodent Control**

**Division 1. Generally**

**Sec. 13-20. Definitions.**

For the purpose of this article, the following definitions shall apply:

- (A) **Business building.**  
Any structure, whether public or private, regardless of the type of material used in its construction, located within the boundaries of the city that is adapted to occupancy for the transaction of business, whether vacant or occupied, for the rendering of professional services, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotels, rooming houses, beer parlors, office buildings, public buildings, stores, markets, restaurants, grain elevators, abattoirs, warehouses, workshops and factories.
- (B) **Opening.**  
Any opening in the foundation, side or walls of any business building, including roof, chimney, eaves, grills, windows, sidewalk grades and sidewalk elevators, through which a rat may pass.
- (C) **Premises.**  
All business buildings, outhouses, sheds, barns, garages, docks, wharves, piers, grain elevators, and abattoirs, whether public or private, and any and all other structures used in connection with the operation of any "business building" as herein defined.
- (D) **Rat harborage.**  
Any condition found to exist under which rats may find shelter or protection, and shall include any defective construction which would permit the entrance of rats into any business building.
- (E) **Rat stoppage.**  
An inexpensive form of rat proofing designed to prevent the ingress of rats into business buildings. It is essentially the closing or protecting of all openings in exterior walls and foundations or the grates in a sidewalk of business buildings with rat proof materials installed in such a manner as to prevent rats from gaining entrance. (Ord. of 9-11-45, §1)

**Sec. 13-21. General Prohibition Against Rat Harborage.**

It shall be unlawful for any person to use or maintain any business building or other premises in such manner that a rat harborage is brought into existence or maintained. (Ord. of 9-11-45, °10)

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### Sec. 13-22. Dumping, Accumulating, Etc., Garbage and Trash So as to Afford Food or Harborage for Rats.

It shall be unlawful for any person to dump or place on any land or on any water or waterway within the city any dead animals, butchers' offal, seafood, or any waste vegetables, animal matter or any food products whatsoever.

No garbage, rubbish, waste or manure shall be placed, left, dumped, or permitted to accumulate or remain in any building or premises in the city so that the same shall or may afford food for or a harboring or breeding place for rats. Rat burrows and other exterior harborage shall be treated under methods directed by the health officer. (Ord. of 9-11-45, °°11,12)

### Sec. 13-23. Accumulations of Lumber, Boxes, Barrels, Etc.

It shall be unlawful for any person to permit to accumulate on any premises, improved or unimproved, or on any open lot or alley in the city any lumber, boxes, barrels, bricks or stones or similar materials that may be permitted to remain thereon, and that may be used as a harborage by rats, unless the same are placed on open racks and elevated not less than eighteen (18) inches above the ground with a clear intervening space beneath, to prevent the harborage of rats. (Ord. of 9-11-45, §10)

### Sec. 13-24. Closing Infested Structures or Premises.

When the health officer or his representative shall find any building, structure, or premises so heavily infested with rats as to result in a present menace to public health, he shall have the authority to close the same to any occupant or use, until rats have been eradicated, or while rats are being eradicated. (Ord. of 9-11-45, °9)

### Sec. 13-25 to 13-29. Reserved.

## Division 2. Business Buildings

### Sec. 13-30. New Construction to Be Rat Proof.

It shall be unlawful for any person to construct within the corporate limits of the city any business building, curb, or farmers' market, unless such construction shall render the business building rat proof in accordance with the regulations prescribed by this article. (Ord. of 9-11-45, §2)

### Sec. 13-31. Inspecting Buildings; Correcting Defects.

The health officer of the city or his representative is hereby authorized to make frequent and unannounced inspections of existing business buildings within the corporate limits of the city for the

purpose of determining any rat infestation, and to order, by written notice, the owner, occupant, agent, or any other person in custody of any rat-infested business building to protect such building by rat stoppage as provided for in this article, regardless of the need for the remodeling of or repairs to such business buildings, and to further order that such other rat control methods be employed as may be

deemed necessary by the health officer or his representative to maintain the business building free from rats. The written notice and order shall specify the time, in no event less than thirty (30) days, for completion of such work and improvements. Unless the work and improvements are completed in accordance with the written order and notice within the time so specified or within the time to which a written extension has been granted by the health officer or his representative, the owner, occupant, agent or other person in custody of the building shall be deemed guilty of a misdemeanor. (Ord. of 9-11-45, °3)

**Sec. 13-32. Inspection of New Construction.**

The health officer or his representative is hereby authorized to make inspections during the course of and upon completion of any construction, repairs, remodeling or installation of rat control measures to business buildings to insure compliance with the provisions of this division, and no person shall interfere with or refuse to permit such inspection. (Ord. of 9-11-45, °4)

**Sec. 13-33. Minimum Requirements for Rat Stoppage.**

(A) Application of section.

For the purpose of obtaining maximum rat stoppage at a minimum cost to the owner or occupant of business buildings, the regulations prescribed in this section are set forth as the minimum requirements for applying rat stoppage to business buildings.

(B) Approval of materials and method of installation.

The health officer or his representative shall approve all materials used and the method of installation.

(C) Protective coating for metal and wire cloth.

Solid sheet metal, expanded metal and wire cloth specified in this section shall have a rust resisting protective coating, preferably galvanized.

(D) Covering of foundation wall ventilator openings.

All foundation wall ventilator openings shall be covered for their entire height and width with perforated sheet metal plates of a thickness not less than eighteen (18) gauge, or with cast iron grills or grates, or with any other material of sufficient strength and equal rat-resisting properties. The openings herein shall be small enough to prevent the ingress of rats, and in no instance shall be larger than one-half (1/2) inch.

(E) Covering of other openings in foundation or exterior wall.

All foundation and exterior wall openings, excluding those used for the purpose of ventilation, light, doors and windows, such as those openings around pipes, electric cables, conduits, openings due to deteriorated wall, broken masonry or concrete, shall be

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protected against the ingress of rats by closing such openings with cement mortar, concrete or masonry, or close-fitting sheet metal or suitable size pipe flanges or other material with equal rat-resisting properties, which shall be securely fastened in place.

(F) Requirements as to doors.

All exposed edges of the lower eight (8) inches of wooden doors and door jambs, serving as front, rear or side entrances into business buildings from the ground, basement or cellar floors, and other doors accessible to rats, shall be protected against the gnawing of rats by covering such doors and jambs with solid sheet metal of not less than twenty-four (24) gauge thickness. The same material shall be used on door sills or thresholds, or such door sills or thresholds may be constructed of cement, stone, steel or cast iron. Doors, door jambs and sills of coal chutes and hatchways that are constructed of wood shall be covered with solid sheet metal of twenty-four (24) gauge or heavier, or they may be replaced with metal chutes of twenty-four (24) gauge or heavier installed in such a manner as will prevent the ingress of rats. All doors on which metal flashing has been applied shall be properly hinged to provide for free swinging. When closed, doors shall fit snugly so that the maximum clearance between any door, door jambs and sill shall not be greater than three-eighths (3/8) of an inch.

Door jambs and sills constructed of metal, concrete, masonry, stone or cement mortar, or cast iron and steel, when fitting closely to exclude rats, are not required to comply with this subsection.

(G) Requirements as to windows.

All windows and other openings for the purpose of light or ventilation located in the side or rear of exterior walls which could afford possible ingress of rats shall be covered for their entire height and width, including frame, with wire cloth of nineteen (19) gauge or heavier, having a mesh of not larger than one-half (1/2) inch. All window and other openings for the purpose of light or ventilation in the exterior walls that may be accessible to rats by way of exposed pipes, wires, conduits and other appurtenances, shall be covered with guards of wire cloth of nineteen (19) gauge or heavier, having a mesh of not larger than one-half (1/2) inch, or in lieu of wire cloth covering, such pipes, wires, conduits and other appurtenances shall be blocked from rat usage by installing sheet metal guards of twenty-four (24) gauge or heavier. Such guards, when used on horizontal pipes, wires, conduits or other appurtenances, shall be placed in a vertical position, and shall be snugly fitted around the pipe, wire, conduit or other appurtenance. Such guard shall measure not less than twelve (12) inches beyond and on all sides of the pipe, wire, conduit or other appurtenance where the intervening space between the wall and pipe permits, and shall extend thirty (30) inches in an upward direction and twelve (12) inches in a downward direction, and shall be securely fastened to the pipe, wire, conduit or other appurtenance and also the adjacent wall, wherever practicable, so that the guard will remain in a vertical position at all times. Such guards, when used on vertical pipes, wires, conduits or other appurtenances, shall be fitted snugly around the

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pipe, wire, conduit or other appurtenance, shall be placed in a horizontal position (right angle to pipe, etc.), and shall extend horizontally from the pipe, wire, conduit or other appurtenance for a minimum distance of twelve (12) inches beyond and on all sides of the pipe, wire, conduit or other appurtenance, where the intervening space between pipe and wall permits, and shall be securely fastened to the pipe, wire, conduit or other

appurtenance and also to the adjacent wall, wherever practicable, in such a manner that the guard will remain in a horizontal position at all times.

(H) Protection of light wells.

Light wells with windows in exterior walls that are located below the outside ground level shall be protected from the ingress of rats by one of the following methods:

- (1) Installing over the light wells cast iron or steel grills or steel gratings, or other material of equal strength and rat-resisting properties, with opening in grills or gratings not to exceed one-half (1/2) inch in shortest dimension.
- (2) Installing securely to and completely covering existing metal grills that are broken or have openings larger than one-half (1/2) inch in shortest dimension or otherwise defective, with expanded metal of eighteen (18) gauge or heavier, having openings not greater than one-half (1/2) inch in shortest dimension, or with sixteen (16) gauge or heavier wire cloth with one-half (1/2) inch mesh.
- (3) At the option of the owner, the opening in the wall of the building below the grate may be entirely closed with brick or concrete or partially closed and the remaining open space covered with nineteen (19) gauge or heavier wire cloth with mesh not to exceed one-half (1/2) inch.

(I) Protection of space between floor sill and ground

Where sill is less than 12 inches above ground. Business buildings constructed on piers having wooden floor sills less than twelve (12) inches above the surface of the ground shall have the intervening space between the floor sill and ground protected against the ingress of rats by installing a curtain wall of solid masonry, concrete or other materials of a permanent nature of not less than three (3) inches in thickness and eighteen (18) inches in depth below the ground surface with a shelf which is two (2) inches in thickness extending eight (8) inches outward at the base of the curtain wall. This curtain wall and shelf shall be installed around the entire perimeter of the business building and fastened securely to the exterior wall of the building in such a manner as will prevent rats from entering the building. All openings into such curtain wall for ventilation, or other purposes not heretofore mentioned, shall be covered the entire height and depth with nineteen (19) gauge galvanized hardware cloth or expanded metal of twenty-four (24) gauge or heavier with a mesh not to exceed one-half (1/2) inch.

In lieu of the installation of such curtain walls, all ground floors of wood construction may be replaced with concrete of not less than three (3) inches in thickness with the

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exterior walls protected for a height of seven (7) inches above the concrete floor with masonry, concrete or solid metal of twenty-four (24) gauge or heavier. Exterior wall protection shall be securely tied into the concrete floor at all points.

- (J) Same -- Where sill is 12 or more inches above ground.  
Business buildings constructed on piers having wooden floor sills twelve (12) inches or more above the ground level shall have the intervening space between the floor sill and ground protected against the ingress of rats by installing curtain walls in accordance with subsection (i) or by installing solid sheet metal coverage of twenty-four (24) gauge or heavier snugly around each pipe, cable, wire, conduit or other utility service passing through the wooden ground floor. Such metal coverage shall not be less than eight (8) inches in diameter larger than the diameter of the pipe, cable, wire, conduit or other utility service, and shall be securely fastened to the wooden floor.
- (K) Protection of miscellaneous openings.  
All other openings in wooden ground floors through which rats may gain entrance into double walls or the interior of business buildings, such as openings that may exist in floors and double walls above floor sills, shall be closed with twenty-four (24) gauge or heavier solid sheet metal or sixteen (16) gauge or heavier wire cloth of one-half (1/2) inch mesh, or with masonry or concrete. Wood frame constructed business buildings having concrete or masonry foundation walls shall have ventilators in foundation walls protected as provided in subsection (d). All miscellaneous wall openings, doors and windows shall be protected in accordance with this chapter. (Ord. of 9-11-45, §5)

### **Sec. 13-34. Special Requirements for Curb and Farmers' Markets.**

Curb or farmers' markets in which fruit or vegetables or any other food products are exposed and offered for sale on racks, stands, platforms and in vehicles outside of business buildings, shall have floors paved with concrete or asphalt for the entire surface area of the market. Display racks, stands, or platform . on which fruit or vegetables or any other food products are displayed or offered for sale shall be of sufficient height that all such fruits, vegetables or other food products shall be kept at a distance of not less than eighteen (18) inches above the floor pavement and be so constructed that rats cannot harbor therein or thereunder. (Ord. of 9-11-45, §6)

### **Sec. 13-35. Protection Against Climbing Rats.**

In order to protect business buildings from what is commonly called "climbing" or "roof" rats, all ventilators, chimneys, skylights or other openings on roofs which constitute a possible place of ingress for rats shall be covered the entire width and height with nineteen (19) gauge hardware cloth, except ventilators or skylights constructed of metal with openings not less than eighteen (18) inches above the roof surface.

The owner of a business building shall also protect elevator shafts, fire escapes and guy wires in such manner that rats will not be able to gain ingress into the building. (Ord. of 9-11-45, 58)

**Sec. 13-36. Destruction of Rats after Stoppage Applied.**

For the purpose of eliminating all rats that may remain in any business building after rat stoppage has been carried into effect, all store rooms, warehouses or other business buildings in the city shall be provided, by the owner, occupant, agent or any other person in custody of such building, with one or more traps, which shall be kept set and freshly baited at frequent intervals, and maintained in

good working condition and inspected daily, and any rat caught therein shall be killed, removed daily and disposed of in a manner acceptable to the health officer, and such trap reset and rebaited.

Rats may also be destroyed by poisoning and fumigating in a manner approved by the health officer or by an authorized agency of the U.S. Public Health Service or the State Board of Health, subject to applicable laws and ordinances relating to poisonous substances and fumigators. (Ord. of 9-11-85, °7)

**Sec. 13-37 to 13-45. Reserved.**

**Article 3. Abandoned, Inoperative or Junked Motor Vehicles**

**Sec. 13-46. Definitions.**

For the purposes of this article, the following words shall have the meaning hereinafter given:

(A) “Junked Vehicle” means a vehicle as defined in Title 7, Subtitle H, Chapter 683, Section 683.071, Subchapter E, Vernon’s Texas Codes Annotated, that is self-propelled and inoperable and:

- (1) does not have lawfully attached to it:
  - (a) an unexpired license plate; or
  - (b) a valid motor vehicle inspection certificate;
- (2) is wrecked, dismantled or partially dismantled, or discarded; or
- (3) has remained inoperable for more than:
  - (a) 30 consecutive days on private property or
  - (b) 72 hours on public property.

(B) “Motor Vehicle Demolisher” means a person in the business of:

- (1) converting motor vehicles into processed scrap or scrap metal; or
- (2) wrecking or dismantling motor vehicles.

(C) “Storage Facility” includes a garage, parking lot, or establishment for the serving, repairing, or parking of motor vehicles.

(D) “Antique Vehicle” means a passenger car(s) or truck(s) that is at least twenty five (25) years old.

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- (E) “Special Interest Vehicle” means a motor vehicle of any age which has not been changed from original manufacturer’s specifications and, because of its historic interest, in being preserved by hobbyists.
- (F) “Motor Vehicle Collector” means a person who:
- (1) owns one or more antique or special interest vehicles; and
  - (2) acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

(Ord. of 3-14-72; Ord of 5-10-83, °13-46, Ord. of 10-27-98, Ord. of 5-13-08)

### **Sec. 13-47. Junked Vehicles Declared a Public Nuisance.**

Junked vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public; tending to reduce the value of private property, to invite vandalism to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the City, by producing urban blight which is adverse to the maintenance and continuing development of the City, and such vehicles are therefore declared to be a public nuisance. (Ord. of 3-14-72; Ord. of 5-10-83, °13-47, Ord. of 10-22-85, Ord. of 10-27-98)

### **Sec. 13-48. Inapplicability of Subchapter.**

Procedures adopted under Section 13-50 may not apply to a vehicle or vehicle part:

- (A) that is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property; or,
- (B) that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector’s property, if the vehicle or part and the outdoor storage area, if any, are:
- (a) maintained in an orderly manner;
  - (b) not a health hazard; and
  - (c) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

(Ord. of 3-14-72; Ord. of 5-10-83, °13-48, Ord. of 10-27-98)

**Sec. 13-49. Notice to Owner or Occupant to Abate Public Nuisance; Request for Hearing.**

For a nuisances on public or private property

- (A) A ten (10) day written notice shall be sent by certified mail with a five (5) day return requested to:
  - (1) the last known registered owner of the nuisance (vehicle);
  - (2) each lienholder of record of the nuisance (vehicle); and
  - (3) the owner or occupant of:
    - (a) the property on which the nuisance (vehicle) is located; or
    - (b) if the nuisance (vehicle) is located on a public right of way, the property adjacent to the right of way
- (B) The notice must state:
  - (1) the nature of the nuisance, including, if possible, the vehicle's:
    - (a) description;
    - (b) vehicle identification number; and
    - (c) license plate number; and
  - (2) that it is the responsibility of the property owner or occupant to abate and remove the public nuisance no later than the tenth (10<sup>th</sup>) day after the date on which the notice was mailed; and
  - (3) any request for a hearing must be made before that ten (10) day period expires, such notice to be mailed to the Director of Public Works.
- (C) If the post office address of the last known registered owner of the nuisance (vehicle) is unknown, notice may be placed on the nuisance itself or, if the owner is located, then the notice may be hand delivered.
- (D) If notice is returned undelivered, action to abate the nuisance (remove the vehicle) shall be continued to a date no earlier than the eleventh (11<sup>th</sup>) day after the date of the return.

(Ord. of 3-14-72; Ord. of 5-10-83, °13-49, Ord. of 10-27-98, Ord. of 5-13-08)

**Sec. 13-50. Hearing and Abatement.**

- (A) Before the removal of the vehicle or vehicle parts as a public nuisance, a hearing shall be held before the Municipal Court of the City of Big Spring. If the hearing is requested by the owner or occupant of the public or private premises, or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located within ten (10) days after service of notice to abate the nuisance, the hearing will occur no later

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than the eleventh day after service of notice to abate the nuisance. At the hearing, it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. A resolution or order requiring the removal of a vehicle or vehicle part must include:

- (1) a description of the vehicle;
- (2) the vehicle identification number; and
- (3) license number of the vehicle

if the information is available at the location of the nuisance.

(B) Provided, however, should a hearing be properly and timely requested, it shall be an affirmative defense to said action that said vehicle or vehicle part:

- (1) is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or,
- (2) is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
  - (a) maintained in an orderly manner,
  - (b) not a health hazard; and
  - (c) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

(C) The relocation of a junked vehicle that is a public nuisance to another location within the City limits after the proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the second location.

(Ord. of 3-14-72; Ord. of 5-10-83, 513-50, Ord. of 10-22-85, Ord. of 10-27-98, Ord. of 5-13-08, Ord. of 10-13-09)

**Sec. 13-51. Order to remove and abate nuisance; removal by City.**

(A) If the nuisance is not removed and abated, and a hearing is not requested in accordance with Section 13-49, then the City Attorney or his/her deputy may request a hearing in the municipal court, and/or may file a complaint for maintaining a public nuisance as defined in Section 13-47.

The court shall, upon conviction, also order the removal and abatement of the nuisance.

(B) The order to abate shall further provide that if the defendant shall fail or refuse within ten (10) days of said order to remove and abate the nuisance, either the Chief of Police

or the Director of Public Works, as appropriate, shall be directed to have the same removed, and either the Chief of Police or the Director of Public Works, as appropriate, or either of their duly authorized representatives, or any other person duly authorized by the City Council shall take possession of such junked motor vehicle and remove it from the premises, and shall therefore dispose of it, in accordance with the provisions of Section 13-56 of this article. Such order shall include a description of the vehicle, the

correct identification number and license number of the vehicle, if the information is available at the location of the nuisance. (Ord. of 3-14-72; Ord. of 5-10-83, §10-51, Ord. of 10-27-98, Ord. of 5-13-08, Ord. of 10-13-09)

**Sec. 13-52. Removed vehicle not to be reconstructed or made operable.**

After any such junked motor vehicle has been removed by the City, it shall not be reconstructed or made operable; it shall be demolished and disposed of as scrap or salvage. (Ord. of 3-14-72; Ord. of 5-10-83, 513-52, Ord. of 10-27-98, Ord. of 5-13-08)

**Sec. 13-53. Notice of removal to Texas Department of Transportation.**

Whenever a junked motor vehicle or part thereof is removed by the City under the provisions of this article, the Chief of Police shall give notice to the Texas Department of Transportation within five (5) days after the date of such removal, identifying the vehicle or part thereof. Said department shall forthwith cancel the certificate of title to such vehicle pursuant to Title 7, Subtitle A, Chapter 501, Sections 501 et seq., Subchapter A, Vernon's Texas Codes Annotated, as amended. (Ord. of 3-14-72; Ord. of 5-10-83, §10-58; Ord. of 10-22-85, Ord. of 10-27-98, Ord. of 5-13-08)

**Sec. 13-54. Transfer of such junked vehicle to a demolisher.**

A junked vehicle which is removed from private or public property by authority of this article, and which is disposed of to a demolisher, must be transferred to such demolisher on a form acceptable to the Texas Department of Transportation. The transfer receipt must stipulate that the disposition of the vehicle is for demolition only, and must contain a complete description of the vehicle, including the license number if ascertainable, and must make reference to this article under the authority of which such transfer is made. The transfer receipt must be listed on the demolisher's inventory list and surrendered to the Texas Department of Transportation in lieu of the certificate of title under the provisions of Article 6687-2, Vernon's Annotated Civil Statutes, as amended. (Ord. of 3-14-72; Ord. of 5-10-83, §10-58; Ord. of 10-22-85, Ord. of 10-27-98, Ord. of 5-13-08)

**Sec. 13-55. Administration by City Employees.**

This article shall be administered by regularly salaried, full time employees of the City, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person. (Ord. of 10-27-98, Ord. of 5-13-08)

**Sec. 13-56. Authority to Enforce.**

(A) The Director of Public Works or his designee may enter upon private property for any of the following reasons:

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- (1) to examine vehicles or parts thereof,
- (2) to obtain information as to the identity of vehicles or
- (3) to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this article.

(B) Such junked vehicle or parts thereof shall, after the ten (10) day period be disposed of by removal to a scrap yard, demolisher, or any suitable site operated by the City for processing as scrap or salvage. After a motor vehicle has been declared a public nuisance, it shall not be reconstructed or made operable.

(C) The City may operate such a disposal site when the City Council determines that commercial channels of disposition are not available or are inadequate, and the City may make final disposition of such vehicles or parts, or the City may transfer such vehicles or parts to any other person, firm or corporation subject to, however, a provision that such vehicles shall not be reconstructed or made operable.

(Ord. of 10-27-98, Ord. of 5-13-08)

### **Sec. 13-57. Effect of Article on Other Statutes or Ordinances.**

Nothing in this article shall affect statutes or ordinances that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic. (Ord. of 10-27-98, Ord. of 5-13-08)

### **Sec. 13-58. Penalty.**

Any person, firm or corporation violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction therefore, shall be subject to a fine of not more than two hundred dollars (\$200.00). Each transaction in violation of any of the provisions hereof shall be deemed a separate offense. (Ord. of 10-27-98, Ord. of 5-13-08)

### **Sec. 13-59 to 13-60. Reserved.**

## **Article 4. Nuisances**

### **Sec. 13-61. Posting advertisements without permission.**

The printing, pasting, sticking or placing of any advertisement, handbill or placard of any printed, pictured or written matter upon any house, wall, building, pole, fence or other property, private or public, without the permission of the owner or person in charge thereof, shall constitute a misdemeanor. (Ord. of 9-2-29, 521)

### **Sec. 13-62. Accumulation of cotton hulls, other rubbish.**

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It is hereby declared to constitute a nuisance for owners or operators of cotton gins to permit hulls, waste matter or rubbish resulting from the ginning of cotton to accumulate in, on or around any premises upon which there is operated a cotton gin. The owners and operators of cotton gins shall remove from such premises all hulls, rubbish and other waste matter resulting from the ginning of cotton and keep such premises free from any accumulations thereof. Such waste matter as shall accumulate on the premises as a result of the operating of a cotton gin shall be hauled off or removed, while the gin is in actual operation, and not exceeding twenty (20) cubic yards shall be allowed to

accumulate on the premises at any one time. In no case shall the same be allowed to accumulate to such an extent as to create or cause a danger of fire. It shall be unlawful for the operator of any gin to burn, or permit to be burned on or around such premises or at any other place within the city limits, any such hulls or waste matter; provided, however, that such hulls and waste matter may be burned off in the furnace of such gin if the smokestack is properly screened. (Ord. Of 7-11 -33, 12)

**Sec. 13-63. Feed grinding mills regulated.**

The operation of any feed grinding mill within the city is hereby prohibited, unless such mill is completely enclosed within a reasonable well constructed building and adequate provision is made within such building to catch and dispose of the dust, chaff and refuse thrown off by the grinding process so that the same will not be thrown into the air and onto the premises around the mill. Any person shall be deemed to operate a feed mill, within the meaning of this section, if he is the owner thereof and causes or permits same to be operated, and any person actually engaged in the operation of any such mill, whether he is owner, manager or employee, shall be deemed an operator within the meaning of this section. (Ord. of 8-05-41, §1, §2)

**Sec. 13-64. Swimming Pools.**

It shall be unlawful for any person, firm or corporation to maintain a swimming pool that is not enclosed by a barrier.

Definitions:

Swimming Pool:

Any structure intended for swimming that contains water over 24" inches deep.

Barrier:

Any structure either manmade or natural that is at least 48" above the ground, measured on the side of the barrier away from the swimming pool or at least 72" above the ground measured on the side of the barrier facing the swimming pool. The barrier must have not more than 10N degree slope from vertical. No opening in the barrier may be greater than 5" inches with the exception of a gate or door. A gate or doorway must have a latch or lock at least 48" above the ground. (Ord. of 6-14-94).

**Sec. 13-65 to 13-69. Reserved.**

**Sec. 13-70. Selling fireworks prohibited.**

It shall be unlawful for any person, firm or corporation to sell or keep for sale within the corporate limits of the city, any firecrackers, roman candles, torpedoes, or any other fireworks of any

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kind or make, with the exception of cap pistols. (Ord. of 7-28-59, 61)

### **Sec. 13-71. Exploding fireworks in city limits.**

It shall be unlawful for any person, or persons, to explode, set off, ignite or discharge within the corporate limits of the city any firecrackers, roman candles, torpedoes, or any other fireworks of any kind or make, with the exception of cap pistols. (Ord. of 7-28-59, 12)

### **Sec. 13-72. Fireworks displays regulated.**

In the event that any firm, corporation, club or civic group desires to have an organized display of fireworks for the benefit of the citizens of Big Spring, they may do so by securing permission from the city council, and under the supervision and control of the city fire marshal. Said request must be presented to the city council at least thirty (30) days prior to the date of the exhibition. (Ord. of 7-28-59, §3)

### **Sec. 13-73. Penalty.**

Any person who violates any of the provisions of this article shall upon conviction thereof, be fined in any sum not less than one dollar (\$1.00) nor more than one thousand dollars (\$1,000.00). Notwithstanding the foregoing, the one thousand dollar (\$1,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be two hundred dollars (\$200.00) rather than one thousand dollars (\$1,000.00); provided, further, no penalty shall be greater of less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

This ordinance is enacted pursuant to Articles 1011 and 1095, as amended, effective September 1, 1983. (Original citation; Ord. No 80 83, 10-11-83, 11; Ord. of 10-22-83).

### **Sec. 13-74 to 13-99. Reserved.**

## **Article 5. Food and Food Establishments**

### **Sec. 13-100 to 13-122 Reserved.**

Article 5 is repealed in its entirety with such Article to be reserved for future expansion. (Ord. of 5-12-81a, Ord. of 10-11-83, Ord. of 10-22-85, Ord.

**Article 6. Food Service Establishments**

**Sec. 13-123 to 13-150 Reserved.**

Article 6 is repealed in its entirety with such Article to be reserved for future expansion.  
(Ord. of 5-12-81b, Ord. of 10-22-09)

**Article 7. Vending Machines**

**Sec. 13-151. Adoption of FDS sanitation ordinance.**

The definitions; the requiring of permits for the installation and operation of vending machines; the prohibiting of the sale of unsound or misbranded food or drink; the enforcement of this article; and the fixing of penalties shall be regulated in accordance with the terms of the unabridged form of The Vending of Food and Beverages - 1976 Recommended Sanitation Ordinance of the Food and Drug Administration, a certified copy of which shall be on file in the office of the city secretary.

Provided, that sections 6-102, 6-601 and 6-602 of said unabridged ordinance shall be replaced respectively be sections 13-152, 13-153, 13-154 and 13-155 as set out below. (Ord. of 5-12-81c, §1)

**Sec. 13-152. Issuance of permits modified.**

- (A) Any person desiring to operate one or more vending machines, other than controlled location vending machines, shall make written application for a permit on forms provided by the regulatory authority. Such application shall include the following information:
- (1) The applicant's full name, residence, post office address, and whether such applicant is an individual, firm or corporation. If any partnership exists, the names of the partners together with their addresses shall be included;
  - (2) The location of the commissary or commissaries, and of other establishments where vending machines are repaired or renovated;
  - (3) The identity and form of the product to be dispensed through vending machines and the number of each such type vending machine in applicant's possession;
  - (4) The number of vending machines, other than controlled location vending machines, operated by applicant; and
  - (5) The signature of the applicant or applicants.
- (B) Upon receipt of such application, the regulatory authority shall make an inspection of

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the commissary, supply storage, servicing, cleaning and sanitizing facilities, and transport facilities, and representative equipment and machine locations to determine compliance with the provisions of this article. A numbered operator's permit shall be issued to the applicant by the regulatory authority after compliance by the operator with the applicable provisions of this article and after receipt by the regulatory authority of a fee of two dollars (\$2.00) per year per vending machine, other than controlled location vending machines, operated by applicant. Such permit shall not be transferable. Except as otherwise provided by this article, all permits shall be issued on an annual basis and

shall expire on August 31 of each year. The fees required for permits shall be adjusted on a pro rata basis, the formula for such adjustments to be as follows:

Number of full calendar months remaining (through expiration date) X annual fee. (Ord. of 5-2-81c, §2).

### **Sec. 13-153. Penalty.**

Any person who violates any of the provisions of this article shall upon conviction thereof, be fined in any sum not less than one dollar (\$1.00) nor more than one thousand dollars (\$1,000.00). Notwithstanding the foregoing, the one thousand dollar (\$1,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be two hundred dollars (\$200.00) rather than one thousand dollars (\$1,000.00); provided, further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

This ordinance is enacted pursuant to Articles 1011 and 1195, as amended, effective September 1, 1983. (Original citation: Ord. No. 80-83, 10-11-83, 51; Ord. of 10-22-85)

### **Sec. 13-154. Severability.**

Should any section, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, the remainder of such chapter shall not be affected thereby. (Ord. of 5-12-81c, §4)

### **Sec. 13-155 to 13-169. Reserved.**

## **Article 8. Public Health Service Fees**

### **Sec. 13-170. Fees.**

The following fees shall be paid for public health services provided by the Big Spring-Public Health District:

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- (A) IMMUNIZATIONS..... \$ 5.00
- PRENATAL - (Including Lab)..... \$75.00
- T.B. TEST..... \$ 5.00
- S.T.D. (DX & Rx)..... \$15.00
- NEW-BORN SCREENING,(PKU)..... \$10.00
- CLINIC VISIT (Office Call)..... \$5.00
- (B) Upon the request of individuals seeking the services of Big Spring-Howard County Health District, those individuals may, because of the lack of financial ability, seek services at a reduced rate of 50% of the reasonable, nominal charges set out in Section 13-170(a). If the individual

requesting said services makes a statement that he or she cannot pay even a 50% reduction of the fees set forth in Section 13-170(a), the services will be administered on a no-pay basis; but, a request for payment of some amount will be offered before free service will be administered. (Ord. of 7-14-87)

**Sec. 13-171 to 13-179. Reserved**

**Article 9. City Smoking Ordinance**

**Sec. 13-180. Definitions.**

For the purpose of this article, the following definitions shall apply:

- (1) Bar or Cocktail Lounge means a place where mixed alcoholic beverages are sold for consumption on the premises as the primary business activity where such sales constitute at least 75% of the gross revenues of the business.
- (2) Common traffic area means an area within a building primarily used for the unobstructed passage of pedestrian traffic through the building.
- (3) Designated smoking area means a designated area, which shall:
  - A. Be a physically enclosed area as designated in Section 13-180(4), separated from nonsmoking areas; and
  - B. Be ventilated with a separate heating, ventilation, and air conditioning (HAVC system as defined in Section 13-180(8).
- (4) Enclosed or enclosed area means all space between a floor and ceiling, which is enclosed on all sides by solid walls or windows, which extend from the floor to the ceiling, including a door which remains closed at all times, except when used for entry or exit. Spaces screened by partitions, which do not extend to the ceiling or are not solid, office

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landscaping or similar structures are not considered enclosed areas.

- (5) Employee means any person who is employed by an employer in consideration for monetary compensation or profit.
- (6) Employer means any person, partnership, corporation, association or other entity that employs one or more persons.
- (7) Fast food restaurant means a food establishment with:
  - A. A limited fast food only menu; and
  - B. No wait staff (counterstaff allowed); and
  - C. A passout window for delivery of food to be consumed off premises (a passout window is not necessary if the establishment is located, within a shopping center). The term “fast food restaurant” does not include cafeterias or establishments where beverages must be consumed on premises.
- (8) HVAC means a separate heating, ventilation, and air conditioning system such that air from the smoking area is exhausting directly to the outside and not circulated within the building or mixed with the general dilution ventilation for the building and that creates a negative pressure away from the door into the room sufficient to prevent any flow of smoke from the smoking area to the nonsmoking area. Such system shall supply a minimum of thirty cubic feet per minute (30 CFM) outdoor air exchange per person and be under negative pressure.
- (9) Place of employment means an enclosed area controlled by any employer, but not used by the general public, and to which employees have access during the course of employment, including but not limited to, work areas, employee lounges, employee restrooms, conference rooms, and employee cafeterias. The term does not include a private residence, unless it is used as a child care, adult care or health care facility.
- (10) Public meeting means a meeting open to the public and held in an enclosed area of a public space.
- (11) Public place or public area means an enclosed area that is used by the general public, to which the public is invited or in which the public is permitted and includes, but is not limited to:
  - A. All enclosed facilities, including buildings owned, leased or controlled by the City of Big Spring;

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- B. All or any part of a building used for local governmental purposes;
- C. A retail store, office, service establishment or other commercial establishment;
- D. A grocery store;
- E. A restaurant, cafeteria, delicatessen, commissary, or mobile food unit;
- F. A public primary or secondary school, a public institution of higher education, or any other educational facility;
  
- G. A restroom;
- H. An enclosed theater, movie house, auditorium, arena, music hall, lecture hall, or other performing arts venue;
- I. An elevator;
- J. A library, museum, gallery, or aquarium;
- K. A health care facility or hospital;
- L. A child care nursery;
- M. A court room or a jury waiting or deliberation room;
- N. A recreational facility;
- O. A service line, cashier area, over the counter sales area, or common traffic area;
- P. Sports arenas, stadiums, and convention halls, including bowling facilities and other indoor recreational facilities;
- Q. A lobby, hallway or other common area in apartment buildings, condominiums, trailer parks, retirement facilities, adult care facilities, nursing homes or other multiple-unit residential facilities;
- R. A polling place;
- S. A public plane or train;
- T. A transit system bus or interstate bus, taxicab, or any other public transport;
- U. A public transportation facility, including ticket, boarding and waiting areas of

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public transit depots;

- V. A lobby, reception area, waiting area, hallway, or other common-use area;
- W. A retail food production and marketing facility;
- X. All areas available to, and customarily used by, the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to, attorneys' offices and other offices, not otherwise exempted herein, banks, Laundromats, hotels and motels; and
- Y. The public areas of a fast food restaurant.

- (12) Restaurant means a food establishment where the primary business is the preparation and sale of food.
- (13) Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
- (14) Service line means any indoor line in which one or more persons are waiting for, or receiving, service of any kind, whether or not such service involves the exchange of money.
- (15) Single-pack means any cigarette, cigar, tobacco or smokeless tobacco product sold in less than carton or equivalent units.
- (16) Smoke, smokes, or smoking includes:
  - A. Carrying or holding a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device;
  - B. The combustion of any cigar, cigarette, tobacco or any similar article or any other combustible substance in any manner or in any form;
  - C. Emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.
- (17) Sports arena means indoor sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events.
- (18) Sports grill means an establishment as defined by the zoning ordinance of the city.

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(Ord. of 12-21-92, Ord. of 9-12-06).

**Sec. 13-181. Offenses; Enforcement.**

- (A) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this article to fail to comply with any of its provisions.
- (B) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this article.
- (C) It shall be unlawful for any person to smoke in any area within twenty (20) feet of any public entrance to any enclosed area where smoking is prohibited. In addition, it shall be unlawful for any person to smoke in any area within fifty (50) feet of any public entrance to a hospital, medical clinic, medical doctor's, chiropractor's office or day care.
- (D) A person commits an offense if, at a public meeting or in a public place at an area not designated as a smoking area, the person smokes and fails or refuses to extinguish smoking materials or move to a designated smoking area upon a request by any person to do so.
- (E) The proprietor or person in charge of a business or other public place commits an offense if:
  - (1) The proprietor or person in charge allows smoking, but fails to comply with the requirements of this article as to designation of a smoking area, including the posting of signs; or
  - (2) The proprietor or person in charge fails or refuses upon the request of any person to ask a person smoking while not in a designated smoking area to extinguish smoking materials or move to a designated smoking area.
- (F) This article does not require the owner, operator, manager, or any employee of an establishment to report a violation of this article or to take legal action against any individual violating this article.
- (G) The police department shall inspect for compliance with this article.
- (H) Any owner, manager, operator or employee of any establishment regulated by this article shall inform personnel violating this article of the appropriate provisions thereof.

(Ord. of 12-21-92, Ord. of 9-12-06).

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### Sec. 13-182. Smoking in Public Places.

- (A) Smoking is prohibited in all enclosed public places within the City of Big Spring, except in designated smoking areas as defined in section 13-180(3), and as otherwise allowed in this article.
  
- (B) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment or facility may declare the entire establishment or facility a nonsmoking establishment.
  
- (C) In the event a public place has common areas not the responsibility of individual tenants, the building owner or his representative shall be responsible for application of this article to such common areas.
  
- (D) A smoking area may not be designated in:
  - (1) A facility of a public, primary or secondary school;
  - (2) An elevator;
  - (3) An enclosed theater or movie house, auditorium, music hall, lecture hall, or other performing arts venue;
  - (4) A library, museum, gallery, or aquarium;
  - (5) A hospital;
  - (6) A transit system bus or interstate bus, taxicabs, or any other public transport;
  - (7) A service line, cashier area, over the counter sales area, or other common traffic area;
  - (8) A restroom;
  - (9) A lobby, reception area, waiting room, hallway, or any other common-use area;
  - (10) The ticket, boarding, and waiting areas of public transit depots;
  - (11) Any room, chamber, place of meeting or public assembly under the control of any board, council, commission, committee, including joint committees or agencies of the city or any political subdivision of the state during such time as a public

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meeting is in progress, to the extent such place is subject to the jurisdiction of the city;

- (12) Health facilities, including, but not limited to waiting rooms, hallways, wards, and semiprivate rooms, clinics, physical therapy facilities, doctors offices, and dentists offices;
- (13) The lobbies, hallways and other common areas, in apartment buildings, condominiums, trailer parks, retirement facilities, adult care facilities, nursing homes, and other multiple-unit residential facilities;
- (14) A polling place;
- (15) The public areas of a fast food restaurant;
- (16) A place in which smoking is prohibited by the Fire Marshal or by any other law, ordinance or regulation.

(Ord. of 12-21-92, Ord. of 9-12-06).

**Sec. 13-183. Exceptions.**

The prohibitions against smoking contained herein shall not apply to the following places:

- (1) To any facility including, but not limited to, restaurants, hotel, and motel conference or meeting rooms, and public and private assembly rooms in which one or more private functions are being held and which are under the control of the sponsor of the function and not the owner or operator of the facility, so long as the area being used for the private function qualifies as a designated smoking area as defined under Section 13-180(3);
- (2) To performing arts venues, but only by a performer participating in a theatrical performance;
- (3) To a bar or cocktail lounge, as defined by the zoning ordinance of the City of Big Spring;
- (4) To a retail tobacco store, however, this exception shall not apply to an establishment that shares a common HVAC system with any other tenant in the same building in which the retail tobacco store is located;
- (5) To private clubs, which are owned by their members;
- (6) To private residences, except when used as a childcare, adult day care, health care facility, or other place of employment;

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- (7) To designated smoking hotel and motel rooms rented to guests;
- (8) To outdoor areas or outdoor places of employment;
- (9) To an outdoor dining area that is at least twenty (20) feet from, or separately walled from, gatherings of nonsmokers and which does not require employees or members of the public to walk through it upon entering the restaurant and which is properly posted with signage;
- (10) To restaurants, as defined in Section 13-180(12); places of employment as defined in Section 13-180(9); or public places as defined in Section 13-180(11) where it is not otherwise prohibited to designate a smoking area. It shall be a

requirement for the application of this subsection that the restaurant, public place, or place of employment has designated smoking areas, as defined in Section 13-280(3), has complied with all requirements for the establishment of a designated smoking area, as provided in this article, and has petitioned the City for, and been granted, a permit to allow smoking. A proprietor or person in charge of a restaurant, public place or place of employment who desires to permit smoking shall designate an area not to exceed thirty (30) percent of the allowable area as the smoking area. The proprietor or person in charge shall locate the designated smoking area so that nonsmokers shall not have to travel through the smoking area to get to the cashier, a restroom or nonsmoking area. A proprietor or person in charge shall file a petition with the police department demonstrating proof of the percentage of the allowable area designated as a smoking area; the petition shall be filed not later than ninety (90) days after the effective date of this article, and annually thereafter. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment. (Ord. of 12-21-92, Ord. of 9-12-06).

### **Sec. 13-184. Smoking in places of employment.**

All employers who operate a place of employment are encouraged to develop, implement, and maintain a written policy that accommodates the wishes of employees by designating smoking and nonsmoking areas under the same requirements as public areas.

- (1) Smoking is prohibited in all enclosed facilities within a place of employment within the City of Big Spring, except for designated smoking areas, if such an area is provided to employees, and except as otherwise allowed by this article. Neither this prohibition nor the signage or permit provisions of this article shall apply to a business that is not primarily open to the public and employs no person other than the owner or operator.
- (2) If an area that is normally used for employee purposes such as eating or drinking or any

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other privilege normally available to employees is selected as the “designated smoking area” then an area offering the same services and privileges that is smoke-free shall be made available to nonsmoking employees.

- (3) Any employer may declare the entire place of employment a nonsmoking workplace.
- (4) Any area designated for smoking by an employer shall meet the requirements of a designated smoking area, as provided in Section 13-180(3) and the other provisions of this article. (Ord. of 12-21-92, Ord. of 9-12-06).

**Sec. 13-185. Signs.**

- (A) Every public place where this article prohibits smoking shall have posted at every public and employee entrance a conspicuous sign clearly stating that smoking is prohibited.
- (B) All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this article by the owner, operator, manager or other person having control of such area.
- (C) Permit: New or existing smoke-free restaurants, places of employment or public places of employment or public places where it is not otherwise prohibited to designate a smoking area, may apply for a permit upon compliance with other smoking requirements of this article regarding designation of a smoking area. All permits shall be renewed annually.
- (D) Permit Fee: The fee shall be \$50.00. (Ord. of 12-21-92, Ord. of 9-12-06).

**Sec. 13-186 to Sec. 13-208 Reserved.**

**Article 13. Ambulance Service.**

**Sec. 13-209. Definitions:**

For the purpose of this chapter, the following definitions will apply:

Advanced Life Support, Level 1 (ALS1) – Where medically necessary, transportation, the provision of medically necessary supplies and services, and either an ALS assessment by ALS personnel OR the provision of at least one ALS intervention.

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Includes, but is not limited to:

- Administration of intravenous (IV) fluids
- Peripheral venipuncture
- Blood drawing
- Monitoring IV solutions
- Administration of approved medications, IV, Sub Q, sublingual, nebulizer inhalation

Advanced Life Support, Level 2 (ALS2) – Where medically necessary, transportation, medically necessary supplies and services and at least three separate administrations of one or more medications

by IV push/bolus or by continuous infusion. OR transportation, medically necessary supplies and services, and the provision of at least one of the following procedures:

- Manual defibrillation/cardioversion
- Endotracheal intubation
- Cardiac pacing
- Chest decompression
- Surgical airway
- Intraosseous line

ALS Personnel – ALS personnel are individuals trained to the level of Emergency Medical Technician – Intermediate or Paramedic.

Basic Life Support (BLS) Non Emergency – Transportation and the provision of medically necessary supplies and services when staffed by Emergency Medical Technician – Basic as defined by DSHS.

DSHS – Texas Department of State Health Services, formerly Texas Department of Health (TDH).

Emergency Response – Emergency response is a BLS or ALS1 level of service that has been provided in immediate response to a 911 call. (Ord. of 07-22-97, Ord. of 2-14-06, Ord. of 9-23-08)

### **Sec. 13-210. Ambulance Fees.**

Basic Fees for emergency ambulance service and for transfer/transport service shall be according to the following schedule:

- |     |               |          |
|-----|---------------|----------|
| (1) | BLS           | \$375.00 |
| (2) | BLS Emergency | \$500.00 |

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(3)	ALS1	\$750.00
(4)	ALS1 Emergency	\$875.00
(5)	ALS2	\$950.00
(6)	Mileage	\$ 13.50 per mile
(7)	Standby time per hour	\$ 75.00
(8)	Request for records by attorneys	\$ 45.00

Medicare/Medicaid Assignments:

The ambulance service will accept Medicare and Medicaid assignments. Patients will be required to pay only the balance due on the Medicare approved fee after Medicare reimbursements.

Ambulance Subscriber Service:

The ambulance service offers an Ambulance Subscriber Service to residents for a \$150.00 yearly membership fee. This fee covers all emergency and medically necessary ambulance services for the subscriber's entire household (all persons living in that household). Everyone is eligible for membership, regardless of lack of private insurance coverage. If a member does have insurance coverage, the charges will be filed with the insurance company for payment. The member will not be responsible for any remaining balance after Insurance reimbursements.

(Ord. of 9-12-95, Ord. of 07-22-97, Ord. of 12-10-02, Ord. of 2-14-06, Ord. of 9-23-08)

# OFFENSES

## CHAPTER 14

### Article 1. General

#### Sec. 14-1. Firearms, discharge prohibited.

It shall be unlawful for any person to discharge any gun, pistol or firearm of any kind within the city limits. This section shall not apply to licensed shooting galleries or to police officers acting in the line of duty.

#### Sec. 14-2. Hindering officers discharging official duties.

(A) It shall be unlawful for any person to hinder, obstruct, resist or otherwise interfere with any city officer or member of the police force of the City of Big Spring in the discharge of his official duties, nor shall any person attempt to prevent any such member of the police force from lawfully arresting any person, nor shall any person attempt to rescue from such member of said police force any person in his custody.

(B) Any person, violating any of the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof, any such violation shall be punishable by a fine of not more than two hundred dollars (\$200.00). (Ord. of 3-25-69, §§1,2)

#### Sec. 14-3. Noise.

(A) It shall be unlawful for any person, firm, corporation or association to permit or allow the transmission or emission or to emit or transmit any loud and raucous noise upon or from any public street, highway or public place within the city.

(B) For the purpose of this section, the term "loud and raucous noise" shall be defined to mean any noise or any unreasonable loud, disturbing, unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity, and any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of persons of ordinary sensibilities.

(C) The following types of noise, among others, are declared to be per se loud and raucous noise and in violation of this section and such an enumeration shall not be deemed to be exclusive:

(1) Any noise made by the motor of any automobile, truck, tractor, motorcycle or other motor vehicle of any kind not reasonably required in the operation thereof under the circumstances then existing.

(2) The sound or discharge of any gun or other explosive except by or with the permission of the governing body having control of the highway, street or public place.

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(3) The human voice or any record or recording thereof when amplified by any device, whether electrical or mechanical or otherwise, to such an extent as to cause it to carry on to private property or to be heard by others using the public highways, public streets and public places within the city where it is amplified in such a manner as to annoy or disturb the quiet, comfort, repose or enjoyment of persons of ordinary sensibilities.

(D) Any person, firm, association or corporation violating any of the provisions of this section or causing the same to be violated shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not to exceed two hundred dollars (\$200.00) for such offense. Each day's violation shall constitute a separate offense. (Ord. of 3-23-71, §§1,4)

### **Sec. 14-4. Sleeping in public places.**

It shall person to be found asleep upon the sidewalks, streets, alleys or public thoroughfares of the city. (Ord. of 9-29-29, §18)

### **Sec. 14-5. Urinating in a public place.**

No person shall urinate in or on a public place, street, alley, sidewalk, yard, park, building, structure, plaza, public or utility right-of-way or any other public place.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined an amount not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00). (Ord. of 9-27-66, §§1,3)

### **Sec. 14-6. Violation of entrance fee requirements.**

Any person who shall enter upon any properties belonging to the City of Big Spring for which entry thereon requires that an entrance fee or use fee be paid to the city whether by purchase of a ticket or not, then such person so entering upon the property of the city without first paying such fee or purchasing said ticket shall be deemed guilty of a misdemeanor and upon the conviction thereof shall be fined in an amount not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00).

The presence of any person upon or in city property where an entrance fee or a use fee is required by the city and said person has not paid said fee, then such presence of said person on or in said property shall constitute a prima facie case that said person is guilty of the violation of this section. (Ord. of 11-12-63, §§1, 2)

### **Sec. 14-7. BB-guns, air guns, slingshots, etc.**

(A) Definitions:

(1) Pellet gun, air gun, air pistol or BB-gun. A gun that discharges shots, pellets, BB's, or any other solid objects by means of compressed air, compressed gas, springs, or other similar means.

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(2) Slingshot. A forked stick or forked piece of wood, plastic or other hard material, with a rubber band or other type of elastic material capable of shooting, discharging, or catapulting hard objects.

(B) Shooting guns. It shall be unlawful for any person to shoot or in any manner whatsoever discharge any kind, brand, or type of pellet gun, air gun, air pistol, or BB-gun within the corporate limits of the city.

(C) Shooting slingshots. It shall be unlawful for any person to shoot a slingshot, or catapult or discharge therefrom any object, within the corporate limits of the city. (Ord. of 12-11-73)

**Sec. 14-8 to 14-19. Reserved.**

### **Article 2. Abandoned, Lost or Stolen Property**

**Sec. 14-20. Impoundment by chief of police.**

The chief of police shall take into his custody all abandoned, lost, stolen or recovered property of every kind. All such property taken into custody by the chief of police shall, by him, be registered in a record book provided for that purpose and shall be tagged. The chief of police shall enter upon his register and upon the tag the following information:

- (A) Description of the property
- (B) Time and place seized, and by whom
- (C) Name of owner, if known
- (D) Storage and hauling charges accrued against the property

The charges made against such property shall be the actual expense incurred by the city in hauling and storing the same, except there shall be a minimum charge of one dollar (\$1.00) per day for storage of automobiles and other motor vehicles. (Ord. No. 670307, 3-14-67, §§1, 2)

**Sec. 14-21. Abandoned or wrecked motor vehicles.**

The provisions in section 14-20, as to registration and tagging, shall apply to all motor vehicles impounded by the police department of the city under the traffic regulations of the city, and the ordinances pertaining to the impoundment of dilapidated, wrecked, damaged, disabled and inoperative automobiles, trucks and other motor vehicles and part(s) thereof, and the procedures for the sale of abandoned, lost, stolen and recovered property contained in this article shall also apply to such impounded vehicles or part(s) thereof. (Ord. No. 670307, 3-14-67, §3)

**Sec. 14-22. Unclaimed property sold at auction.**

All abandoned, lost, stolen or recovered property which shall remain unclaimed with the chief of police for a period of sixty (60) days after the first charges accrued without being claimed, or reclaimed, by the owners, whether known or not, may be sold at public auction. (Ord. No. 670307, 3-14-67, §4)

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### **Sec. 14-23. Notice of sale; procedure.**

Notice of sale of abandoned, lost, stolen or recovered property shall be given in the following manner:

The chief of police shall give the owner of such property, if his residence is known, ten (10) days notice to come forward and pay the charges due, and after ten (10) days after such notice has been given to him to pay such charges, if said charges are not paid the chief of police shall refer such property to the assistant city manager, the purchasing agent, or his duly authorized representative for sale.

The purchasing agent shall give thirty (30) days notice of the time and place of the sale. He shall also post, or have posted, at the courthouse door and at or near any regular entrance to city hall and the city police station, a list of property to be offered for sale. He shall also send a copy of such list, by certified mail, to the last known address of the owner, if he is known to him. The public auction provided for herein shall be conducted at the place designated in the notice and all the articles sold for cash to the highest bidder for each piece of property, separately or assembled in lots, whichever in the discretion of the assistant city manager, purchasing agent, or his duly authorized representative, shall be the best price obtainable for such property, except motor vehicles, which shall be sold separately. (Ord. No. 670307, 3-14-67, §5)

### **Sec. 14-24. Conduct of auction; records.**

The assistant city manager, purchasing agent, or his duly authorized representative shall conduct the auction sale referred to in this article. He shall keep an accurate statement of each article sold and the price bid and payment therefor. He shall make a report in writing to the finance department of the place and manner of conducting the auction sale, the article(s) sold and the price paid therefor, and together with such report the funds received in account of the auction shall be delivered to the finance director who shall give a receipt therefor. All funds received in the account of any auction held under these provisions shall go to the General Fund. (Ord. No. 670307, 3-14-67, §§6,7)

### **Sec. 14-25. Purchaser entitled to bill of sale.**

The assistant city manager, purchasing agent, or his duly authorized representative, who is conducting the sale shall give to the purchaser at the sale appropriate bills of sale, if requested by such purchaser. (Ord. No. 670307, 3-14-67, §8)

### **Sec. 14-26. Disposal of unsold property.**

Any property which has been listed and offered for sale and for which no price or sum has been offered, if determined by the assistant city manager purchasing agent to be worthless and without sale value, shall be disposed of in such manner as the city council may direct. (Ord. No. 670307, 3-14-67, §9)

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### Sec. 14-27. Indemnity insurance.

If, in the opinion of the chief of police, the assistant city manager or the purchasing agent, a policy of insurance is needed to protect and indemnify the city and its agents and employees against claims arising from loss or damage to any property in the custody of the chief of police, assistant city manager or purchasing agent, under the provisions of this article or ordinances relating to the

impoundment of motor vehicles, the assistant city manager or purchasing agent shall procure such policy of insurance from a reputable insurance company. (Ord. No. 670307, 3-14-67, §10)

### Sec. 14-28 Reserved.

## Article 3. Minors

### Sec. 14-29 Curfew Ordinance Extended

(A)

#### Definitions

(1) CURFEW HOURS means:

- (a) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (b) 12:01 a.m. until 6:00 a.m. on any Friday or Saturday.

(2) EMERGENCY means:

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

(3) 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.

(4) GUARDIAN means:

- (a) A person who, under court order, is the guardian of the person of a minor; or
- (b) A public or private agency with whom a minor has been placed by a court.

(5) MINOR means:

Any person under 17 years of age.

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(6) OPERATOR means:

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

(7) PARENT means a person who is:

- (a) A natural parent, adoptive parent, or step-parent of another person; or
- (b) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) 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.

(9) REMAIN means to:

- (a) Linger or stay; or
- (b) Fail to leave premises when requested to do so by a police officer of the owner, operator, or other person in control of the premises.

(10) SERIOUS BODILY INJURY means:

Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted losses of impairment of the function of any bodily member or organ.

(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 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 knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) Defenses

- (1) It is a defense to prosecution under Subsection (B) that the minor was:

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- (a) Accompanied by the minor's parent or guardian;
- (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (c) In a motor vehicle involved in interstate travel;
- (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop.
- (e) Involved in an emergency;

- (f) 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;
- (g) 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 another similar entity that takes responsibility for the minor;
- (h) 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
- (i) Married or had been married or had disabilities of minority removed accordance with Chapter 31 of the Texas Family code.

- (2) It is a defense to prosecution under Subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

### (D) Enforcement

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being 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 Subsection (C) is present.

### (E) Penalties

- (1) A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.00.

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- (2) 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 Subsection (B)(1) of this section and shall refer the minor to teen court. (Ord. of 7-26-94, Ord. of 5-22-01)

### **Article 4. Sex Offenders**

#### **Sec. 14-30 Regulation of Sex Offender Residency**

Definitions. For the purposes of the Section, the following terms, words, and the derivations thereof shall have the meanings given herein.

- (1) Minor. A minor is a person younger than seventeen (17) years of age.
- (2) Permanent Residence. A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.
- (3) Temporary Residence. A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where a person routinely abides, resides, or lodges for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

#### **Sec. 14-31 Offenses**

For each person required to register on the Texas Department of Public Safety's Sex Offender Database (the "Database") because of a violation involving a victim who was less than sixteen (16) years of age, it is unlawful for that person to establish a permanent residence or temporary residence within 1,000 feet of any premise where children commonly gather, which, for purposes of this ordinance, shall be a public park; private or public school; or day care center, as such terms are defined in the Comprehensive Zoning Ordinance of the City of Big Spring. For the purposes of this Ordinance, planted street medians are not public parks.

#### **Sec. 14-32 Evidentiary Matters; Measurements**

- (a) It shall be prima facie evidence that this Article applies to such a person if that person's record appears on the Database and the Database indicates that the victim was less than sixteen (16) years of age.

## OFFENSES

- (b) For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein above, or, in the case of multiple residences on one property, measuring from the nearest property line of the premises to the nearest property line of the premises where children commonly gather, as described herein.
  
- (c) A map depicting the prohibited areas shall be maintained by the City of Big Spring. The City shall review the map at least annually for changes. Said map will be available to the public at the Big Spring Police Department.

### Sec. 14-32     **Culpable mental state not required**

Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this Chapter.

### Sec. 14-33     **Affirmative Defenses**

It is an affirmative defenses to prosecution that any of the following conditions apply:

- (a) The person required to register on the Database established the permanent or temporary residence and has complied with all of the sex offender registration laws of the State of Texas, prior to the date of the adoption of this ordinance.
- (b) The person required to register on the Database was a minor when he or she committed the offense requiring such registration and was not convicted as an adult.
- (c) The person required to register on the Database is a minor.
- (d) The premises where children commonly gather, as specified herein, within 1,000 feet of the permanent or temporary residence of the person required to register on the Database was opened after the person established the permanent or temporary residence and complied with all sex offender registration laws of the State of Texas.
- (e) The information of the Database is incorrect, and, if corrected, this Section would not apply to the person who was erroneously listed on the Database.

### Sec. 14-34     **Penalty**

Any person who shall violate any of the provision of this Ordinance or who shall fail to comply with any of the provisions of this Ordinance, shall be guilty of a misdemeanor and may be

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fined in the amount of not less than \$1.00 or more than \$500.00. Each day a violation of this article shall continued shall constitute a separate offense. (Ord. of 7-25-06)

**Sec. 14-35 to 14-45. Reserved.**

# **PLANNING AND ZONING; SUBDIVISION DEVELOPMENT**

## **Chapter 15**

### **Article 1. Planning and Zoning.**

The Planning and Zoning Ordinances are not set out in this Code of Ordinances but are hereby incorporated by reference and are on file in the office of the city secretary.

### **Article 2. Subdivision Regulations.**

NOTE: The Subdivision regulations Ordinance is not set out in this Code of Ordinances but is hereby incorporated by reference and is on file in the office of the City Secretary.

The attached City of Big Spring, Texas, Subdivision Regulations Ordinance pages 1 through 57, inclusive and appendices is hereby adopted as the Subdivision Regulations Ordinance referred to in Chapter 15 of the Big Spring City Code, and the Subdivision Ordinance of January 8, 1984, is hereby repealed; provided, however, said repeal should not affect the enforcement of said Ordinance as to violations which occurred prior to said repeal. (Ord. of 3-23-04)

### **Article 3. Flood Damage Protection**

The Flood Protection Ordinance enacted in 1981 is not set out in this Code of Ordinances but is incorporated by reference and is on file in the office of the city secretary.

# **PUBLIC UTILITIES**

## **CHAPTER 16**

### **Article 1. Utility Extensions**

#### **Sec. 16-1. Definitions.**

- (A) Consumer. The real property, taxpayer whose premises are connected to the water and wastewater system.
- (B) Developer. The individual/company/corporation who is developing the property in accordance with the Subdivision Development Ordinance.
- (C) Off-site or Approach Line. The water and wastewater mains so constructed within the public way for the distribution and collection of water and wastewater necessary to connect the on-site line to the existing water and wastewater system. (Ord. of 6-28-83, §16-41, Ord. of 9-22-92 §1-177)

#### **Sec. 16-2. Extension of water and wastewater mains.**

Where the extension of water and wastewater mains is required to serve properties which have been subdivided for development to include resale, the developer shall be responsible for the total cost of all on and off site mains of sufficient size to provide domestic or commercial, or industrial and/or fire protection in accordance with current standards. The City of Big Spring shall, at its option, require the developer to increase the size of the water and wastewater lines to meet anticipated growth, development and/or water and wastewater system general improvements. The city shall bear the additional expenses necessitated by the over sizing, only to the extent of actual cost of materials over and above the required sizes. (Ord. of 1-24-62, 53; Ord. of 6-28-83, §16-42; Ord. of 9-22-93, §1-177)

#### **Sec. 16-3. Installations shall be made under the supervision of the City of Big Spring.**

All water and wastewater system extensions made under the provisions of this article shall be constructed in accordance with current city standards and plans and specifications that have been approved by the city council. The city shall inspect and test all water and wastewater systems installed in accordance with this article. (Ord. of 6-28-92, §16-43; Ord. of 9-22-92, §1-177)

#### **Sec. 16-4. Extension to densely populated areas.**

Where the city council finds that, in densely populated areas and in specified locations therein, due to the absence of water and sewer service, the public welfare would be best served by making extensions at its own cost, and after due investigation and consideration, in order to eliminate extremely unhealthful conditions which are contributing factors to epidemics and where money is available for such purposes, it is the express policy of the city council when expressed by its resolution, to extend water and wastewater mains into these densely populated areas. When lines are extended following such resolution, the property owner shall be required to pay development charges over and above the rates and charges established by this article when such property is

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connected to the water and wastewater main. These development charges may be paid in such a manner as the city council determines. (Ord. of 6-28-83, §16-44; Ord. of 9-22-92, §1-177)

### **Sec. 16-5. Utility Connections Outside the Corporate Limits.**

Individuals, corporations, or companies, residing or doing business outside the corporate limits of the City of Big Spring, that desire to connect to the potable water system may do so by completing an application in the Director of Public Works office and paying the prescribed fees for such service. The city crews will make the appropriate tap and place the meter necessary to service this connection within the corporate limits of the City of Big Spring. The applicant shall be responsible for running AWWA approved pipe from the tap to their area of desired service. (Ord. of 03-09-93).

### **Sec. 16-6. Fees Prescribed.**

The potable water "lifeline" rate for service within the corporate limits of the City of Big Spring shall be doubled for all services outside the corporate limits. The prevailing per 1000 gallon rates for in-city potable water will be assessed for all water used through the meter. (Ord. of 03-09-93.)

### **Sec. 16-7 through 16-19. Reserved.**

## Article 2. Utility Connections

### **Sec. 16-20. Water connections**

- (A) In every case where any person desires connection with the city's water system, the city will, upon written application accompanied by proper payment, furnish to the customer, install, inspect, and test a connection with the city water main, which shall include all pipe and fittings necessary to run a service line to the meter, which shall usually be placed within twenty-four (24) inches of the back of the curb. The consumer shall be required to install and maintain his service line from the meter to the house.
  
- (B) The fee for water connections shall be as follows:
  - (1) WATER TAPPING COST IN AN IMPROVED ROADWAY 50' OR LESS:

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Tap Size	Cast Iron Iron PVC Mains Cost	Cost per L. F. After 50'
3/4"	\$512.00	\$4.00
1"	\$600.00	\$5.00
2"	\$842.00	\$6.00
4"	\$2,949.00	\$7.50
6"	\$4,324.00	\$8.00
8"	\$7,061.00	\$14.00

(2) WATER TAPPING COST IN A UNIMPROVED ROADWAY 50' OR LESS:

Tap Size	Cast Iron Iron PVC Mains Cost	Cost per L.F. After 50'
3/4"	\$357.00	\$4.00
1"	\$445.00	\$5.00
2"	\$687.00	\$6.00
4"	\$2,794.00	\$7.50
6"	\$4,169.00	\$8.00
8"	\$7,061.00	\$14.00

(3) Trench protection for depths below 5' to 8', there will be an additional \$2.00 per L.F.

(4) Trench protection for depths below 8', there will be an additional \$5.00 per L.F.

The rates in subsection (B) of this section shall be adjusted annually or as necessary.

(D) No person other than properly authorized agents of the water department shall be permitted to tap or make connections with the main or distributing pipes of the water works system. (Ord. of 9-23-75)

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- (E) The ever-increasing cost of providing water service to the citizens of Big Spring necessitates that water service requests for use outside the corporate limits of the City of Big Spring be denied. Therefore, no request for water service outside the corporate limits of the city shall be approved.
- (F) Present water service taps outside the corporate limits shall be allowed to remain in service. These rights are limited to active water service accounts at the time this ordinance is passed.
- (G) Holders of water service taps outside the City of Big Spring limits are expressly prohibited from tapping, diverting or otherwise providing water from the tap to other than members of their immediate household residing under the same roof or utilization of the water for purposes other than the use that existed on October 1, 1982. (Ord. of 9-23-75; Ord. of 6-28-83, §16-1; Ord. of 9-17-85, 8-11-87; Ord. of 9-22-92, §1-177)

### **Sec. 16-21. Damaging water equipment.**

It shall be unlawful for any person to willfully injure, deface or destroy any reservoir, machinery, pipe, hydrant or other fixture belonging to the water utility system of the city. (Ord. of 9-2-29, §5; Ord. of 6-28-83, §16-10; Ord. of 9-22-92, §1-177)

### **Sec. 16-22. Unauthorized use of fire hydrants.**

Every hydrant placed by the water department for the purpose of extinguishing fires is hereby declared to be a public hydrant, and no person other than members of the fire department, health department, and those authorized by the City Manager shall open such hydrant or draw, or attempt to draw, from the same any water, or in any manner interfere with such a hydrant. (Ord. of 9-2-29, §6; Ord. of 6-28-83, §16-11; Ord. of 9-22-92, §1-177)

### **Sec. 16-23. Interfering with water meters or meter readers.**

It shall be unlawful for any person other than a regular employee of the water department to in any manner interfere with or tamper with any meter box cover, or to interfere with, hinder or attempt to hinder any regular employee of the water department from reading any meter connection with the water service, or to remove any meter for repairs or for any other purpose. (Ord. of 9-2-29, §10; Ord. of 6-28-83, §16-12; Ord. of 9-22-92, §1-177)

### **Sec. 16-24. Entry for employees of water department.**

The authorized employees of the water department shall have free access at all reasonable hours of the day to all parts of any premises to which water is supplied. (Ord. of 9-2-29, §9; Ord. of 6-28-83, §16-13; Ord. of 9-22-92, §1-177)

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### **Sec. 16-25. Deposit required for water meter tests.**

A deposit of twenty-five dollars (\$25.00) shall be required for all customer requested water meter tests on water meters of : inch (":") to one inch (1"). Meter tests on meters two inch (2") and larger shall be twenty-five dollars (\$25.00) per inch. This deposit shall be refunded to the customer in the event the meter reads more than two percent (2%) in error. (Ord. of 10-9-79; Ord. of 6-28-83, §16-14; Ord. of 9-22-92, §1-177)

### **Sec. 16-26 through 16-29. Reserved.**

### **Sec. 16-30. Wastewater connection required.**

Every owner of a building, or part thereof, occupied by people for any purpose and location within the city limits and within two hundred (200) feet of a public wastewater line, shall be connected with such line. The work done in connection therewith, and all materials used, shall comply strictly with the requirements of this chapter and the City of Big Spring Plumbing Code. It shall be unlawful for the owner or occupant of any building where people reside or are regularly employed within two hundred feet (200') of the wastewater system as provided by this section, to fail to have said building connected with the city wastewater system. It shall likewise be unlawful for any person to throw, or allow to be thrown or deposited upon the surface of the ground, or in any hole in or under the surface of the ground where such premises are within the distance herein prescribed to be connected with the wastewater system, any water which has been used for domestic or manufacturing purposes, any liquid or solid filth, feces, or urine. (Ord. of 1-11-49, §36; Ord. of 6-28-83, §16-3; Ord. of 9-22-92, §1-177)

### **Sec. 16-31. Septic tank required.**

If because of the distance from the sewer system or the wastewater system flow, any owner is not required to connect with the wastewater system as provided in Section 16-30, premises shall be provided with a septic tank meeting the requirements of the state health authorities. (Ord. of 1-11-49, §36; Ord. of 6-28-83, §16-4; Ord. of 9-22-92, §1-177)

### **Sec. 16-32. Privies prohibited.**

It shall be unlawful for any person to construct, maintain or use any privy within the city. (Ord. of 6-28-83, §16-5; Ord. of 9-22-92, §1-177)

### **Sec. 16-33. Wastewater connections**

No person shall tap, connect to, or otherwise extend a wastewater line located within the public right-of-way or in an easement held by the city, or tap or connect to any wastewater line which is owned or maintained by the city, without first having secured a wastewater tap permit.

- (A) Any person desiring service connection to the city wastewater system shall make application for a permit at the office of the plumbing inspector.

The fee for the wastewater tap and permit shall be as follows:

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(1) WASTEWATER TAPPING COST IN A IMPROVED ROADWAY 50' OR LESS:

Tap Size	Cost	Cost per L. F. After 50'
4"	\$346.00	\$6.00
6"	\$489.00	\$7.00

(2) WASTEWATER TAPPING COST IN A UNIMPROVED ROADWAY 50' OR LESS:

Tap Size	Cost	Cost per L. F. After 50'
4"	\$265.00	\$4.00
6"	\$365.00	\$5.00

(3) Trench protection for depths below 5' or 8', there will be an additional \$2.00 per L.F.

(4) Trench protection for depths below 8' there will be an additional \$5.00 per L.F.

(B) The rates in subsection (a) of this section shall be adjusted annually or as necessary. (Ord. of 04-22-91; Ord. of 9-22-92, §1-177)

(1) The utilities superintendent will determine the location and grade of existing wastewater mains and if wastewater service can be made available to the property. No service shall be made available unless existing mains are immediately adjacent to or within 200' of the property to be served. Ord. of 9-22-92, §1-177)

**Sec. 16-34. Pipes connected to sewer to be kept free from obstruction.**

It shall be unlawful for the owner or occupant of any building or premises within this city to use, or to permit anyone else to use, any privy or water closet on such premises that is connected with the wastewater system of the city, unless the same shall be used in connection with sufficient water flowing into the sewer to keep the pipes connecting such water closets with the sewers free from obstruction. (Ord. of 1-11-49, §36; Ord. of 6-28-83, §16-6; Ord. of 9-22-92, §1-177)

**Sec. 16-35. Prohibited Connections.**

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No open gutter, cesspool or privy vault shall be connected with any sewer or drain and it shall be unlawful for any person to make or have made any connection with the wastewater system of the city

that will permit any surface or drain water from the ground or roof of houses, or the overflowing of cisterns or cesspools, to enter any wastewater system, directly or indirectly. (Ord. of 1-11-49, §9,36; Ord. of 6-28-83, §16-7; Ord. of 9-22-92, §1-177)

### **Sec. 16-36. Damaging wastewater system; unauthorized deposits.**

No person shall injure, break or remove any section of any manhole, lamp hole, flush tank, catch basin, or any part of the city's wastewater system, or throw or deposit or cause to be deposited or thrown in any wastewater system any garbage, offal, dead animals, vegetables, parings, ashes, cinders, rags or other matter or thing whatsoever, except feces, urine, and the necessary waste toilet paper, liquid, house and mill slops. (Ord. of 1-11-49, §10; Ord. of 6-28-83, §16-8; Ord. of 9-22-92, §1-177)

### **Sec. 16-37. Improper discharge into wastewater system.**

The city, acting through the plumbing inspector or other authorized officers, shall have the power to stop and prevent from discharging into the wastewater system any private sewer or drain through which substances are discharged which are liable to injure the wastewater or obstruct the flow of the sewage, or interfere with the operation of the disposal plant. (Ord. of 1-11-49, §12; Ord. of 6-28-83, §16-9; Ord. of 9-22-92, §1-177)

### **Sec. 16-38 through 16-49. Reserved.**

### **Sec. 16-50. Third Party Natural Gas Sales.**

(A)

#### **Definitions.**

- (1) Consumer. Any individual person, corporation, company, partnership, firm, unincorporated association, trust state agency, government entity, political subdivision of the state, school district, institution of higher learning, or public corporation that uses or consumes natural gas within the corporate limits of the city.
- (2) Permit. The right, license, and privilege granted by the City to a Consumer or Seller to use the Public Ways for the purpose of transporting gas owned by any party other than Transporter and to be used or consumed by Consumer.
- (3) Permittee. A Consumer or Seller granted a Permit under this ordinance.
- (4) Pipeline System. A gas system installed in the Public Ways and consisting of works, pipes, pipelines, apparatus, machinery, structures, appliances, and appurtenances reasonably necessary for this sale, transportation, or distribution of natural gas.

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- (5) Public Ways. Any street, alley, avenue, boulevard, lane, park, parkway, sidewalk, driveway, utility easement, right of way, and any other public ways, places, areas, or grounds within the corporate limits of the city is now constituted or as may be added thereafter.
  - (6) Purchase Price. The total purchase price excluding transportation charges otherwise paid by any franchisee under any other provision of this ordinance or any provision of any other franchise of the city, paid by a Consumer to a Seller for natural gas that is used or consumed within the corporate limits of the city and that is transported to the Consumer through a Pipeline System.
  - (7) Seller. Any individual person, corporation, company, partnership, firm, unincorporated association, trust, or public corporation (excluding, however, any Transporter) that sells natural gas to any Consumer, which natural gas is transported to the Consumer through a Pipeline System.
  - (8) Transporter. Any individual person, corporation, company, partnership, firm, unincorporated association, trust or public corporation that transports and delivers gas owned by any party other than Transporter through Transporter's Pipeline System.
- (B) Permit required.
- (1) No Consumer shall receive, directly or indirectly, gas within the city that was purchased from a Seller outside of the corporate limits of the city and that is to be transported through any Pipeline System installed in the Public Ways unless the Consumer or the Seller shall hold a valid Permit from the city. Such Permit shall be issued for the purpose of granting the Permittee authority to use the Public Ways.
  - (2) After the operative date of this Ordinance, no Transporter shall enter into any agreement or arrangement by which natural gas owned by any party other than such Transporter shall be transported through any portion of Transporter's Pipeline System for delivery to any Consumer within the corporate limits of the city unless:
    - (a) the Consumer or Seller shall have obtained a Permit from the city for the use of the Public Ways in transporting and delivering gas pursuant to such agreement or arrangement; and
    - (b) if requested by the city, Transporter agrees to collect from the Permittee any and all fees to be paid pursuant to such Permit and to remit such fees so collected to the city on a monthly basis, and

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(c) the Transporter agrees to report to the city, on a monthly basis, all volumes transported through its Pipeline System for delivery to any Consumer within the corporate limits of the city pursuant to any agreement or arrangement.

(3) Any transportation agreements or arrangements that are in existence as of the effective date of this Ordinance which provide for the payment of any franchise-type fee may continue in effect for sixty days to allow the Permittee to complete and submit an application for permit in accordance with the provisions of this ordinance.

(C) Fees.

In consideration of the issuance of a Permit by the city, a Permittee shall pay to the city a fee for the use of the Public Ways in an amount equal to three and 2 percent (32%) of the Purchase Price of the gas transported or delivered within the corporate limits of the City.

(D) Permit requirements.

(1) Every application for a Permit, as required in this Section, shall be in writing and shall include the following information:

- (a) the date of the application; and
- (b) the name of the applicant; and
- (c) address of the principal place of business of the applicant; and
- (d) the name and address of the principal place of business of the consumer of the natural gas; and
- (e) the name and address of the principal place of business of the seller of the natural gas; and
- (f) the name and address of the principal place of business of the transporter of the natural gas; and
- (g) the address of the place where the gas is to be delivered within the City of Big Spring; and
- (h) the date that the applicant proposes to begin delivery of said natural gas; and
- (i) the name of the party who is to be responsible for the collection and payment of all fees pursuant to said Permit; and
- (j) the proposed purchase price of the gas to be transported or delivered within the city.

(2) Every application for a Permit shall be filed with the City Secretary at least thirty (30) days before the proposed date of first delivery of natural gas.

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- (3) The City Manager shall within thirty (30) days of the filing of the application for a Permit as required in this Section, first consider the application to determine whether or not the application complies with all respects and provisions of this Section; and if it does so comply, issue said permit.
  
- (4) Any permit issued shall contain the following material terms:
  - (a) the Permittee shall pay the fee set forth in Section 3 to either the City or Transporter, as the case may be, on a monthly basis, according to the city's direction; and
  - (b) the Permittee shall grant to the city the right to audit at reasonable times the books and records of the Permittee to verify the correct payment of the fee set forth in Section 3; and
  - (c) the Permit shall specify the beginning and ending dates that the permit will be effective; provided that said permit not be granted for a period to exceed five (5) years.
  - (d) that the Permittee shall not assign the permit or assign or transfer the rights herein granted, either in whole or part, without the written consent of the City Manager of the City of Big Spring.
  
- (E) Penalties and revocation.
  - (1) Any Consumer or Seller adjudged guilty of operating without the Permit required by Section 2 shall be subject to a fine of Five Hundred Dollars (\$500.00) for each offense, and each day of a continuing violation shall be deemed a separate offense.
  - (2) If the Permittee shall fail to substantially comply with the conditions of the permit, the city shall have the right by a resolution duly passed therefore to forfeit said permit and all the rights granted to said Permittee; provided, however, the city shall give the Permittee thirty (30) days notice in writing, upon receipt of registered letter containing the same, specifying the conditions claimed to have been violated, and giving full and fair opportunity to be heard thereon, before declaring such forfeiture, which notice shall fairly and fully set out all of the conditions claimed and complained of, and shall be given by the said city and shall be signed by the City Secretary under the seal of the City. After having been properly authorized by the Mayor of the City; and further, provided, however, the Permittee shall have thirty (30) days after receiving such

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notice in which to rectify and correct such violations and to substantially comply with the terms and conditions of the permit; should the violations so complained of not have been rectified and corrected and the terms and conditions of the

permit substantially complied with at the end of said thirty (30) days, then and in that event, the city shall have the power to forfeit said permit on account of the violations specified in said notice. (Ord. of 9-22-92, §1-177)

### **Sec. 16-51 through 16-59. Reserved.**

### **Article 3. Utility Service Charges**

#### **Sec. 16-60. General.**

##### **Sec. 16-60.1. When and where payable.**

The charges fixed by this article for water and wastewater service shall be due and payable on the fifteenth (15th) day after the date of billing. Such charges shall be paid at the city water office. (Ord. of 11-23-82, §16-25; Ord. of 9-22-92, §1-177)

##### **Sec. 16-60.2. Delinquent fees.**

- (A) Except as provided below, a delinquent fee shall be added to all water, wastewater and garbage bills not paid on or before the due date. The delinquent fee shall be an amount equal to ten percent (10%) of the total of said bill.
- (B) The delinquent fees established in subsection (A) above shall not be assessed on accounts where the principal customer is over 65 years of age. Suitable evidence in the form of driver's license or birth certificate presented to the water office shall be sufficient to establish this exemption.
- (C) A delinquent account must be paid by cash or money order before the water will be reconnected. (Ord. of 9-25-79; Ord. of 4-12-83, §16-26; Ord. of 9-22-92, §1-177; Ord of 1-24-95)

##### **Sec. 16-60.3. Billing.**

Charges for water and wastewater services shall be billed to the users or customers on the same statement, and such users or customers shall be permitted to make payment for any utility billed separately, but all services must be paid for the same time, including the charges for garbage collection,

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which are included on the same statement pursuant to Chapter 11 of this code. (Ord. of 11-22-55 §5; Ord. 6-82, 11-23-82, §16-27; Ord. of 9-22-92, §1-177)

### **Sec. 16-60.4. Disconnecting Service.**

In the event any user or customer of the city's water and wastewater systems does not pay the amounts due upon proper billings within ten (10) days from the date the same became due and payable, the City Manager is hereby authorized and directed to order the disconnection of water and sanitation services. There shall be a fee of ten (\$10.00) dollars for such disconnections. When the amount past due

and delinquent is paid by such user or customer, such services may be resumed upon payment of all past due amounts plus a reconnect fee of ten (\$10.00) dollars charged for the reconnect if made during normal work hours. The charges for reconnect made during other than normal work hours shall be fifteen (\$15.00) dollars. (Ord. of 9-25-79; Ord. 6-82, 11-23-82, §16-28; Ord. of 9-22-92, §1-177; Ord. of 01-26-93; Ord. of 1-24-95, Ord. of 10-28-97).

### **Sec. 16-60.5. Free service prohibited.**

No free water or wastewater services shall be allowed and, to the extent that the city, or any of its departments, avails itself of the services and facilities provided by the waterworks and wastewater system, it shall pay therefore the same rates and charges herein prescribed for all users and customers. (Ord. of 11-22-55, §6; Ord. 6-82, 11-23-82, §16-29; Ord. of 9-22-92, §1-177)

### **Sec. 16-60.6. Computation of water charge when meter fails.**

When a water meter breaks or fails to operate properly, a customer will be granted an adjustment for any billing periods affected thereby. Adjustments will be made to the customers water billing by subtracting the customers average consumption for the three month period immediately preceding the affected period from the consumption indicated for the affected period. The customer will then be billed for one half (2) of the resulting figure plus the average of the three month period. In the event prior consumption records are insufficient, the customer will be billed for one half (2) of the consumption indicated for the affected period.

Any adjustments made to the consumption level of commercial water accounts shall also apply on a proportionate basis to the reduction of any sewer charges based on the water consumption indicated for the affected period. Adjustments shall be limited to service connections inside the corporate limits of the city. (Ord. of 1-27-81, §1; Ord. 6-82, 11-23-82, §16-30, Ord. 10-28-86; Ord. of 9-22-92, §1-177)

### **Sec. 16-60.6(b) Computation of water charge when service line fails.**

When a customer experiences an unusual increase in water consumption due to a break in water lines on the customer's side of the meter, an adjustment will be made to the customer's water billing upon presentation of (1) satisfactory evidence of the failure of the water line and (2) a paid invoice from a licensed plumber stating that the line has been repaired. Adjustments will be made to the customer's bill as follows: (1) The customer's adjusted bill will be calculated by taking the average consumption from previous year for a three month period, including the affected month. In the event that prior

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consumption records are insufficient, the customer will be billed for 2 of the consumption indicated for the affected billing period. (Ord. of 11-20-92)

### Sec. 16-60.7. Turn-off fee.

In the event any user or consumer of the city's utilities contacts the city and requests that their water be turned off for repairs, etc., the following fee schedule will apply:

- (A) A fee of seven and one-half dollars (\$7.50) shall be charged for turn-off or turn-on during normal work hours.
  
  
  
  
  
  
  
  
  
  
- (B) A fee of eleven and one-quarter dollars (\$11.25) shall be charged for turn-on or turn-off during periods other than normal work hours. (Ord. of 4-10-73; Ord. 6-82, 11-23-82. §16-31; Ord. of 9-22-92, §1-177)

### Sec. 16-60.8. Transfer fee.

A fee of fifteen dollars (\$15.00) shall be charged to all water service customers requesting a transfer of service within the city. (Ord. of 9-25-80; Ord. 6-82, 11-23-82), §16-32; Ord. of 9-22-92, §1-177)

### Sec. 16-60.9. Deposit Required.

- (A) A deposit of fifty dollars (\$50.00) shall be required for all new residential water service customers and all previous customers seeking a transfer of service who have been delinquent in the payment of their water bills during the twelve (12) month period immediately preceding the date of the request for such transfer. Such deposit shall be refundable on or before the end of the fiscal year during which such deposit is made, provided, however, that such deposits shall not be refundable on or before the end of the next fiscal year if made within six (6) months of the end of the fiscal year or if the customer has been delinquent in the payment of his water bill during the fiscal year. (Ord. of 01-26-93).
  
  
  
  
  
  
  
  
  
  
- (B) A deposit of seventy-five dollars (\$75.00) shall be required for all new commercial water service customers and all previous customers seeking a transfer of service who have been delinquent in the payment of their water bills during the preceding twelve (12) month period immediately preceding the date of the request for such transfer. Such deposit shall be refundable on or before the end of the fiscal year during which such deposit is made, provided, however, that such deposits shall not be refundable on or before the end of the next fiscal year if made within six (6) months of the end of the fiscal year or if the customer has been delinquent in the payment of his water bill during the fiscal year. (Ord. of 01-26-93).
  
  
  
  
  
  
  
  
  
  
- (C) All water deposits held by the city shall accrue interest at the rate of six percent (6%) per annum.

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- (D) In the event that an account becomes delinquent more than two times, a deposit in the amount of two months average bill will be required from the delinquent customer. If the customer already has a deposit with the city, an additional amount to equal two months average bill must be placed with the city. (Ord. of 8-28-79; Ord. 6-82, 11-23-82, §16-33; Ord. of 9-22-92, §1-177; Ord. of 1-24-95)

### **Sec. 16-61 through 16-69. Reserved.**

### **Sec. 16-70. Charges for water rates.**

The potable water rate is based on one class of service, with all customers being assessed the life line rate and a fixed rate per 1,000 gallons of potable or non-potable water used. The monthly rate and charges for services furnished by the city water works system shall be as follows:

- (A) Potable, inside the city limits.  
    (1) Life line rate: \$16.75  
    (2) \$2.70 per thousand gallons or fraction thereof
- (B) Potable, outside the city limits  
    (1) Life line rate: \$33.50  
    (2) \$5.40 per thousand gallons or fraction thereof
- (C) Non-potable, inside the city limits  
    (1) Life line rate: \$16.75  
    (2) \$2.39 per thousand gallons or fraction thereof
- (D) Non-potable, outside the city limits.  
    (1) Life line rate: \$33.50  
    (2) \$4.78 per thousand gallons or fraction thereof
- (E) Standby fire sprinkler service.  
    (1) There shall be a monthly standby fire sprinkler service charge assessed as follows:  
        (a) Inside city limits: \$16.75 base plus \$1.00 per inch of sprinkler supply pipe diameter.  
        (b) Outside city limits: \$33.50 base plus \$1.00 per inch of sprinkler supply pipe diameter.

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- (F) Multi-family dwelling, four-plex or larger, shall be permitted to have a master meter and shall be assessed at the life line rate for each dwelling unit on the meter and the rates (a) through (d) above shall be applied to each dwelling unit as applicable.
- (G) Mobile home park with more than ten (10) spaces shall be permitted to have a master meter and shall be assessed at the life line rate for each space on the meter and the rates in (a) through (d) above shall be applied to each space as applicable. A mobile home park with less than ten (10) spaces shall provide a separate meter for each space.
- (H) Commercial or apartment account on a single meter at the time this ordinance is enacted shall be assessed at the life line rate for each unit on the meter and the rates in (a) through (d) above shall be applied to each unit as applicable.
  
- (I) Multi-family dwelling (four-plex or larger), mobile home park with more than ten (10) spaces, or an existing apartment on a single meter shall be given a five percent (5%) vacancy allowance against the total number of dwelling units, spaces, or units in computing the total number of dwelling units, spaces or units for which a base rate charge is due on each dwelling unit, space or unit
- (J) The City Manager or his representative has the authority to grant a vacancy allowance greater than that authorized by section 16-70 (I) upon presentation of records and documents by the owners or operators which verify claims of a higher vacancy rate. The vacancy rate granted by the City Manager or his representative shall not exceed the rate which is verified by said records and documents. The City Manager or his representative shall have the right to review said vacancy allowance at any time and revise same but shall not review said vacancy allowance more than once per year at the request of the owners or operators. (Ord. of 4-12-83; Ord. of 2-14-84, §16-23 (J); Ord. of 9-10-85, Ord. of 8-11-87; Ord. of 9-22-92, §1-177, Ord. of 9-24-96, Ord. of 9-26-00, Ord. of 9-25-01, Ord. of 9-23-03, Ord. of 9-27-05, Ord. of 11-25-07, Ord. of 9-23-08, Ord. of 9-22-09)

### **Sec. 16-17 through 16-79. Reserved.**

### **Sec. 16-80. Wastewater rates.**

- (A) The wastewater rates shall be calculated as follows:
  - (1) For all accounts, residential, commercial, multi-family dwelling (four-plex or larger), mobile home park, and apartment complex there shall be a "base rate" for every unit, dwelling unit, or space that is connected to the wastewater system. The base rate is as follows:

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Residential Unit           \$ 11.00

Non-Residential Unit   \$ 18.00

(Ord. 10-6-86, Ord. of 9-26-00, Ord. of 9-27-05, Ord. of 9-22-09)

(2) A multi-family dwelling (four-plex or larger), a mobile home park with more than ten (10) spaces, or an existing apartment on a single meter shall be given a five percent (5%) vacancy allowance against the total number of dwelling units, spaces, or units in computing the total number of dwelling units, spaces or units for which a base rate charge is due on each dwelling unit, space or unit.

(3) In addition to the monthly base rate, each wastewater account shall be charged for wastewater discharge based on water usage. The charge for non-commercial accounts will be assessed at a rate of \$1.50 per 1,000 gallons of water usage. The charge for commercial accounts will be assessed at a rate of \$2.00 per 1,000 gallons of water usage. In making the assessment for residential, water usage shall be computed by taking ninety percent (90%) of the

customer's average monthly water usage, as shown by City water records, for the months of December, January, and February immediately preceding the year in question. For commercial accounts, ninety percent (90%) of actual monthly water usage will be used in calculating the charge for wastewater discharge. In lieu of the foregoing water usage computation, a residential account will have the option of applying to the City water office for computation of water usage based on either of the following formulas: (a) 100 gallons of water per day per person in the residential customer's household times the number of days in the billing period; or (2) ninety percent (90%) of the actual water used by the customer during the current month as shown by the City's water records. Any option elected will be effective for a minimum of twelve (12) months or until a history of consumption is established, whichever comes first. (Ord. 6-10-86; Ord. of 9-22-92, §1-177, Ord. of 9-28-04, Ord. of 9-27-05, Ord. of 9-22-09)

(4) Wastewater rates - no history of consumption. Where there is no history of consumption to establish the average monthly water usage for residential accounts during the months of December, January, and February as stated in Section (A)(3) above, an account will be billed for wastewater discharged at the monthly base rate fee plus charges based on current water usage. The water usage charge will be assessed at the rate of \$1.50 per 1,000 gallons of water. When making this assessment, water usage shall be computed by taking ninety percent (90%) of the water used by the customer in the current month as shown by City water records. In lieu of the foregoing water usage computation, a residential account will have the option of applying to the City water office for computation of water usage based on either of the following formulas: (a) 100 gallons of water per day per person in the residential customer's household

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times the number of days in the billing period; or (2) ninety percent (90%) of the actual water used by the customer during the current month as shown by the City’s water records. Any option elected will be effective for a minimum of twelve (12) months or until a history of consumption is established, whichever comes first. (Ord. 6-10-86; Ord. of 9-22-92, §1-177, Ord. of 9-28-04, Ord. of 9-27-05, Ord. of 9-22-09)

- (5) The City Manager or his representative shall have the authority to grant a vacancy allowance greater than that authorized by section 16-24(A)(2) upon presentation of records and documents by owners or operators which verify claims of a higher vacancy rate. The vacancy rate granted by the City Manager or his representative shall not exceed the vacancy rate which is verified by said records and documents. The City Manager or his representative shall have the right to review said vacancy allowance at any time and revise same but shall not review said vacancy allowance at any time and revise same but shall not review

said vacancy allowance more than once per year at the request of the owners or operators.

- (B) **Surcharge.** In addition to the rates prescribed in subsection (A) above, there shall be a surcharge of \$2.00 per month per unit, space, or dwelling unit served by each meter. \$1.35 of the above described surcharge shall be dedicated exclusively to capital equipment and use as authorized by the City Council. To that end, the City Treasurer shall deposit \$1.35 of every \$2.00 surcharge collected in the Surcharge Fund established by the city. The remaining \$.65 shall be deposited in the Operations Fund of the Utility Fund of the City of Big Spring. (Ord. of 5-17-87; Ord. of 9-22-92, §1-177 Ord. of 12-27-95, Ord. of 9-26-00)

**Sec. 16-81 through 16-89. Reserved.**

**Sec. 16-90. Energas Natural Gas Fees.**

Energas Natural Gas Company shall be entitled to charge the following fees for setting and turning on customer meters in the City of Big Spring:

	During Normal Working Hours	After Normal Working Hours
Meter Set	\$8.00	\$12.00
Meter Turn-on	\$8.00	\$12.00

(Ord. of 6-28-83, §16-45; Ord. of 9-22-92, §1-177)

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### Sec. 16-91. Discontinuance of gas service; reconnect fee.

In case of default or nonpayment of the gas bill rendered at any authorized rate, Energas Natural Gas Company shall have the right to discontinue gas service to any customer in the manner provided by law, and in case such customer shall make application to have service reconnected, he may be required to pay as a condition precedent thereto all amounts due Energas Natural Gas Company, and also a reconnecting fee of eight dollars (\$8.00) during normal working hours and twelve dollars (\$12.00) after normal working hours. (Ord. of 6-28-83, §16-46; Ord. of 9-22-92, §1-177)

### Sec. 16-92 to 16-99. Reserved.

## Article 4. Water Pollution Control

### Sec. 16-100. Water pollution control duties of the city

- (A) The City of Big Spring, Texas having a population of more than 5,000 inhabitants, hereby establishes a water pollution control and abatement program for the city. The city shall employ or retain an adequate number of personnel, on either part-time or full-time basis as the needs and circumstances of the city may require, who by virtue of their training and experience are qualified to perform the water pollution and abatement functions required to enable the city to carry out its duties and responsibilities under this article.
  
- (B) The water pollution control and abatement program of this city shall encompass the entire city and its extraterritorial jurisdiction to achieve the objectives of the city for the area within its territorial jurisdiction. The city shall include in the program the services and functions which, in the judgement of the city or as may be reasonably required by state or federal law, will provide effective water pollution control and abatement for the city, including the following services and functions:
  - (1) the development and maintenance of an inventory of all significant waste discharges into or adjacent to the water within the city, and within the extraterritorial jurisdiction of the city, without regard to whether or not the discharges are authorized by the department;

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- (2) the regular monitoring of all significant waste discharges included in the inventory prepared pursuant to paragraph (1) above;
- (3) the collecting of samples and conducting of periodic inspections and tests of the waste discharges being monitored to determine whether the discharges are being conducted in compliance with the Act and any applicable permits, orders or regulations of the department and whether they should be covered by a permit from the commission;
- (4) in cooperation with the department, a procedure for obtaining compliance by the waste dischargers being monitored, including where necessary, the use of legal enforcement proceedings; and
- (5) the development and execution of reasonable and realistic plans for controlling and abating pollution or potential pollution resulting from generalized discharge of wastes which are not traceable to specific sources, such as storm sewer discharges and urban runoff from rainwater. (Ord. 96-83, 12-13-83, 516-2; Ord. of 9-22-92, §1-177)

### **Sec. 16-101. Superintendent of utilities; enforcement duties.**

The City Manager of Big Spring shall appoint a superintendent of utilities and such assistants as the City Manager may determine to be necessary, and it shall be the duty of the superintendent to enforce the provisions of this article. (Ord. 96-83, 12-13-83, §16-3; Ord. of 9-22-92, §1-177)

### **Sec. 16-102. Powers and authority of enforcing agents.**

The City Manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. (Ord. 96-83, 12-13-83, §16-5; Ord. of 9-22-92, §1)

### **Sec. 16-103. Penalties**

- (A) Any person found to be violating any provisions of Articles 4 and 5 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. If the offender continues violation after the expiration of time stated, the City Manager may prohibit the further use of the sewage system by the offender and may remove or close the offender's sewage and water conditions.
- (B) Any person who shall continue any violations beyond the time limit provided for in paragraph (A) above, shall be guilty of a misdemeanor, and upon conviction thereof

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shall be fined in an amount not less than one dollar (\$1.00) nor more than one thousand dollars (\$1,000.00) for each violation. Each day in which such violations exist shall be deemed a separate offense.

- (C) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned by the city for reason of such violation. (Ord. 96-83, 12-13-83, §16-6; Ord. of 9-22-92, §1-177)

### **Sec. 16-104. Enforcement by city of violation.**

Steps to be taken when water pollution is detected by the city:

- (A) Notice to alleged violator: Letter shall be sent by the city to alleged offender to notify that:
- (1) Discharge of wastewaters within his property appears to be in violation of law or the rules of the Texas Water Commission;
  - (2) The city suggests that the alleged violator take immediate steps toward correcting the problem;
  - (3) If the alleged violator finds from his evaluation that he is in violation of law or of the rules of the Texas Water Commission, he may submit an application for a waste discharge permit for the consideration of the city and the Texas Water Commission, together with a time schedule for compliance;
  - (4) He shall be requested to contact the city within ten (10) days so that the city can be informed as to what he proposes to do to correct the alleged violation.
- (B) A copy of the letter giving notice of the alleged violator [described under paragraph (a)] shall be sent to the Texas Water Commission, Austin, Texas. Investigation reports and names of witnesses which are available at that time shall be attached to the letter. A carbon copy will also be sent to the Texas Water Commission, District 10, Odessa, Texas 79761.
- (C) The city shall continue investigation and testing procedures as it feels is necessary to show whether a violation exists.
- (D) The city may oppose the granting of a waste discharge permit, or may recommend partial granting of such, etc. The City of Big Spring is free to sue the polluter for violations which occurred when the polluter has no waste discharge permit.

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- (E) If the alleged violator is not willing to take effective steps to control his pollution sources, the responsible city authority shall send a letter to the City Attorney with a request for his consideration of the information which is enclosed. All investigation reports which have been completed against this alleged violator and lists of witnesses which may be used in the prosecution of a lawsuit, and all test information should be included. A copy of this letter and attachments shall be sent to the Texas Water commission.
- (F) When the local government files suit in district court pursuant to 26.124 of the Texas Water Code, the Texas Water Commission is a necessary and indispensable party and must be served with citation.

NOTE: This information procedure can be varied as circumstances warrant and as experience between the city, Texas Water commission, and the Attorney General indicate is necessary.

- (G) Information to be furnished to the City Attorney in cases where suit is desired by the city:
  - (1) Metes and bounds description of real estate, together with ownership, volume and page number and copy of latest conveyance unto owner;
  - (2) A plan, map and aerial photograph of property in question, if available;
  - (3) Names and addresses of all persons in possession; operators, and owners;
  - (4) A copy, or original, of the city's file dealing with the situation problem;
  - (5) Transcript of hearing, if any;
  - (6) Witnesses: names, addresses and statements;
  - (7) Copies of reports by experts and investigators;
  - (8) Copy of all waste discharge permits, if any;
  - (9) City's order requesting the city attorney to file and recommendation;
  - (10) Names and phone numbers of personnel who will be working with the City Attorney on the case;
  - (11) Other information and results of investigations such as photographs, sampling, measurements taken from testing devices or manually, diagrams, models, etc.(Ord. 96-83, 12-13-86, §16-7; Ord. of 9-22-92, §1-177)

**Sec. 16-105. Preserving evidence of litigation purposes.**

- (A) Maps, diagrams and sketches.
  - (1) Accuracy. The paper must correctly represent the situation as it existed at the time of consideration. It is not necessary that the map or sketch be drawn to scale provided it is a fair representation.

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- (2) Verification. It is usually held that it is not necessary that the person making the map, diagram or sketch testify as to its correctness, but any person acquainted with the facts may do so.
- (B) Photographs.
- (1) Instructive. Whenever the appearance of a person, place or object is relevant, a photograph or picture is admissible to explain the evidence and aid in its application and to assist the court or jury in understanding the case.
  - (2) Accuracy. The photograph must be a fair and accurate reproduction of the things or conditions as they were when the photograph was taken. Where a photograph is offered, not as a mere general representation of the thing or condition, but to show distances, colors, relative sizes, or locations of objects, it may be very deceptive and misleading, therefore, much more convincing proof of its accuracy is required.
  - (3) Verification. It is best if the photograph is verified by oath of photographer who took it; however, sufficient verification may be furnished by the testimony of any competent witness who has sufficient knowledge to testify that the photograph fairly represents what it purports to represent. The presence of a verifying witness when the photograph was taken may be a factor in determining the sufficiency of the accuracy.
  - (4) Notice to adverse party. It is not essential to the admissibility of the photographs that the adverse party should have been notified of the intention to take them.
  - (5) Inscription on picture. When an otherwise admissible picture has an inscription on it or on the reverse side of it, before the photograph can be admitted, the handwriting must be identified or concealed so that only the picture itself, and not the message inscribed on it, can be considered as evidence.
- (C) Samples.
- (1) Identification. Samples are admissible on an issue as to the properties or qualities of the substance involved in the case where they are sufficiently identified as to their source and that they reflect the condition of the substance or articles as of the time involved in the issues.
- (D) Documents.
- (1) Existence and genuineness. The document must be produced in court, together with witnesses to identify it. (Ord. 96-83, 12-13-83, §16-8; Ord. of 9-22-92, §1-177)

### Sec. 16-106. Pollution Investigations.

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In the event of pollution incidents, including unpermitted discharges, spills of oil or other hazardous materials, where legal action against the discharger or person responsible for a spill may result, the investigator shall obtain the following:

- (A) Names, addresses, phone numbers and positions of all persons who may be responsible for or have knowledge of the discharge or spill.
- (B) Signed statements, wherever possible, indicating where, when and how the discharge or spill occurred and the extent of the discharge or spill. (In cases where a witness will not sign a statement, his oral statement should be immediately reduced to writing and should be submitted with the investigator's written report).
- (C) Samples of discharge or spilled materials, as well as comparative samples from affected and unaffected water in proximity to the discharge or spill. Sample containers are to be immediately and indelibly labeled with the appropriate sample number by the collector and a Chain of Custody Record attached. (See 16-107 below).
- (D) Photographs at the scene to illustrate the source and extent of pollution. Polaroid photographs of good quality are preferable as evidence and should be immediately labeled with the location, date, time, a short description of what is being illustrated, and signed by the photographer. If possible, the signature of a witness at the scene should also be obtained for corroborative purposes.
- (E) License number and other registration of vehicles or vessels involved in pollution incidents. Drivers or operators should be identified and a record made of their names, addresses, employers and identification.
- (F) Field notes made at the scene. (Since these can be used on the witness stand, the investigator should complete them at the scene and, if possible, have a witness at the scene initial or sign them. Field notes should also contain a sketch of the site with appropriate labeling). (Ord. 96-83, 12-31-83, §16-9; Ord. of 9-22-92, §1-177)

### **Sec. 16-107. Chain of custody.**

All samples and other tangible evidence should be maintained in proper custody until disposition or until the samples are dispatched to a laboratory for analysis. A record of sample number, source of sample, time, date, and name of person taking the sample and each person handling the sample will be kept with the sample on a Chain of Custody Record until the sample is delivered to the laboratory. (Placing a sample addressed to the laboratory in the U.S. mail constitutes delivery to the laboratory.) Upon delivery to the laboratory, the Chain of Custody Record should be immediately submitted to the city's water pollution control office, attached to a signed and dated memorandum of transmittal. (Ord. of 96-83, 12-13-83, §16-9; Ord. of 9-22-92, §1-177)

### **Sec. 16-108. Reports.**

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All reports of investigation of water pollution incidents should be completed promptly. The report should appropriate descriptions, sample data, maps, photographs, etc., to accurately and fully depict;

- (A) The waste generating activities or the incident in which a spill occurred;
- (B) The quantitative and qualitative characteristics of the waste generated or the material spilled;
- (C) The route of the waste or spilled material to the receiving waters;
- (D) The receiving waters;
- (E) The effects of the waste or spilled material on the receiving waters;
- (F) The location of the waste generating activity (include street address, if any) or the location of the spill;
- (G) The names and addresses of witnesses and complainants willing to provide information;
- (H) A current list of responsible officials;
- (I) A list of other agencies concerned in the investigation, such as cities, counties, river authorities, etc.;
- (J) All other pertinent information. Ord. 96-83, 12-13-83, §16-9; Ord. of 9-22-92, §1-177)

**Sec. 16-109 to 16-119. Reserved.**

### **Article 5. Wastewater Discharges**

**Sec. 16-120. Generally.**

This article provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customers' capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This article shall apply to the City of Big Spring and to persons outside the city who are, by contract or agreement with the city, users of the City of Big Spring POTW. Except as otherwise

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provided herein, the utilities superintendent of the City of Big Spring POWT shall administer, implement, and enforce the provisions of this article. (Ord. of 6-28-83, §16-70; Ord. of 9-22-92, §1-177)

### **Sec. 16-121. Definitions.**

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

- (A) Act or "the Act". Section 26.177, of the Texas Water Code originally enacted in 1971 by S.B. No. 835.
- (B) Approval Authority. The director in an NPDES State with an approved state municipal water pollution control and abatement program.
- (C) Authorized Representative of a Significant Waste Discharger. An authorized representative may be :
  - (1) a principal executive officer of at least the level of vice president, if the discharger is a corporation;
  - (2) a general partner or proprietor if the discharger is a partnership or proprietorship, respectively;
  - (3) a duly authorized representative responsible for the overall operation of the facilities from which the discharge originates.
- (D) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidations of organic matter under standard laboratory procedures, five (5) days at 20N centigrade expressed in terms of weight and concentration [milligrams per liter (mg/L)].
- (E) Board. The Texas Water Development Board as defined by 26.001 et seq o the Texas Water Code.
- (F) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
- (G) Categorical Standards. National Categorical Pretreatment Standards or Treatment Standards.
- (H) City. The City of Big Spring or the city council of Big Spring.
- (I) Cooling Water. The water discharges from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat

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- (J) Commission. The Texas Water Commission.
- (K) Control Authority. The term "Control Authority" shall refer to the "approved authority" defined hereinabove, or the superintendent of utilities.
- (L) Department. The Texas Water Commission.
- (M) Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of Texas.
- (N) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.
- (O) ETJ. Extraterritorial Jurisdiction.
- (P) Grab Sample. Sample which is taken from a waste stream or surface runoff on a one-time basis with no regard to the flow in the stream and without consideration of time.
- (Q) Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.
- (R) Indirect Discharge. The discharge or introduction of non-domestic pollutants from any source regulated under sections 307(b) or (c) of the Act (33 U.S.C. 1317) into the POTW or waters of the State of Texas.
- (S) Industrial User. A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of 33 U.S.C. 1342.
- (T) National Prohibitive Discharge Standard or any Prohibitive Discharge Standard. Any regulation developed under the authority of 307 (b) of 33 U.S.C. 1342 40 CFR, or section 403.5 of S.B. No. 835.
- (U) National Pollution Discharge Elimination System or NPDES Permit. A permit issued pursuant to section 402 of 33 U.S.C. 1342.
- (V) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine gender. The singular shall include the plural where indicated by the context.

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- (W) pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (X) Pollution. The man-made or man-induced alterations of the chemical, physical, biological and radiological integrity of water.
- (Y) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage garbage, sludge, mutations, chemical waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharge into water.
- (Z) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW or the waters of the State of Texas.
- (AA) POTW or Publicly Owned Treatment Works. Sewers or other conveyances and treatment plants.
- (BB) Shall. is mandatory; May is permissive.
- (CC) Significant Waste Discharger. Any discharger discharging 25,000 gallons or more per day (24 hour period), has in his waste toxic pollutants as defined pursuant to section 307 of 33 U.S.C. 1292 or state statutes and rules, as if found by the city, state control agency or the EPA to have significant impact, either singly or in combination with other contributing industries on the waters of the State of Texas.
- (DD) State. The State of Texas.
  
- (EE) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (FF) Storm Water. Any flow occurring during or following any forms of natural precipitation and resulting therefrom.
- (GG) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in water, wastewater, or other liquids, and which is removed by laboratory filtering.

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- (HH) Superintendent of Utilities. The person designated by the city to supervise the operation of the utilities department and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.
- (II) Toxic Pollutant. Any pollutants or combination of pollutant listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of CWA 307 (a) or other acts.
- (JJ) Wastewater. The liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, and storm water that may be present, whether treated or untreated, which is permitted to enter the POTW or waters of the State of Texas.
- (KK) Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, or flow through or border upon the State of any portion thereof and including any other "water" as defined by section 26.001 of the Texas Water Code.

### **Sec.16-122. Abbreviations.**

The following abbreviations shall have the designated meanings:

BOD - Biochemical Oxygen Demand  
CFR - Code of Federal Regulations  
COD - Chemical Oxygen Demand  
EPA - Environmental Protection Agency  
L - liter  
mg - milligrams  
mg/L - milligrams per liter  
NPDES - National Pollutant Discharge Elimination System  
POTW - Publicly Owned Treatment Works  
SIC - Standard Industrial Classification

SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et seq  
TSS - Total Suspended Solids  
USC - United States Code

(Ord. of 6-28-83, §16-72; Ord. of 9-22-92, §1-177)

### **Sec. 16-123. Discharge prohibitions.**

#### **Sec. 16-123.1. Wastewater discharges.**

It shall be unlawful to discharge without a city permit to any natural outlet within the City of Big Spring, or in any area under the jurisdiction of the city, and/or to the POTW any wastewater except as

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authorized by the superintendent in accordance with the provisions of this chapter. (Ord. of 6-28-83, §16-83; Ord. of 9-22-92, §1-177)

### **Sec. 16-123.2. Nonpolluted discharges.**

- (A) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage or unpolluted industrial process waters to any sanitary sewer.
- (B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City Manager. Unpolluted process waters may be discharged upon approval of the City Manager, to a storm sewer or natural outlet, or into the sanitary sewer system upon prior written approval of the City Manager or superintendent of utilities.

### **Sec. 16-123.3. Prohibited Discharges.**

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

- (A) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings of any explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substance which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.
- (B) Concentrations exceeding one hundred (100) milligrams per liter of wax, fats, grease, oil, plastic or other substances which will solidify or become discernible viscous at any temperature between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit;
- (C) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, entrails or tissues, paunch manure, bones, hair, hides or fleshing,

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whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

- (D) Any wastewater having a pH less than 5.5, or greater than 10.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (E) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in the Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.
- (F) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (G) Any substance which may cause a POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non compliance with sludge use or disposal criteria guidelines or regulations developed under section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- (H) Any substance which will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.
- (I) Any wastewater with objectionable color not removed in the treatment process, such as but not limited to, dye wastes and vegetable tanning solutions.
- (J) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40NC (104NF) unless the POTW treatment plant is designed to accommodate such temperature.

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- (K) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- (L) Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
- (M) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (N) Any cyanides or cyanogen compounds capable of liberating hydrocyanic gas or acidification in excess of one milligram per liter as CN;
- (O) Any fluoride in concentration exceeding that in the public water supply;
- (P) Any salts of the following heavy metals, in solution or suspension, at a concentration greater than as shown below;

Metal	PPM Average	PPM Daily Composite	PPM Grab Sample
Arsenic	0.100	0.200	0.300
Barium	1.000	2.000	4.000
Cadmium	0.050	0.100	0.200
Chromium	0.500	1.000	5.000
Copper	0.500	1.000	2.000
Lead	0.500	1.000	1.500
Manganese	1.000	2.000	3.000
Mercury	0.005	0.005	0.010
Nickel	1.000	2.000	3.000
Selenium	0.050	0.100	0.200
Silver	0.050	0.100	0.200
Zinc	1.000	2.000	6.000

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- (Q) All other heavy metals and toxic materials, in solution or suspension, at concentration greater than that in the public water supply, such as, but not limited to, the following:

Antimony	Molybdenum	Rhenium
Beryllium	Tin	Strontium
Bismuth	Uranylion	Tellurim
Cobalt	Pesticides	Herbicides
Fungicides		

- (R) Chlorides in concentrations exceeding twenty-five hundred (2,500) parts per million, unless the discharge of chlorides in concentrations higher than twenty-five hundred (2,500) parts per million is limited to rates and volumes that will not cause the concentration of chlorides in the treated effluent from the sewage treatment plant to exceed twenty-five hundred (2,500) parts per million;
- (S) Any radioactive wastes of greater concentration or amount than the allowable releases specified by regulatory agencies which control the possession and release of radioactive materials;
- (T) Any active or inert materials in concentrations which interfere with the proper operation of the treatment process to the degree that the normal treatment process used will not produce an effluent meeting the criteria of regulatory agencies or which impose unusual costs for treatment or maintenance;
- (U) No substances, or mixtures which may contain any amount of polychlorinated biphenyls (PCBS);
- (V) Wastewater with a phenol concentration greater than two (2.0) milligrams per liter;
- (W) Wastewater which contains more than five-tenths (0.5) milligrams per liter of hydrogen sulfide measured as H<sub>2</sub>S;
- (X) Wastewater with twenty-four-hour composite samples containing BOD or total suspended solids (TSS) in excess of three hundred (300) milligrams per liter, or chemical oxygen demand (COD) in excess of eleven hundred (1100) milligrams per liter;

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- (Y) Wastewater which contains more than 250 ppm total identifiable chlorinated hydrocarbons. (Ord. of 9-22-92, §1-177)

### Sec. 16-124. Pretreatment.

- (A) When the superintendent determines that a user(s) is contributing to the POTW any of the enumerated substances in Sec. 16-123 in such amounts as to interfere with the operation of the POTW, the superintendent shall:
- (1) advise the user(s) of the impact of the contribution on the POTW, and;
  - (2) develop effluent limitation(s) for such user to correct the interference with the POTW. (Ord. of 6-28-82, §15-73).
- (B) In cases where, and in the opinion of the superintendent of utilities, the character of the sewage from any manufacturer of industrial plant, building, or other premises in such that it will damage the system or cannot be treated satisfactorily in the system, the City Manager shall have the right to require such user to dispose of such waste otherwise, and prevent it from entering the system.
- (C) Grease, oil and interceptors shall be provided for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City Manager and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed in accordance with city standards and shall be impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gas-tight and watertight.
- (D) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

### Sec. 16-125. Federal Categorical Pretreatment Standards.

Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this

chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12. (Ord. of 6-28-33, §16-74)

### Sec. 16-126. Modifications of Federal Categorical Pretreatment Standards.

Where the city's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the city may apply to the Approval Authority for modifications of

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specific limits in the Federal Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five percent (95%) of the samples taken when measured according to the procedures set forth in section 403.7 (c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) "General Pretreatment Regulations for Existing and New Source of Pollution" promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR Part 403, section 403.7 are fulfilled and prior approval from the Approval Authority is obtained. (Ord. of 6-28-83; Ord. of 9-22-92, §1-177)

### **Sec. 16-127. State requirements.**

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article. (Ord. of 6-28-92, §16-77; Ord. of 9-22-92, §1-177)

### **Sec. 16-128. City's right of revision.**

The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Section 16-70. (Ord. of 6-28-83, §16-78; Ord. of 9-22-92, §1-177)

### **Sec. 16-129. Excessive discharge.**

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a particle or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the city or state. (Dilution may be any acceptable means of complying with some of the prohibitions set forth in Section 16-123, e.g., the pH prohibition.) (Ord. of 6-28-83, §16-79; Ord. of 9-22-92, §1-177)

### **Sec. 16-130. Accidental discharge.**

Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge or prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. All existing users shall complete such a plan by January 1, 1984. No user who commences contribution to the POTW after the effective date of this article shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating

procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

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Written notice. Within five (5) days following an accidental discharge the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. of 6-28-83, §16-80; Ord. of 9-22-92, §1-177)

### **Sec. 16-131. Exceptions.**

No statement contained in this article shall be construed as preventing any agreement or arrangements between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore by the industrial concern for any portion of the excess cost to the city of handling and treating such industrial wastes. In the event the city agrees to accept and treat industrial waste of unusual strength or character, the charges for such treatment shall be determined. (Ord. 96-83, 12-13-83, §16-4; Ord. 9-22-92, §1-177)

### **Sec. 16-132. Fees parameters.**

- (A) It is the purpose of this section to provide for the recovery of costs from users of the city's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth within the following parameters:
- (1) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
  - (2) Fees for monitoring, inspections and surveillance procedures;
  - (3) Fees for reviewing accidental discharge procedures and construction;
  - (4) Fees for permit applications;
  - (5) Fees for filing appeals;
  - (6) Fees for consistent removal (by the city) of pollutants otherwise subject to federal pretreatment standards;
  - (7) Other fees as the city may deem necessary to carry out the requirements contained herein.
- (B) These fees relate solely to the matters covered by this section and are separate from all other fees chargeable by the city. (Ord. of 6-28-83, §16-81; Ord. of 9-22-92, §1-177)

### **Sec. 16-133. Fees. (Reserved for future action by the council.)**

### **Sec. 16-134 through 16-149. Reserved.**

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### Article 6. Wastewater Permitting, Monitoring and Reporting Requirements

#### Sec. 16-150. Preliminary and General requirements.

- (A) Where the operation of a person, firm or corporation entails the discharge of any industrial wastes (including, but not limited to those in Sec. 16-123), a written statement on a standard form provided by the City Manager, setting forth the nature of the operation contemplated or presently carried on shall be filed with the City Manager. The statement shall contain the following information:
- (1) Name and address of applicant
  - (2) Type of industry
  - (3) Quantity of plant waste
  - (4) Typical analysis of the waste
  - (5) Type of pretreatment proposed, if any
  - (6) Proposed point of discharge
- (B) Within thirty (30) days of receipt of such statement, it shall be the duty of the City Manager to make an order stating such minimum restrictions as in the judgment of the superintendent may be necessary to adequately guard against unlawful uses of the city's sewage works or discharge to the waters of the state.
- (C) The admission into the public sewers or the waters of the state of any waters having components in excess of those outlined in Sec. 16-123 will be subject to review and control by the approved authority.
- (D) When required by the superintendent, the owner of any property carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be assessable and safely located, and shall be constructed in accordance with city standards. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and assessable at all times.
- (E) All measurements, tests and analysis of the characteristics of water and wastes to which reference is made in Articles 4 and 5 shall be determined in accordance with "Standard Methods of the Examination of Water and Sewage." The tests shall be performed on the samples taken at the control manhole provided for in paragraph (d) above. (Ord. of 9-22-92, §1-177)

#### Sec. 16-151. General permits.

All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant

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users connected to or contributing to the POTW shall obtain a wastewater contribution permit within one hundred eighty (180) days after the effective date of this chapter. (Ord. of 9-22-92, §1-177)

### **Sec. 16-152. Permit application.**

- (A) Users required to obtain a wastewater contribution permit shall complete and file with the city an application in the form prescribed by the city, and accompanied by a fee of one hundred fifty dollars (\$150.00). Existing users shall apply for a wastewater contribution permit within thirty (30) days after the effective date of this chapter, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
- (1) Name, address and location (if different from the address);
  - (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
  - (3) Wastewater constituents and characteristics including but not limited to those mentioned in section 16-76 of this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;
  - (4) Time and duration of contribution;
  - (5) Average daily and three (3) minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
  - (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
  - (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
  - (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (OSM) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
  - (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

- (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction

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and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

- (b) No increment referred to in paragraph (A) shall exceed nine (9) months.
- (c) No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date, and if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (13) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

- (B) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater contribution permit subject to terms and conditions provided herein. (Ord. of 9-22-92, §1-177)

### **Sec. 16-153. Permit modifications.**

Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user subject to a National Categorical Pretreatment Standard has not previously submitted an application for a wastewater contribution permit as required by subsection 16-84.2, the user shall apply for a wastewater contribution permit within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing wastewater contribution permit shall submit to the superintendent within one hundred eighty (180) days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by paragraphs (H) and (I) of subsection 16-152. (Ord. of 9-22-92, §1-177)

### **Sec. 16-154. Permit conditions.**

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- (A) Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:
- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
  - (2) Limits on average and maximum wastewater constituents and characteristics;
  - (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
  - (4) Requirements for installation and maintenance of inspection and sampling facilities;
  - (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for test and reporting schedule;
  - (6) Compliance schedules;
  - (7) Requirements for submission of technical reports or discharge reports (see section 16-153)
  - (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;
  - (9) Requirements for notification of slug discharges as per section 16-90.
  - (10) Other conditions as deemed appropriate by the city to insure compliance with this chapter. (Ord. of 9-22-92, §1-177)

### **Sec. 16-155. Permits duration.**

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the terms of the permit as limitations or requirements as identified in section 16-76 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. (Ord. of 9-22-92, §1-177)

### **Sec 16-156. Permit transfer.**

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or any new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (Ord. of 6-28-83, §16-84; Ord. of 9-22-92, §1-177)

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### Sec. 16-157. Charges for treatment of unusual strength wastes.

- (A) No statement contained in this article shall be construed as preventing any agreement or arrangement between the city and any industrial concern whereby an industrial waste limited to conventional pollutants of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern for any portion of the excess cost to the city of handling and treating such industrial wastes. In the event the city agrees to accept and treat industrial waste of unusual strength or character the charges for such treatment shall be determined as follows:
- (1) A basic charge of two hundred twenty-eight dollars (\$228.00) per million gallons times the volume discharged in millions of gallons.
  - (2) A biochemical oxygen demand surcharge of twenty-three and seventeenths cents (\$0.237) per million gallons times the difference between the biochemical oxygen demand expressed in milligrams per liter; all multiplied times the volume discharged expressed in millions of gallons.
  - (3) A suspended solids surcharge of twenty-three and seven-tenths cents (\$0.237) per million gallons times the difference between the suspended solids expressed in milligrams per liter, and two hundred (200) milligrams per liter; all multiplied times the volume discharged expressed in millions of gallons.
- (B) The basic sewer charge and the biochemical oxygen demand and the suspended solids surcharge shall be reviewed at periodic intervals as determined by the City Manager. Changes in the aforementioned rates shall be authorized by ordinance and shall be binding on all agreements for the treatment of industrial waste. (Ord. of 6-28-83, §16-85; Ord. of 9-22-92, §1-177)

### Sec. 16-158. Compliance date report.

Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and if not what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional. (Ord. of 9-22-92, §1-177)

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### Sec. 16-159. Periodic compliance reports.

- (A) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows, which during the reporting period exceeded the average daily flow reported in sub-section 16-154. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.
- (B) The superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate.
- (C) In such cases, the report required by subparagraph (1) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results in sampling and analysis of the discharge, including the flow and nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. (Ord. of 9-22-92, §1-177)

(Note: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977" and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.)

### Sec. 16-160. Monitoring facilities.

The city shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

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There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the city. (Ord. of 6-28-83, §16-86; Ord. of 9-22-92, §1-177)

### **Sec. 16-161. Inspection and sampling.**

The city shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The city, approval authority and (where the NPDES State is the approval authority) EPA, shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city's approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (Ord. of 6-28-83, §6-86; Ord. of 9-22-92, §1-177)

### **Sec. 16-162. Pretreatment.**

Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

The city shall annually publish in the Big Spring newspaper a list of the users which were not in compliance with the pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approved authority upon request. (Ord. of 6-28-83, §16-87; Ord. of 9-22-92, §1-177)

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### **Sec. 16-163. Confidential Information.**

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System Permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user. (Ord. of 6-28-83, §16-88; Ord. of 9-22-92, §1-177)

### **Sec. 16-164. Harmful contributions.**

The city may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrences shall be submitted to the city within fifteen (15) days of the date of occurrence. (Ord. of 6-28-83, §16-89; Ord. of 9-22-92, §1-177)

### **Sec. 16-165. Revocation of permit.**

Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this chapter:

- (a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (b) Failure of a user to report significant changes in operations, or wastewater constituents and characteristics;

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(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the permit. (Ord. of 6-28-83, §16-90; Ord. of 9-22-92, §1-177)

### **Sec. 16-166. Notification of violation.**

Whenever the city finds that any user has violated or is violating this chapter, wastewater contribution permit, or any prohibition, limitation or requirements contained herein, the city may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user. (Ord. of 6-28-83, §16-91; Ord. of 9-22-92, §1-177)

### **Sec. 16-167. Show cause hearing.**

The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the city council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the city council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the city council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation. (Ord. of 6-28-83, §16-92; Ord. of 9-22-92, §1-177)

### **Sec. 16-168. Hearing procedures.**

The city council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the city to:

- (A) Issue in the name of the city council notices of hearing requesting the attendance and testimony of witnesses and the production of evidence and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (B) Take the evidence;
- (C) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon. (Ord. of 6-28-83, §16-93; Ord. of 9-22-92, §1-177)

### **Sec. 16-169. Testimony under oath; transcript.**

At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof. (Ord. of 6-28-83, §16-94; Ord. of 9-22-92, §1-177)

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### Sec. 16-170. Order to comply; discontinuance of service.

After the city council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing facilities, and devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. (Ord. of 6-28-83, §16-95; Ord. of 9-22-92, §1-177)

### Sec. 16-171. Legal action.

If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirement, or any order of the city, the City Attorney may commence an action for appropriate legal and/or equitable relief in the appropriate court of this county. (Ord. of 6-28-83, §16-96; Ord. of 9-22-92, §1-177)

### Sec. 16-172. Powers and authority of enforcing agents.

The City Manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this article. (Ord. of 6-28-83, §16-97; Ord. of 9-22-92, §1-177)

### Sec. 16-173. Penalties.

- (A) Any person found to be violating any provisions of this article shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof.  
The offender shall, within the period of time stated in such notice, permanently cease all violations. If the offender continues violation after the expiration of the time stated, the City Manager may prohibit the further use of the sewage system by the offender and may remove or close the offender's sewage and water connections.
- (B) Any person who shall continue any violation beyond the time limit provided for in paragraph (a) shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not less than one dollar (\$1.00) nor more than two hundred dollars (\$200.00) for each violation. Each day in which such violation shall continue shall be deemed a separate offense.
- (C) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation. (Ord. of 6-28-83, §16-98; Ord. of 9-22-92, §1-177)

### Sec. 16-174. Severability.

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If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force and effect. (Ord. of 6-28-83, §16-99; Ord. of 9-22-92; §1-177)

**Sec. 16-175. Conflict.**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict. (Ord. of 6-28-83, §16-100; Ord. of 9-22-92, §1-177)

**Sec. 16-176. Industrial wastewater connection application.**

An industrial wastewater connection application shall be on a form substantially as follows:

To the City of Big Spring, Texas, the undersigned being of the property located at:
does hereby request a permit to _____ an industrial sewer
Connection serving _____, which company is engaged in
_____ at said location.

- (1) A plan to the property showing accurately all sewers and drains now existing is attached hereunto as Exhibit "A".
- (2) Plans and specifications covering any work proposed to be performed under this permit are attached hereunto as Exhibit "B".
- (3) A complete schedule of all processes waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge, representative analysis, and compliance with any applicable pretreatment standard or requirements, is attached hereunto as Exhibit "C".
- (4) The name and address of the person or firm who will perform the work covered by this permit is \_\_\_\_\_.

In consideration of the granting of this permit the undersigned agrees:

- (1) To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the city.

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- (2) To accept and abide by all provisions of Chapter 16 of the Code of Ordinances of the City of Big Spring, Texas, and of all other pertinent ordinances or regulations that may be adopted in the future.
  
- (3) To operate and maintain any waste pretreatment facilities, as may be required as a condition of the acceptance into the wastewater treatment system of the industrial wastes involved, in an efficient manner at all times, and at no expense to the city.
- (4) To cooperate at all times with the city and its representatives in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.
- (5) To notify the city immediately in the event of any accident, or other occurrence that occasions contribution to the wastewater treatment system of any wastewater or substances prohibited or not covered by this permit.

**Sec. 16-177. Wastewater discharge permit.**

A wastewater discharge permit shall be on a form substantially as follows:

City of Big Spring, Texas  
Department of Public Works  
WASTEWATER DISCHARGE PERMIT

Permit No.

In accordance with all terms and conditions of the City Code, Chapter 16, Articles 4 and 5, and all other applicable provisions of said code, and also with any applicable provisions of Federal or State law or regulation:

Permission is hereby granted to

\_\_\_\_\_ Classified by SIC No. \_\_\_\_\_ For the contribution of into the City of Big Spring wastewater lines at

\_\_\_\_\_ This permit is granted in accordance with the application filed on \_\_\_\_\_, 19\_\_ in the office of the \_\_\_\_\_ ( ) and in conformity with plans, specifications and other data submitted to the ( ) in support of the above application, all of which are filed with and considered a part of this permit, together with the following names conditions and requirements

Effective this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_.

To expire the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_.

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Utilities Superintendent  
(Ord. of 6-28-83, §16-20; Ord. of 9-22-92, §1-177)  
Permit No.

Addendum I  
Monitoring Schedule (form Attached)

Addendum II  
Compliance Schedule

Date: \_\_\_\_\_ Signed:  
\$ \_\_\_\_\_ inspection fee paid

Application approved and permit granted:

Date: \_\_\_\_\_ Signed:  
(Ord. of 6-28-83, §16-101; Ord. of 9-22-92, §1-177)

**Sec. 16-178 through 16-189. Reserved.**

# STREETS AND SIDEWALKS

## Chapter 17

### Article 1. In General

#### Sec. 17-1. Adoption of state law regarding street improvements.

Whereas an election held on April 12, 1927 resulted in the adoption of the benefits of Articles 1086 to 1096, both inclusive, and Articles 1104 and 1105 of the Revised Civil Statutes of Texas of 1925, relating to street improvements, such articles are hereby declared to have been legally adopted at such election by the resident property taxpayers and qualified voters of the city, and the provisions and terms and benefits of such articles shall be in full force and effect in the city. (Ord. of 4-15-27)

#### Sec. 17-2. Regulations for access driveways to state highways.

The city hereby adopts as a part of this code the regulations for access driveways to state highways as the same appear in a printed booklet published by the Texas Highway Department in accordance with Minute Order No. 34719, dated September 23, 1953, and entitled "Regulations for Access Driveways to State Highways," a copy of which booklet is on file in the office of the city secretary. It shall be unlawful for any person to construct any driveway or revise any existing driveway on property abutting any state highway within the corporate limits of the city without complying with the provisions set forth in such booklet. (Ord. of 6-22-54, §§1,2)

#### Sec. 17-3. Sidewalk obstructions.

It shall be unlawful for any person to display any merchandise on any sidewalk or place thereon any obstruction, sign, containers, scales, or anything that would in any way interfere with pedestrians. (Ord. of 9-2-29, §31)

#### Sec. 17-4. Printing or painting on streets or sidewalks.

The printing, painting, writing or placing of any sign, writing, advertisement, picture, character or other symbol on any street or sidewalk within the city is prohibited. (Ord. of 9-2-29, §19)

#### Sec. 17-4a. Address Marking of Concrete curb and Gutter.

The marking of the legal address, not including the street name, of a property on the face of the concrete curb and gutter adjoining the property is lawful only if it is in accordance with the following:

Maximum height: 6-inches

Maximum width: Number of characters required multiplied by 6-inches plus 12-inches.

Maximum Number: Two each per legal address.

Logos: A graphical symbol may be allowed providing it does not add to the maximum width and is not objectionable to the neighboring property owners or is offensive to the general public.

(Ord. of 8-22-95)

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### **Sec. 17-4b. Numbering of Residences and Businesses.**

Every residence and/or business shall be adequately identified by numbering e.g. street numbers. All numbers on residences and/or businesses shall be of a size of not less than three inches (3") in height and approximately two or more inches (2") in width and shall be so placed as to be seen readily from the street. The numbers shall be of durable metal, glass or enamel. Perishable material such as paper or cardboard and markings of pen, pencil or other easily displaced materials or substances shall not be deemed to be in compliance herewith. Any person, firm or corporation who violates this section is guilty of a misdemeanor offense punishable by a fine of not less than \$25.00 dollars nor to exceed \$500.00. (Ord. of 12-9-97)

### **Sec. 17-5. Washing or repairing vehicles on street or alley.**

It shall be unlawful for any person to wash or repair, or assist in washing or repairing, any automobile or other motor vehicle on any paved street or alley in the city; provided however, that repairs may be made in case of emergency. (Ord. of 9-2-29, §29)

### **Sec. 17-6. Discharge of waste water on streets or sidewalks.**

It shall be unlawful for any person to run wash or waste water of any description from filling stations, buildings, or any private property onto or upon sidewalks, streets, alleys, or other public passway within the city. (Ord. of 9-2-29, §30)

### **Sec. 17-7. Deposit of paper, trash or refuse on streets or sidewalks.**

The sweeping, dumping, placing or depositing of papers, trash or refuse of any kind into or onto the streets, alleys, curbs or sidewalks of the city is hereby declared to constitute a nuisance and is hereby prohibited. It shall be unlawful for any person to deposit or dump or place any papers, trash or refuse of any kind into or onto the streets, alleys, curbs or sidewalks of the city. Any person running, operating, or in charge of any store, place of business or residence shall be liable and responsible for the violation of this section and shall see that any and all persons in his employment refrain from doing the acts herein prohibited, and any owner, manager or employer who knowingly permits any employee to violate any of the provisions of this section shall be guilty of an offense hereunder, and any employee or other person who violates the provisions of this section shall also be guilty of an offense. (Ord. of 7-23-35, 1)

### **Sec. 17-8. Abatement of traffic hazards in the form of trees, hedges, shrubbery, etc.**

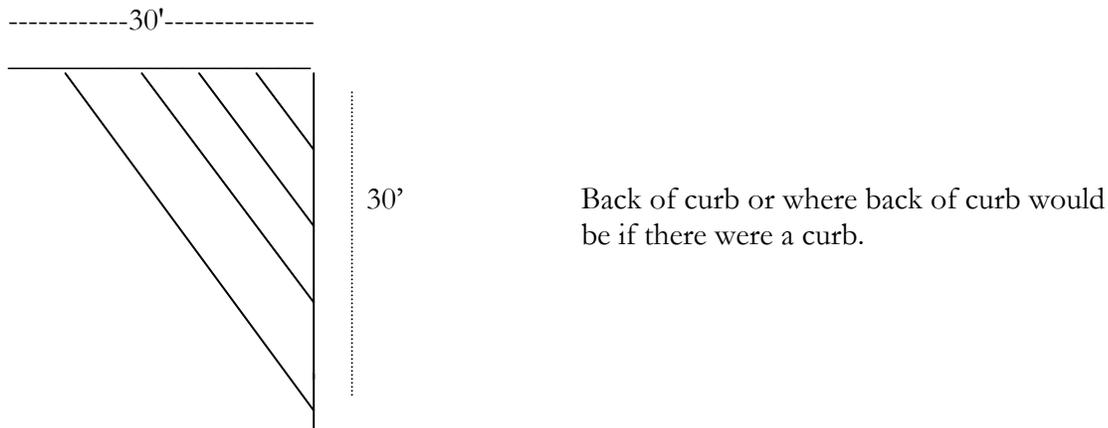
(A) The following are hereby declared a nuisance and/or a traffic hazard subject to the regulations hereinafter provided:

- (1) Any wall, fence, sign or other structure, hedge, tree, shrubbery or other growth, or object of any kind on any land which creates a traffic hazard:
  - (a) by unreasonably obstructing the view of an adjacent street, alley, driveway or intersection by a vehicle operator or pedestrian on a street or alley or in or approaching an intersection or

## STREETS AND SIDEWALKS

- (b) by unreasonably increasing the risk of damage or injury to a vehicle, vehicle operator or pedestrian, or which creates a traffic hazard for a pedestrian on a sidewalk by unreasonably obstructing the view thereof.
- (2) Any wall, fence, sign or other structure, hedge, tree, shrubbery or other growth, or object of any kind higher than two and one-half (2.5) feet above the street elevation located on a corner lot at a street intersection and within the triangle formed by the corner formed by the intersection of the back of curb lines or an imaginary extension of said lines (or if there is no curb, the corner where the back of curb lines would intersect if there were a curb) nearest the street intersection and the point on each said back of curb line which is thirty (30) feet from said corner as shown on Table "A"; provided, however, this subsection (2) shall not apply to single trees with single trunks trimmed so that no vegetation on the tree hangs lower than eight (8) feet above the street elevation; provided, however, this subsection (2) shall not apply in the Central Area (CA) zoning district and shall not apply to official traffic control devices or approved public utilities.
- (3) The term "intersection" shall be the definition contained in Section 541.303 of the Transportation Code V.T.C.A..

TABLE "A"



- (B) The city manager or their designee is hereby instructed to give notice to the owner of any abutting property and afford such owner the opportunity to do the work of removing the aforesaid hazard to traffic, but shall not be compelled to await the owner's action in any case where they shall find that the public safety requires the immediate abatement of such hazard.

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- (C) The procedures for abatement and removal of a hazard to traffic require not less than ten (10) days' notice stating the nature of the hazard to traffic, that must be removed and abated not later than the tenth (10<sup>th</sup>) day after the date on which the notice was mailed, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice must be mailed by certified mail with a five (5) day return requested to the owner or occupant of the abutting property as to the hazard to traffic. If any notice is returned undelivered by the United States Post Office, official action to abate the hazard to traffic shall be continued to a date of not less than the eleventh (11<sup>th</sup>) day after the date of return.
- (D) In the event that any hazard is not removed after such ten (10) day notice to the abutting property owner, then and in that event the city manager or their designee is authorized and directed to cause to do whatever is necessary on the premises to remove such hazard, the same to be done immediately.
- (E) In the event that the affected property owner/occupant objects with the action of the city manager or their designee they may within the ten (10) day period of notice herein above described, file an appeal with the traffic commission for a hearing by such commission. If the affected property owner/occupant is unsatisfied with the traffic commission's decision they may in their discretion appeal to the city council at their next regular meeting, whose judgment shall be final. An appeal to the city council must be filed within ten (10) days of the traffic commission's decision. All objections, request for hearing and appeals must be in writing and sent to the city manager by certified mail return receipt requested.
- (F) Any person, firm, corporation or association of individuals who violate this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not to exceed two hundred dollars (\$200.00) and each day that the nuisance, obstruction, traffic hazard or violation persists or is permitted to remain shall constitute a separate offense. (Ord. Of 4-27-99)

### **Sec. 17.9 to 17-17. Reserved**

### **Article 2. Cuts or Alterations in Streets or Alleys**

#### **Sec. 17-18. Permit.**

It shall be unlawful for any person to cut or alter the surface or subsurface of any paved or unpaved street or alley in the city without having first secured a permit from the office of the director of public works.

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A three-section card form will be used for the street or alley cut permit, as designed by the director of public works. Section A of this form will be kept in the public works department files; Section B will be approved by the director of public works and sent to the applicant along with Section C. Section C will be used by the applicant to notify the director of public works that the cut is ready for repair. Section C will then be filed with Section A. (Ord. of 8-25-59, §§1,3)

### **Sec. 17-19. Repair fee.**

Any person who cuts or alters any paved or unpaved street or alley in the City of Big Spring shall pay a repair fee to the city according to the following schedule:

Type of Pavement	First Square Yard or Less	Each Additional Square Yard
Concrete	\$35.00	\$4.50
Asphalt	\$30.00	\$4.50
Unpaved Streets	\$20.00	\$3.00

Charges for cutting or altering any street or alley in the city shall be paid at the time the permit required by section 17-18 is issued, and will be based on the estimated size of the cut to be made. Adjustments for overruns and underruns will be calculated upon completion of the cut and additional charges or reimbursements will be made accordingly. (Ord. of 9-10-74, Ord. 6-10-86)

### **Sec. 17-20. Back-filling, filling and resurfacing.**

Any person making a street or alley cut under a permit required by this article shall back-fill the ditch as directed by the public works department.

The public works department will be notified when the back-filling required by this section is completed. This notification will be accomplished by the submission of Section C of the application form to the department of public works. Upon acceptance of the back-fill by the department of public works the permit holder will be notified that the city will take over the cut and assume liability for the safety of the traveling public.

The public works department will then resurface the cut. At the time that the department begins the resurfacing of the ditch, the city assumes complete control over the ditch.

In certain areas designated by the public works department paving cuts across streets will not be permitted. The crossing of these designated streets with pipeline or cables must be accomplished by boring, tunneling or jacking at the expense of the contractor. (Ord. of 9-10-74)

### **Sec. 17-21. Warning devices required.**

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Every person who makes a cut in or alters the surface or subsurface of any street or alley shall place substantial warning devices on the street or alley which is being cut. The warning devices shall be plainly visible from all directions both day and night.

Every person, other than a duly authorized employee of the city, who makes a cut or alteration in any street or alley, or who engages in any other work which hinders traffic movement, shall place proper barricades around such work and also place clearly marked signs giving the name of the person under whose authority the work is being done. (Ord. of 8-25-59, §5)

**Sec. 17-22. City not liable for injuries during progress of work.**

Until such time as the public works department assumes control over the back-filling of any cut or alteration being made pursuant to this article, the city will assume no liability for any injuries arising out of any accident caused by the failure of any person to take the necessary safety measures when such person is in the process of making or has made a cut or alteration in the surface or subsurface of the streets or alleys of the city. (Ord. of 8-25-59, §5)

**Sec. 17-23. Abandoning and vacating city streets, alleys or easements; administrative charges assessed.**

There is hereby assessed an administrative charge for the abandoning and vacating of city streets, alleys or easements as follows:

Vacation and abandoning:	
0 to 1,000 square yards	\$125.00
1,000 to 2,000 square yards	\$250.00
2,000 to 3,000 square yards	\$400.00
3,000 square yards up	\$500.00

(Ord. of 10-25-83, §17-23)

**Sec. 17-24. Application; procedure.**

- (A) Any person, firm or corporation desiring to have a city street, alley or easement abandoned and vacated shall make written application for same to the city council and all charges shall be paid in advance of said abandonment. The application shall have attached to it the signed written consent and release of all owners of all property within all blocks which abut on either side of the street, alley or easement, any portion of which is adjacent to said block and is proposed to be abandoned and the signed written consent and release of all owners of all property which would be left without a means of access if the proposed abandonment is granted. The Director of Public Works, upon receipt of a copy of the application, shall calculate the charges and mail a notice to the

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applicant of the charges. Should the City Council elect to not grant the request, then the money shall be refunded to the applicant or applicants.

- (B) In the event City Council considers a proposed vacation and abandonment of a public street, a public hearing shall be held by the governing body. Notice of such hearing shall be given by publication in the official publication of the City of Big Spring, stating the time and place of such hearing, which such time shall not be earlier than ten (10) days before the date of publication. Upon approval of said vacation and abandonment of said street right-of-way, the Mayor is hereby authorized to execute a Quit Claim Deed to the owner of said abutting property owner. (Ord. of 10-25-83, §17-24, Ord. of 7-11-00)

### **Sec. 17-25. Requirements and effect of abandonment and vacation.**

No street, alley or easement shall be abandoned and vacated unless it is in the public interest to do so and the signed written consent and release provided in section 17-24 is attached to the application and all requirements of this article and all other applicable ordinances and laws are satisfied. Whenever a street, alley or easement is abandoned, the abandoned property shall revert in equal proportion to the abutting landowners. (Ord. of 10-25-83, §17-25)

### **Sec. 17-26. Retention of utility easement upon abandoning and vacating street alley or easement.**

Upon the abandoning and vacating of any street, alley or easement, the city shall have the right, if it so desires, to retain a utility easement within the street, alley or easement abandoned; provided, however, if the city elects to retain said utility easement, then the administrative charges for abandoning said street, alley or easement shall be only one-half (2) of the amount prescribed in section 17-23 of this chapter. (Ord. of 10-25-83, §17-26)

### **Sec. 17-27. Conveyance sale or trade of land or interest in land owned by the city.**

In addition to the foregoing requirements, and as required by article 5421c of the Texas Revised Civil Statutes, any conveyance, sale or trade of any land or interest in land owned by the city, including a street or alley, whether owned in fee or used by easement, and including any other easement interest in land, shall never be for less than the fair market value of the land or interest being conveyed, sold or traded, as determined by an appraisal obtained by the city, which shall be conclusive of the fair market value thereof. In case of a street, alley or easement interest in land referred to in section 17-24 the charges referred to in said section shall include the cost of the above-described appraisal and the dollar value of said street, alley or easement interest; provided, however, if the city council elects to not grant the request as provided in Section 17-24, then, notwithstanding section 17-24, the money deposited to cover the cost of said appraisal shall not be refunded to the applicant but the money deposited to cover the administrative charges provided in section 17-23 and the money deposited to cover the dollar value of the street, alley or easement interest shall be refunded to the applicant or applicants. If the city council elects to grant the request, then as required by said article 5421c-12, the street or alley, whether owned in

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fee or used by easement or other easement interest may be sold to the abutting owner or owners in proportion to their abutting ownership, said division between owners to be made in an equitable manner. As required by article 1017 of the Texas Revised Civil Statutes, the proceeds of any sale of parts of streets or alleys shall be used only for the acquisition and improvement

of property for the same uses as that so sold. Any conveyance, sale or trade of any land or interest in land owned by the city which is not made under the foregoing exemptions or one of the other exemptions in section 2 of said article 5421c-12 shall be subject to the bid procedures and publication requirements set forth in section 1 of said article 5421c-12.(Ord. 99-83, 12-27-83, §17-27)

**Sec. 17-28 to 17-32. Reserved.**

**Article 3. Construction or Alteration of Curbs, Gutters and Sidewalks.**

**Sec. 17-33. Permit.**

No curb or gutter or sidewalk shall be constructed within the right-of-way of the public streets of the City of Big Spring or having been previously constructed, shall be altered, without the written consent of the director of public works. Such consent shall be in the form of an approved permit issued by the director of public works or his duly authorized agent. The permit required by this section shall bear the following fee:

Residential curb permit .....	\$ 10.00
Commercial curb cut permit.....	\$ 10.00

(Ord. 6-10-86)

**Sec 17-34. Bond for curb cuts**

No person, other than a duly authorized employee of the city or a public utility, shall cut any existing curb, without first filing with the city a surety bond in the amount of one thousand dollars (\$1,000.00) conditioned that the work will be done according to the city's standards and specifications.

**Sec. 17-35. Design standards.**

All curb and gutter or sidewalks constructed in the right-of-way of the public streets of the city shall conform to the design of the curb and gutter and sidewalk standards as set by the director of public works. (Ord. of 7-28-59, Art. 2)

**Sec. 17-36. Location requirements; curb and gutter "leave-outs" for parking.**

Curb and gutter shall be placed within the street right-of-way and shall conform to the existing or proposed street paving width. Location shall be determined on the ground by the director of public works or his authorized agent, such determination being accomplished by the use of grade stakes described in section 17-37. Curb and gutter "leave-outs" to provide for angle parking or for any other purpose shall not be allowed except as special permission is granted by the city council. Where "leave-outs" or cuts now exist and off-street parking is being practiced on the right-of-way of the street, the design of such parking as to head-in angle shall be designated by the director of public works.

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Sidewalks shall, in every case, be placed on the right-of-way of the street with one edge of such sidewalk always being coincident with the right-of-way line of the street, or in special cases, as directed by the director of public works. (Ord. of 7-28-59, Art. 3)

### **Sec. 17-37. Line and grade for new construction.**

When application is made for section I of the permit required by section 17-33, the public works department shall, within seven (7) days, place grade stakes on the ground to cover the extent of construction applied for. These grade stakes shall determine the line and grade of the curb and gutter or sidewalk to be built and such curb and gutter or sidewalk shall be built to that line and grade.

Information about line and grade shall be furnished to the applicant by means of a cut sheet, which shall show the location of proposed construction by an offset from the stakes, and shall show the grade by means of cuts or fills from the elevation of the stakes. No work whatever shall be done on the construction of any curb and gutter or sidewalk without first obtaining such cut sheet. (Ord. of 7-28-59, Arts. 1,4; Ord. of 8-25-59, Art. 1)

### **Sec. 17-38. Curb cut layout for alterations.**

Curb and gutter sidewalks to be cut under Section II of the permit required by section 17-33 shall be cut in accordance with the curb cut layout to be prepared and given to each applicant along with each approved application. This curb cut layout shall be a sketch showing the extent of the curb to be cut and removed. No work whatsoever shall be done on the alteration of any curb and gutter or sidewalk without first obtaining such curb cut layout. (Ord. of 7-28-59, Arts. 1,5; Ord. of 8-25-59, Art. 1)

### **Sec. 17-39. Special approval for sidewalk cuts.**

The cutting of any sidewalk located in the right-of-way of any street shall be considered a special case in every case and the amounts to be cut shall be approved by the director of public works on the merits of each single case as that case arises. (Ord. of 7-28-59, Art. 5)

### **Sec. 17-40. Maximum length of curb cut in residential area.**

No continuous curb cut in a residential area shall be greater than thirty-two (32) feet. (Ord. of 8-25-59, Art. 1)

## **Article 4. Delineating Responsibilities and Certain rules Governing Streets within the City of Big Spring.**

### **Sec. 17-41. Official City Map.**

The official map of the City shall be prepared by the City Engineer on individual sheets representing one square mile of area per sheet to a scale of one inch equals three hundred (300) feet, on which shall be shown and designated the various streets, Avenues and Boulevards, Terraces and public parks and alleys together with the lots and addition or subdivision numbers and names, as well as the street number for each block. The City engineer is hereby authorized and directed to revise the official

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map when any plat of any subdivision addition or other area has been approved by the Planning and Zoning Commission, City Council and has been recorded in the County Clerk's office or when otherwise directed by ordinance. (Ord. of 9-10-85; Ord. of 10-12-93)

### **Sec. 17-42. Street numbers - Duties of building official.**

The building official is hereby authorized, empowered and instructed to designate a number for each building situated on the streets, avenues, boulevards and terraces of the City in conformity with this article and is hereby directed to keep an accurate record in his office of all such numbers. He shall, upon application of any resident of the city, advise such applicant of the number given to any particular house or building. (Ord. of 9-10-85; Ord. of 10-12-93)

### **Sec. 17-43. Same - Approval and adoption.**

The numbering designated by the building official, based upon the official maps adopted and approved in Section 17-41 of this Code, is hereby in all instances approved and adopted as the correct numbering for such buildings and improvements. (Ord. of 9-10-85; Ord. of 10-12-93)

### **Sec. 17-43a. Same - Determined by building official; method used.**

The building official shall determine the official street numbers by designating one numerical number for each platted lot along the street, avenue or boulevard except where the property is platted into lots or tracts with a frontage abutting said street, avenue or boulevard in excess of seventy-five (75) feet, then in such event the building official shall allocate one numerical address for each fifty (50) feet of frontage or major portion thereof. Where duplex houses, apartments or business building are erected entirely on any one lot which is entitled to receive only one number as provided herein. Each apartment, business or other unit shall be designated with the number to which the lot is entitled followed by an alphabetical suffix for each such addition unit beginning with the letter "A". (Ord. of 9-10-85; Ord. of 10-12-93)

### **Sec. 17-45. Same - Appeal from decision of building official.**

Should the owner of any building which has been assigned a number by the building official object to such number and the decision of the official, he may, at any time within thirty (30) days from and after the date when such number is designated, have the right to appeal to the Building Board of Adjustments and Appeals, by giving written notice, duly filed with the City Secretary, within such period of time, which written notice shall clearly and fully set forth the number designated, together with the objections of the party appealing from the decision of the building official, and upon the filing of such appeal, the Board shall set a date for the hearing of such appeal. At the hearing the Board shall hear and determine whether or not such house, building or lot is correctly numbered and shall, at such hearing, determine and declare the correct number for such house, building, lot or structure, and shall enter an order upon the minutes of the Board so declaring such correct number. (Ord. of 10-12-93)

### **Sec. 17-46. Signs, advertisements and house number.**

- (A) It shall be unlawful for any person to post or paint signs, advertisements, or other matter or posts sidewalks, or curbs or other public places in the City; provided,

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however the proprietor of any premises is hereby authorized to paint or authorize the painting, upon the top side or street side of the curb or on the sides of the driveway abutting the premises, of the proper number designated by the building official for such premises, provided the numbering is black in color on white background or white in

color on a green or black background, the number does not exceed four (4) inches in height, the background does not exceed six (6) inches in height and twenty (20) inches in length, and the paint used for such purposes is durable paint designated for application to concrete surfaces.

- (B) The painting of curbs to designate a "No Parking" zone shall be permitted in areas, wherein the Traffic Commission has so recommended such painting. The Traffic Commission will take under consideration the traffic and pedestrian safety when making such recommendation. (Ord. of 10-12-93)

**Sec. 17-47 to 17-49. Reserved.**

### Article 5. Renaming of Streets

**Sec. 17-50. Renaming streets.**

- (1) **Purpose.** The purpose of this Section is to establish uniform criteria and procedures, applicable to all persons, groups, firms, and agencies, for the permanent change of city street names.
- (2) **Application for name change.** An application to change a street name may be filed with the City of Big Spring Community Services Department and must be accompanied by a petition approving the proposed name change signed by more than seventy-five percent (75%) of the owners of land abutting the street for which a name change is proposed. The application should contain the following information:
- (a) the current official street name;
  - (b) the proposed street name, which shall meet the policy guidelines of this chapter;
  - (c) detailed description of reason for the requested street name change, including discussion of major contributions of the individual to the community of Big Spring,
  - (d) the name, address and telephone number of the person, persons, corporation, association, group or entity proposing the name change.

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- (e) the name, address and telephone number of one person with authority to represent binding commitments and take official action relative to such street name change on behalf of the proponents;
  
- (f) a non-refundable application fee of Two Hundred Fifty and No/100 Dollars (\$250.00) to cover the administrative cost of review, postage, advertisement and name change filing expenses, as well as Twenty-five and No/100 Dollars (\$25.00) per property requiring an address change to cover the cost of changes to any street name or address signs to be deposited with the City of Big Spring Community Services Department.

- (3) **Review of proposed name change.** Following receipt of a completed application, the City Traffic Commission will review the application and forward a recommendation to the Planning and Zoning Commission. The Planning and Zoning Commission shall conduct a public hearing to receive public comment on the proposed change, which hearing shall be held not more than ninety (90) days from the date of filing of the application. The City of Big Spring Community Services Department shall notify all abutting property owners, as ownership appears on the ad valorem tax rolls, of the time and date of such public hearing. Written notices of such public hearing shall be given not less than ten (10) days before the day set for such hearing. Prior to the hearing, the City of Big Spring Community Services Department shall compute the costs of changing street name signs and such costs shall be paid by the proponents through the Twenty-five and No/100 dollars (\$25.00) per property charge described above. Following the public hearing, the Planning and Zoning Commission shall make a recommendation with regard to the proposed change to the City Council. If the Planning and Zoning Commission recommends denial of a street name change, the action of the Planning and Zoning Commission can be appealed to the City Council at the next regularly scheduled meeting after the hearing at which the denial was made. The request for appeal must be in writing and must be submitted the City of Big Spring Community Services Department. The City of Big Spring Community Services Department shall schedule a City Council hearing on all applications for street name change in which the commission recommends approval and in all applications in which the commission recommends denial if an appeal is requested in accordance with this Section.
- (4) **Consideration by City Council.** The City Council of the City of Big Spring shall consider recommendation of the Planning and Zoning Commission and public hearing may be requested. A notice of the time and place of such hearing shall published in accordance with City of Big Spring Code and the Texas Open Meetings Act. The favorable vote of the majority of the City Council is required for approval of the application.

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- (5) **Implementation of approved change.** In the event that the City Council approves the change to the street name, the City of Big Spring Community Services Department shall revise the official street name map, and notify abutting property owners, all effected County, State and Federal agencies of the effective date of the new name for the street. In the event that the City Council denies the name change, Twenty-five and No/100 Dollars (\$25.00) per property payment of the street name signs shall be refunded to the proponents not more than thirty (30) days from the decision.
- (6) **Criteria for street name changes must conform to the following:**
- (a) **Streets named in honor or memory of a person.** Streets that are currently named in honor or memory of a person are not eligible for street name changes
  - (b) **Subsequent name changes.** Streets that have experienced a name change are not eligible for additional or further street name changes for a period of no less than twenty years.
  - (c) **Major Arterial (thoroughfares) and Major collector streets.** Major Arterial (thoroughfares) and Major collector streets are not eligible for street name changes unless such street name change meets the unanimous consent of the City Traffic Commission, the City Planning and Zoning Commission and the City Council.
  - (d) **Street name changes in honor of a business.** Street name changes in honor of a business are not eligible, with the exception of a business that meets all of the following criteria:
    - 1. Business has operated in the same location for not less than 35 consecutive years, and
    - 2. Business has operated under the same name for not less than 35 consecutive years. (Ord. of 10-14-97)

**Sec. 17-51. Renaming Northwest Fourth Street to Sgt. Paredez Street.**

The street known as Northwest Fourth Street, being further described and more accurately described as Northwest Fourth Street in the Original Town of Big Spring, and Northwest Fourth Street in the Amended Moores Heights Addition to the City of Big Spring as shown in the plats of the Original Town and Amended Moores Heights recorded with the Howard County Clerk, and Commencing with the West right-of-way line of Gregg Street to the East right-of-way line of Channing Street, shall hereafter be named and known as Sgt. Paredez Street. (Ord. of 10-13-87)

**Sec. 17-52. Renaming Avenue A to Hudgens Memorial Drive.**

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The street in the Big Spring McMahon-Wrinkle Air Park known as Avenue A, from its intersection on the west end with Simler Avenue and Warehouse Road and its intersection on the east end with West 16th Street shall hereafter be named and known as Hudgens Memorial Drive. (Ord. of 06-27-89).

### **Sec. 17-53. Renaming 8th Street to Rackley Street.**

The street in the Big Spring McMahon-Wrinkle Air Park known as 8th Street, from its intersection on the north with Hudgens Memorial Drive and its intersection on the south with Swords Street shall hereafter be named and known as Rackley Street. (Ord of 07-11-89).

### **Sec. 17-54. Renaming Avenue D to Swords Street.**

The street in the Big Spring McMahon-Wrinkle Air Park known as Avenue D, from its intersection on the west end with First Street and its intersection on the east end with Rackley Street shall hereafter be named and known as Swords Street. (Ord. of 07-11-89).

### **Sec. 17-55. Golf Course Road.**

That street in Comanche Trail Park which originates at the northwest corner of the Comanche Trail Park (Wasson Road and Belvedere Drive intersection) south to the Comanche Trail Golf Course thence northeast to the intersection with Starlight Drive shall hereinafter be known as Golf Course Road. (Ord. of 06-26-90).

### **Sec. 17-56. Starlight Drive.**

That street in Comanche Trail Park which originates at U.S. 87 south & proceeds in a westerly direction passing the Comanche Trail Park amphitheater on the north and intersecting with Golf Course Road as its western terminus shall hereinafter be known as Starlight Drive. (Ord. of 06-26-90).

### **Sec. 17-57. Lone Star Lane.**

That street in Comanche Trail Park which originates at the intersection of U.S. 87 ant Starlight Drive, proceeds west past the Scout Hut on the south and terminating on the west with the intersection with Buffalo Trail shall hereinafter be known as Lone Star Lane. (Ord. of 06-26-90).

### **Sec. 17-58. Buffalo Trail.**

That street in Comanche Trail Park which originates at the north east entrance of the park at the intersection of Belvedere Drive ant Whipkey Drive proceeding south to its intersection with Starlight Drive on the south shall hereinafter be known as Buffalo Trail. (Ord. of 06-26-90).

### **Sec. 17-59. Totem Pole Circle.**

That circular street in Comanche Trail Park which intersects with Buffalo Trail on the east and Golf Course Road and Starlight Drive on the west and loops around the totem pole shall hereinafter be known as Totem Pole Circle. (Ord. of 06-26-90).

### **Sec. 17-60. Spring Draw Drive.**

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That street in Comanche Trail Park which intersects on the west with Golf Course Road and proceeds easterly past Cotton Mize Field to its intersection then west with Buffalo Trail shall hereinafter be known as Spring Draw Drive. (Ord. of 06-26-90).

**Sec. 17-61. Renaming Northwest Sixth Street to Father Delaney Street.**

The street known as Northwest Sixth Street, commencing with the West right-of-way line of Gregg Street to the East right-of-way line of Channing Street, shall hereafter be named and known as Father Delaney Street. (Ord. of 05-07-91).

**Sec. 17-62. Renaming 10th Street from Gregg West to Bell Street and 11th Place West from Bell to F.M. 700 as Martin Luther King Boulevard.**

The street known as 10th Street commencing with the West right-of-way line of Bell Street, and 11th Place from the East ROW of Bell Street to the E ROW of F.M. 700 shall hereafter be named and known as Martin Luther King Boulevard. (Ord. of 7-12-94)

**Sec. 17-63. Renaming Seventh to Chuck Bradley Blvd.**

The street in the McMahon-Wrinkle Air Park known as Seventh Street, commencing with the South right-of-way line of Hudgens Memorial Drive to the North right-of-way line of Swords Street, shall hereafter, in memory of the significant individual sacrifice of a veteran, be named and known as Chuck Bradley Blvd. (Ord. of 4-9-96)

**Sec. 17-64 Renaming Airpark drive West to Rickabaugh Drive**

The street in the McMahon-Wrinkle Air Park known as Airpark Drive West Street, commencing with the US 80 Entrance Road and Airpark Drive East to the Eastern right of way line of Taxiway, shall hereafter, in memory of the significant contributions of a veteran aviator, be and known as Rickabaugh Drive. (Ord. of 6-25-96)

**Sec 17-65. Renaming Sixth Street (in the McMahon Wrinkle Air Park) to Buck Turner Drive.**

The street in the McMahon-Wrinkle Air Park known as Sixth Street, commencing with South right-of-way line of Hudgens memorial Drive to the North right-of-way line of Swords Street, shall hereafter, in memory of the significant individual sacrifice of a veteran, be named and known as Buck Turner Drive. (Ord. of 11-12-96)

# TRAFFIC

## CHAPTER 18

### Article 1. In General

#### Sec. 18-1. Reserved.

#### Sec. 18-2. General Powers and Duties of City Manager Relative to Traffic.

The city manager shall be responsible to the city council for the enforcement of all traffic ordinances and regulations, and shall recommend to the city council, for its approval, ways and means to improve traffic conditions. He shall have authority to make regulations necessary to make effective the provisions of the traffic ordinances of the city and to make effective and enforce temporary regulations covering emergency or special conditions. (Ord. of 8-12-58, §4(1), (2E))

#### Sec. 18-3. Duty of Police to Enforce Traffic Regulations.

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 traffic laws of the city and all of the state vehicle laws applicable to traffic in the city. (Ord. of 8-12-58, §§3(2), 5(1))

#### Sec. 18-4. Authority of Police Officers to Direct Traffic.

Such police officers as are assigned by the chief of police are hereby authorized to direct all traffic in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require not withstanding the provisions of the traffic law. (Ord. of 8-12-58, §3(2))

#### Sec. 18-5. Authority of Officers of Fire Department to Direct Traffic.

- (1) Fire Department. Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic there at or in the immediate vicinity.
- (2) Municipal Services Division, engineering/Utility Division. Employees of the Municipal Services Division and Engineering/Utility Division, when at a project site, may direct or assist the Police in directing traffic.
- (3) Any person who disobeys a lawful direction of a person directing traffic in subsections A&B shall be guilty of a misdemeanor subject to a fine of not less than \$25.00 or more than \$200.00. (Ord. of 8-12-58, §5(1) Ord. of 02-11-97)

#### Sec. 18-6. Metal Tires. Lugs. Etc.

No person shall pull, drive, run or propel any vehicle that has corrugated metal tires or tires with lugs or spikes upon or over any street of the city which is paved or constructed with asphalt, brick or concrete. (Ord. of 8-12-58, §8(30))

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### **Sec. 18-7. Vehicle Loads Not to Drop, Sift, Leak, Etc.**

No person shall operate any vehicle upon a highway or street unless such vehicle is so constructed or laden as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom. (Ord. Of 8-12-58, §8(28))

### **Sec. 18-8. Use of Coasters, Etc. on Roadway.**

No person upon 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 the rights and shall be subject to all of the duties applicable to pedestrians. (Ord. of 8-12-58, §8(9))

### **Sec. 18-9. Boarding or Alighting from Moving Vehicles.**

No person shall board or alight from any vehicle while such vehicle is in motion. (Ord. of 8-12-58, §10(6))

### **Sec. 18-10. Riding on Portion of Vehicle.**

No person shall ride on any vehicle or upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to employees engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. (Ord. of 8-12-58, §10(7))

### **Sec. 18-11. Quiet Zones.**

The city manager is hereby authorized to establish zones of quiet at places where a person is seriously ill, if requested so to do by the written statement of at least one registered physician certifying to the necessity thereof. Whenever authorized signs are erected indicating a zone of quiet, no person operating a motor vehicle shall sound the horn or other warning device of such vehicle except in an emergency. (Ord. of 8-12-58, §§(3E), 6(3))

### **Sec. 18-12. Permit for Assemblages. Etc.**

It shall be unlawful for any person to conduct or participate in any assemblage, parade or procession, other than a funeral procession, upon any street except upon a permit issued by the police officer in charge of traffic under the supervision of the chief of police. Application for such permits shall be obtained from the chief of police not less than twelve (12) hours before the time for such assemblage, parade or procession. Such permit or an order accompanying it shall designate the place of gathering or formation and of travel, and the streets or portions of streets, which may be used or occupied therein. (Rod. of 8-12-58, §9(1))

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### Sec. 18-13. Funeral Processions.

- (A) All funeral processions shall move upon and through the public streets of the city as expeditiously as possible, with due regard to custom and traffic conditions and shall be led or piloted by the undertaker or by his duly authorized agent or representative, and there shall be displayed in conspicuous manner on the vehicle leading or piloting such procession a standard funeral procession flag of substantial material. Such flag shall be displayed, unfurled, by the lead or pilot car from the starting point of such procession until the same has arrived at the cemetery, if in the city limits, or until the city limits are passed.
- (B) Every automobile in a funeral procession, including the lead or pilot car, shall have its headlights burning from the starting point of such procession until the same has arrived at the cemetery, if in the city limits, or until the city limits are passed.
- (C) When a traffic signal changes to "red" while a funeral procession is passing the same, the procession shall continue moving and cross-traffic shall stop until the entire procession has passed such signal. (Ord. of 8-12-58, §9(3))

### Sec. 18-14. Accident Reports.

The police department shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed by date of accident. Such reports shall be available for the use and information of the traffic engineer. (Ord. of 8-12-58, §3(7))

### Sec. 18-15. Notice to Appear in Court: Promise to Appear.

Whenever a person is arrested for any violation of the chapter, and such person is not immediately taken before a magistrate, the arresting officer shall prepare in duplicate a written notice to appear in court containing the name and address of such person, the license number of the vehicle, if any, the offense charged, and the time, place, when and where such person shall appear in court. Provided, however, that the offense of speeding shall be the only offense making mandatory the issuance of a written notice to appear in court, and only then if the arrested person gives his written promise to appear in court, by signing in duplicate the written notice prepared by the arresting officer; and provided further that it shall not be mandatory for an officer to give a written notice to appear in court to any person arrested for the offense of speeding when such person is operating a vehicle licensed in a state or country other than the State of Texas, except as provided by the Non-Resident Violator Compact of 1979 (Article 6701d-23).

### Sec. 18-16. Records of Traffic Violations.

The police department shall keep a record of all violations of the traffic ordinances of the city or of the state vehicle laws of which any person has been charged and given notice to appear before the corporation court, together with a record of the final disposition of all such alleged offenses. Such records shall be so maintained as to show all types of violations and the total of each. Such records shall accumulate during at least a two-year period and from that time on the record shall be maintained complete for at least the most recent two-year period. All forms for

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records 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. (Ord. of 8-12-58, §3(4))

### **Sec. 18-17. Annual Traffic Report.**

The police department shall annually prepare a traffic report which shall be filed with the city manager. Such reports shall contain information on traffic matters in this 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. (Ord. of 8-12-58, §3(9))

### **Sec. 18-18. Conflicts Between Chapter and State Law or State and Federal Rules, Regulations, Etc.**

If there is a conflict between any of the provisions of this chapter and the Uniform Act Regulating Traffic on Highways, and enacted by the 50th Legislature of Texas in 1947, as amended, or any orders, rules, regulations and requirements of the Interstate Commerce Commission or the Railroad Commission of Texas, compliance by the owners or operators of vehicles with such statutes, orders, rules and regulations of the Interstate Commerce Commission and the Railroad Commission of Texas shall be deemed in compliance with this chapter, except that any requirement of this chapter, in addition to, but not in conflict with, such statute of the requirements of the Interstate Commerce Commission or the Railroad Commission shall be complied with. (Ord. of 8-12-58, §11(3))

### **Sec. 18-19. Fire Lanes.**

- (A) Fire lanes shall be provided as required by the Fire Department of the City of Big Spring, Texas.
- (B) Fire lanes shall be at least 20 ft. (6m) in width with the road edge closest to the structure at least 10 ft. (3m) from the structure.
- (C) Fire lanes shall be marked with free standing signs or marked curbs or sidewalks or other traffic surfaces that have the word "Fire Lane - No Parking" painted in contrasting colors at the size and spacing approved by the Fire Department.
- (D) Fire lanes connecting to public streets, roadways, or private streets shall be provided with curb cuts extending at least 2 ft. (0.6m) beyond each edge of the fire lane.

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- (E) The designation and maintenance of fire lanes on private property shall be accomplished as specified by the Fire Department .
- (F) Parking lot lanes shall have a minimum of 25 ft. (7.5m) clear width between rows of parked vehicles for vehicular access and movement.
- (G) Parking a vehicle in a fire lane is prohibited.
- (H) The local law enforcement officers must be given written legal authority to enforce parking regulations, or property management must be prepared to enforce these regulations with their own personnel, including the towing of vehicles as may be necessary.
- (I) A violation of any provisions of Section 18-19 shall be punishable by a fine not to exceed \$1,000.00.
- (J) Fire lanes shall be maintained free of all obstructions at all times. (Ord. of 12-14-93)

### **Sec. 18-20. Jake Brakes Prohibited.**

It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the city limits of the City of Big Spring, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle. (Ord. of 6-28-05)

### **Sec. 18-21. Penalty.**

Unless a specific section of this article provides for a different penalty, any person, firm, partnership or corporation who shall violate any provision of this article shall be guilty of a misdemeanor and upon conviction may be fined not less than \$1.00 or more than \$200.00; provided further, no penalty shall be greater of less than the penalty provided for the same or similar offense under the laws of the state. Each day the violation occurs or continues shall constitute a separate offense. (Ord. of 6-28-05)

### **Sec. 18-22. Definitions.**

For the purpose of this section, compressed release type braking system shall mean any devices equipped on certain type commercial vehicles, including but not limited to, tractors, semi-trucks, motor carries and buses that utilizes engine compression release or engine retarders as a means of slowing or braking the speed of the vehicle in lieu of applying to clutch or brakes. The term “emergency situation” for the purpose of this ordinance, shall mean one in which there is imminent danger of collision with property, persons or animals. (Ord. of 6-28-05)

### **Sec. 18-23 to 18-42. Reserved.**

# **BIG SPRING CITY CODE**

## **Article 2. Traffic Commission.**

### **Sec. 18-43. Created.**

There is hereby created a Big Spring Traffic Commission, which shall be known as the "Traffic Commission" for the purpose of acting in an advisory capacity only and does not have the authority to bind or obligate the City Council in any matter concerning traffic within the corporate limits of Big Spring. (Ord. of 5-24-60, Art. 1) (Ord. of 9-18-90, Ord. of 2-27-01)

### **Sec. 18-44. Composition: Appointment and Term.**

The Traffic Commission shall be composed of seven (7) members which will include one (1) member as chairperson each of which will be appointed by the majority vote of the City Council with staggered 3-year terms:

If any member of the Commission shall be absent more than three (3) times, **without prior notification**, from scheduled meetings during any twelve (12) month period, said third (3<sup>rd</sup>) absence shall be construed as the member's resignation from the Commission for all purposes. It is the intent of the Mayor and City Council that members shall, by reason of diversity of their individual occupations, constitute a Commission which is broadly representative of the Community. (Ord. of 8-27-74, Ord. of 9-18-90, Ord. of 2-27-01).

### **Sec. 18-45. Qualification of Members.**

Any member appointed to the traffic commission shall be a qualified voter in the city and a resident of the city. (Ord. of 5-24 60, Art. II, §2, Rod. of 9-18-90).

### **Sec. 18-46. Members to Serve Without Compensation.**

The members of the traffic commission shall serve without compensation. (Ord. of 5-24-60, Art. II, Ord. of 9-18-90).

### **Sec. 18-47. Removal of Members.**

Any members of the traffic commission may be removed from such membership by a majority vote of the members of the city council, and upon removal, such member shall no longer be authorized to act as a representative of the commission. (Ord. of 5-24-60, Art. IV, §§1-3)(Ord. of 9-18-90).

### **Sec. 18-48. Filling of Vacancies.**

Any vacancies occurring on the Traffic Commission shall be filled by a majority vote of the City Council with such appointment being for the unexpired term of such vacancy. Terms of appointed members shall be deemed extended until a successor is appointed. (Ord. of 5-24-60, Art. IV, §8)(Ord. of 9-18-90, Ord. of 2-27-01)

### **Sec. 18-49. Staff Liaison.**

The City Manager, or his designee, serves as staff liaison to the Traffic Commission. The staff liaison shall act as a secretary who will keep the minutes and other official records of the Commission. The staff liaison shall act in an advisory capacity to the Traffic Commission and to

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the committees appointed by the Traffic Commission and shall act as liaison between the Traffic Commission and the administrative staff of the City. (Ord. of 5-24-60, Art. II, §4)(Ord. of 9-18-90, Ord. of 2-27-01)

### **Sec. 18-50. Committees.**

The traffic commission may, on its own initiative, appoint various committees to assist it in performing its duties. Committee reports shall be made at each meeting of the traffic commission and, upon receipt and consideration of a committee report, the traffic commission may formulate a recommendation to the city council. (Ord. of 5-24-60, Art.III)(Ord. of 9-18-90).

### **Sec. 18-51. Meetings.**

The Traffic Commission shall meet once a month as determined by the Commission. A majority of the Commission shall be present for the conduction of any business or the addressing of items on the Commission agenda. All meetings shall be open to the public. (Ord. of 5-24- 60, Art. IV, §5) (Ord. of 9-18-90, Ord. of 2-27-01).

### **Sec. 18-52. General Duties.**

The duties of the traffic commission shall include the following:

- (A) Streets and thoroughfares - Liaison with planning and zoning commission. The traffic commission shall effect coordination with the planing & zoning commission on those portions of the master plan relative to streets and thoroughfares. (Ord. of 5-24-60, Art. IV, §4)(Ord. of 9-18-90)
- (B) Engineering designs - Liaison with the Director of Public Works. The traffic commission shall make workable recommendations on such items as intersection, parking and channelization.
- (C) Central Business District - Liaison with the Director of Public Works. The traffic commission shall study the peculiar traffic problems of the central business district as well as parking problems that exist city-wide and make appropriate recommendations to the city council.
- (D) Safety and enforcement - Liaison with the police department and Big Spring Independent School District. The traffic commission shall study problems of traffic law enforcement city-wide and in areas around schools. The commission may implement a traffic safety program; this program shall coincide with any traffic safety program emanating from the police department.

### **Sec. 18-53. Studies and Recommendations.**

When requested by the city council, or on their own initiative, the traffic commission shall make studies and recommendations concerning the abatement of specific traffic and safety hazards of the city. (Ord. of 5-24-60, Art. IV, §6)(Ord. of 9-18-90)

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### Sec. 18-54. Presentation of Recommendations.

All recommendations made by the traffic commission to the city council shall be presented at least seven (7) days prior to the meeting of the city council at which the recommendation is to be considered by the city council. (Ord. of 5-24-60, Art. IV, §7)(Ord. of 9-18-90)

### Sec. 18-55. Publicity for Proposed Regulations.

The traffic commission shall assist the city council in providing information to the citizens of the city regarding traffic regulations. (Ord. of 9-18-90)

### Sec. 18-56. Authority to Hold Public Hearings.

The traffic commission with the concurrence of the city council may hold public hearings on specific traffic and safety problems of the city. (Ord. of 9-18-90)

### Sec. 18-57. Commission Cannot Bind the City Council.

The Traffic Commission acts in an advisory capacity only and does not have the authority to bind or obligate the City Council in any matter. (Ord. of 2-27-01)

### Sec. 18-58 to 18-71. Reserved.

## Article 3. Operation of Vehicles Generally

### Sec. 18-72. Speed Limits - Generally.

No person shall drive a vehicle upon any street or highway in the city at a speed greater than is reasonable and prudent under the circumstances then existing. Unless otherwise designated by ordinance, the prima facie maximum reasonable and prudent speed for city streets shall be thirty (30) miles per hour (mph). Except when a special hazard exists that requires lower speeds, the limits specified in this article shall be lawful, but the speed in excess of the limits specified in this article shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

Any person who shall operate a vehicle upon the streets and highways of the city at a speed greater than is reasonable and prudent under the circumstances then existing shall, upon conviction, be fined not less than one dollar (\$1.00) nor more than two hundred dollars (\$200.00).

### Sec. 18-73. Speed Limits in School Zones.

The following described locations or areas within the City of Big Spring are hereby designated "school zones" and no person shall drive a motor vehicle in any direction within said areas or locations at a speed greater than is reasonable or prudent under the circumstances then existing. The speed limit specified hereinafter shall be lawful, but any speed in excess of the limit so specified during the hours set forth hereinafter for each location or area shall be prima facie evidence that the speed is not reasonable or prudent and is unlawful, on the days school is in session.

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- (A) Bauer Elementary School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On Scurry Street from a point 155' north of the north right-of-way line of North 10<sup>th</sup> Street to the south right-of-way line of North 9<sup>th</sup> Street.
  - (2) On North 10<sup>th</sup> Street from a point 150' east of the east right-of-way line of Gregg Street to the east right-of-way line of Scurry Street.
  - (3) On North 9<sup>th</sup> Street from a point 157' east of the east right-of-way line of Gregg Street to a point 130' west of the west right-of-way line of Runnels Street.
- (B) College Heights Elementary School and Goliad Middle School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On Goliad Street from a point 15' north of the north right-of-way line of 22<sup>nd</sup> Street to a point 187' south of the south right-of-way line of 18<sup>th</sup> Street.
  - (2) On 18<sup>th</sup> Street from a point 160' east of the east right-of-way line of Benton Street to a point 84' west of the west right-of-way line of Nolan Street.
- (C) Kentwood Elementary School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On Merrily Drive from the west right-of-way line of Ann Drive to the west right-of-way line of Shirley Drive.
- (D) Lakeview Elementary School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On Channing Street from a point 506' north of the north right-of-way line of 4th Street to the south right-of-way line of 7th Street.
  - (2) On 7th Street from the east right-of-way line of Wyoming Street to the east right-of-way line of Channing Street.

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- (E) Marcy Elementary School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On Connally Street from a point 160' north of the north right-of-way line of Cecilia Street to the south right-of-way line of Wasson Road.
  - (2) On Wasson Road from a point 300' east of the east right-of-way line of Randolph Blvd. to a point 265' west of the west right-of-way line to Navajo Street.
- (F) Moss Elementary School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On Baylor Street from a point 115' south of the south right-of-way line of Fordham Street to the south right-of-way line of Green Briar Street.
  - (2) On Fordham Ave. from a point 15' west of the east right-of-way line of Baylor Street to a point 15' of the east right of way line of Marquette Ave.
  - (3) On Kent Ave. from the north right-of-way line of Greenbriar Ave. to the south right-of-way line of Fordham Ave.
  - (4) On Marquette Ave. from north right-of-way line of Greenbriar Ave. to 15' south of the south right-of-way line of Fordham Ave.
  - (5) On Greenbriar Ave. from a point 15' west of the east right-of-way line of Baylor Blvd. To a point east of the east right-of-way line of Marquette Ave.
- (G) Washington Place Elementary School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m. (Ord. of 10-22-91)
- (1) On Birdwell Lane from a point 197' north of the north right-of-way line of South Monticello Street to a point 55' north of the north right-of-way line of North Monticello Street. (Ord. 89-83, 11-25-83, §1)
  - (2) On North Monticello Street from a point 90' west to the west right-of-way line of College Avenue to the east right-of-way line of Birdwell Lane.

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- (H) Big Spring High School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On 10th Street from a point 379' east of the east right-of-way line of Goliad Street to a point 236' west of the west right-of-way line of State Street.
  - (2) On 11th Place from a point 114' east of the east right-of-way line of Goliad Street to the west right-of-way line of Young Street.
  - (3) The City Manager is hereby authorized and directed to add Speed Limit of 20 mph, same hours of all School Zones, to Owens Street between Eighth and Tenth Street
- (I) New Hope Christian School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On Cedar Road from a point 78' west of the west right-of-way line of Mountain Park Drive to 581' east of the east right-of-way line of Indian Hills Drive.
- (J) Immaculate Heart of Mary School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On Hearn Street from a point 191' east of the east right-of-way line of Vicky Street to a point 139' east of the east right-of-way line of Bilger Street.
- (K) Saint Mary's Episcopal School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.
- (1) On Cedar Road from a point 78' west of the west right-of-way line of Mountain Park Drive to 581' east of the east right-of-way line of Indian Hills Drive.
- (L) Bus loading zone.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:30 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m.

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- (1) On Airbase Road from a point 460' south of the south right-of-way line of West 13th Street to a point 88' north of the north right-of-way line of West 13th Street.
  - (2) On West 16th Street from the west right-of-way line of Lark Street to the east right-of-way line of Mesa Street.
- (N) The director of public works is hereby authorized and directed to erect and install appropriate signs and markings at the designated locations, in conformance with the State Highway Department's Manual and specifications, indicating and carrying out the provisions of this article. (Ord. of 4-12-83, §18-73; Ord. of 4-23-85; Ord. of 3-28-95, Ord. of 03-25-97)
- (O) New Big Spring Junior High School.  
A speed limit of 20 mph from 7:30 o'clock a.m. to 9:00 o'clock a.m. and from 2:45 o'clock p.m. to 4:30 o'clock p.m..
- (1) On Sixth Street from a point 30' east of the right-of-way line of South Young to a point 140' east of the right-of-way line of South Goliad.
  - (2) On Owens Street from a point 10' south of the right-of-way line of East 5<sup>th</sup> Street to a point 20' north of the right-of-way line of East 10<sup>th</sup> Street.
  - (3) On Seventh Street from a point 160' east of the right-of-way line of South Goliad to a point 20' north of the right-of-way line of East 8<sup>th</sup> Street.
  - (4) On Eighth Street from a point 140' east of the right-of-way line of South Goliad to a point 10' west of the right-of-way line of South Caylor Street.
  - (5) On Benton Street from a point 10' south of the right-of-way line of East 5<sup>th</sup> to a point north of the right-of-way line of East 6<sup>th</sup> Street.
  - (6) On Austin Street from a point 10' south of the right-of-way line of East 5<sup>th</sup> to a point north of the right-of-way line of East 6<sup>th</sup> Street.

(Ord. of 3-9-00)

### **Sec. 18-74. Speed Limits on Specified Streets.**

The prima facie maximum reasonable and prudent speeds for specific streets and highways, or parts of specific streets or highways, are designated as follows:

- (A) Wasson Road.  
The prima facie maximum reasonable and prudent speed on Wasson Road from Marcy Drive to the city limits shall be forty (40) miles per hour.

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(B) State Highway 350 - North.

The prima facie maximum reasonable and prudent speed for State Highway 350 (Owens Street) shall be:

- (1) South bound from the intersection of South Service Road of I.H. 20 to intersection with South Second (2nd) Street shall be forty-five (45) mph.
- (2) South bound from the intersection of South Second Street to South Fourth Street (4th) shall be thirty (30) mph.
- (3) North bound from the intersection with South Fourth Street to the intersection with South Second Street shall be thirty (30) mph.
- (4) North bound from the intersection with South Second Street to the intersection with North Second Street shall be forty-five (45) mph.
- (5) North bound from the intersection with North Second Street to the intersection with the south service road of I.H. 20 shall be fifty (50) mph. (Ord. of 3-8-94)

(C) North Frontage Road between State Highway 350 and Birdwell Lane.

The prima facie maximum reasonable and prudent speed beginning at State Highway 350, Highway Station 802+60 proceeding in an easterly direction 0.477 miles is fifty (50) miles per hour to Highway Station 828+00; from Highway Station 828+00 proceeding in an easterly direction 0.537 miles is fifty-five (55) miles per hour to Highway Station 857+35; from Highway Station 857+35 proceeding in an easterly direction a distance of 0.200 miles is forty-five (45) miles per hour to Highway Station 867+91; at which point the North Frontage Road intersects with Birdwell Lane.

(D) North Frontage Road from U.S. 80 Business Route to F.M. 700.

The prima facie maximum reasonable and prudent speed beginning at U.S. 80 Business Route, Highway Station 855 +50, and proceeding in an easterly direction is forty-five (45) miles per hour a distance of 0.520 miles to the city limits of Big Spring and Highway Station 882+96.55.

(E) South Frontage Road of IH 20 from East City Limits to Tulane Avenue.

The prima facie maximum reasonable and prudent speed beginning at Tulane Avenue, Highway Station 840+00, and proceeding in an easterly direction is thirty-

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five (35) miles per hour a distance of 0.530 miles to Highway Station 868+00; at such point begin forty-five (45) miles per hour to the city limits.

(F) Business Interstate (BIS) 20 West Bound.

(1) The prima facie maximum and reasonably prudent speed limit for BIS 20 west bound beginning at Tulane St. to Nolan St. is forty (40) mph; from Nolan St. to Lancaster St. is thirty (30) mph; from Lancaster St. to Presidio St. is thirty-five (35) mph; from Presidio St. to Anna St. is forty-five (45) mph; from Anna St. to the west City limits is fifty (50) mph. (Ord. of 7-13-93)

(G) Business Interstate (BIS) 20 East Bound.

(1) The prima facie maximum reasonable prudent speed limit beginning at the west city limits to Mesquite St. is fifty (50) mph; from Mesquite St. to Presidio St. is forty-five (45) mph; from Presidio St. to Lancaster St. is thirty-five (35) mph; from Lancaster St. to Nolan St. is thirty (30) mph; from Nolan St. to Union St. is forty (40) mph. and from Union to Baylor is forty-five (45) mph. (Ord. of 7-13-93)

(H) North Frontage Road of IH 20 from State Highway 175 to State Highway 350.

The prima facie maximum reasonable and prudent speed from the western city limits, at the intersection of State Highway 176 and the North Frontage Road of IH 20 the same being Highway Station 571+44, eastward shall be fifty-five (45) mph for a distance of 0.15 miles to Highway Station 579+36;

fifty (50) mph from Highway Station 579+36 a distance of 0.562 miles, at Highway Station 589+31 back, change to Highway Station 714+76 forward, to Highway Station 734+50 eastward a distance of 0.515 miles from Highway Station 761+70; fifty (50) mph from Highway Station 761+70 eastward 0.594 miles to Highway Station 793+04; forty (40) miles per hour from Highway Station 793+04 eastward 0.2 miles to Highway Station 803+60 and the intersection of the North Frontage Road of I.H. 20 and State Highway 350 for the end of this road.

(I) South Frontage Road of IH 20 from Western City Limits to the Eastern end of the South Frontage Road East of State Highway 350.

The prima facie maximum reasonable and prudent speed is forty (40) mph from the western city limits of the city and Highway Station eastward on the South Frontage Road.

(J) South Frontage Road of IH 20 from its intersection with Northeast Second Street to its intersection with Birdwell Lane.

The prima facie maximum reasonable and prudent speed is forty (40) mph from the grade separation of Interstate Highway 20 and U.S. Highway 87 North, beginning at Highway Center Line Station 39+28 on U.S. Highway 87, said point

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being the intersection of U.S. Highway 87 and the South Frontage Road of IH 20 (North 12th Street), a distance of 0.2 miles to the north city limits line, said point being Highway Center Line Station 19+84.4.

- (K) Birdwell Road between F.M. 700 and Twenty-Fifth Street.  
The prima facie maximum and reasonable speed is forty (40) mph for that section of Birdwell Lane which lies between a line perpendicular to the center line of the right-of-way and 500 feet to the south of the south right-of-way line of F.M. 700 and Twenty-Fifth (25th) Street.
- (1) Comanche Trail Park. The prima facie maximum reasonable and prudent speed on all park streets is twenty (20) miles per hour.
- (L) Farm Market Road 700.  
(1) The prima facie maximum reasonable and prudent speed of fifty (50) mph is hereby established for the east and westbound sections of F.M. 700 beginning at the intersection of I.H. 20 Business Route West and to the intersection of State Park Road #8 (entrance to Big Spring State Park) and from the intersection of Miami Street and to the intersection IH 20 East.  
The prima facie maximum reasonable and prudent speed of forty-five (45) mph is hereby established for east and westbound FM 700 traffic between Park Road #8 and its intersection with Miami Street. (Ord. of 3-8-94)
- (2) Raising speed limit to forty-five (45) mph westbound on the North Service Road of FM 700 from South Gregg to FM 700 westbound. (Ord. of 2-24-04)
- (M) North Main Street, North Tenth and North Twelfth Streets.  
The prima facie maximum reasonable and prudent speed limit is twenty (20) mph on North Main Street between North Tenth and North Twelfth Streets within the city.
- (N) U.S. Highway 87 within city limits.  
The prima facie maximum reasonable and prudent speeds are established along U.S. Highway 87 within the city limits of Big Spring, Howard County, Texas, in the following zones:
- (1) The following speed zones are established for south bound traffic beginning at the north city limits line, said point being Highway Center Line Station 49+84.4.

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- (a) The prima facie maximum reasonable and prudent speed of forty (40) miles per hour is hereby established for that section of U.S. Highway 87 beginning at the north city limits line of the city, said line being Highway Center Line Station 49+84.4 and proceeding 1,051.8 feet to a point being Highway Center Line Station 550+03.8. (Ord of 01-14-92)
  - (b) The prima facie maximum reasonable and prudent speed of fifty - five (55) miles per hour is hereby established for that section of Highway 87 being Highway Center Line Station 550+03.8 to the South city limits line being Highway Center Line Station 533+35.6.(Ord. of 01-14-92)
- (2) The following speed zones are established for north bound traffic beginning at the southmost south city limits line of the City of Big Spring, said line being Highway Center Line Station 533+35.6.
- (a) The prima facie maximum reasonable and prudent speed of fifty-five (55) miles per hour is hereby established for that section of U.S. Highway 87 beginning at the southmost south city limits line said line being Highway Center Line Station 533+35.6 proceeding north to a point being Highway Center Line Station 550+-3.8. (Ord of 01-14-92)
  - (b) The prima facie maximum reasonable and prudent speed of forty (40) miles per hour is hereby established for that section of U.S. Highway 87 beginning at Highway Center Line Station 550+03.8 proceeding north to a point being the north city limits line being Highway Center Line Station 49+84.4 .(Ord of 01-14-92)
- (O) West Eleventh Place Street.  
The prima facie maximum reasonable and prudent speed of forty-five (45) miles per hour is hereby established for that portion of West Eleventh Place Street beginning 200 feet west of its intersection with Abrams Street westerly to its intersection with FM 700. (Ord. of 11-10-81)
- (P) Air Park Drive West.  
(1) The prima facie maximum reasonable and prudent speed for the entire section of road dedicated as Rickabaugh Drive (street name changed by Ordinance 6-25-96 from Airpark Drive West) shall be forty-five (45) miles per hour. (Ord. of 06-12-90, Ord. of 01-11-00)

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- (2) Apron Drive from its north intersection with Airpark Drive east to its southern most limit. (Ord. of 06-12-90)
  
- (Q) Cessna Drive.
  - (1) The prima facie maximum reasonable and prudent speed of thirty (30) miles is hereby established for Cessna Drive from its intersection on the east with Air Park Drive West to its intersection with Industrial Drive. (Ord. of 06-23-90)
  
  - (2) Industrial Drive from its intersection on the north with IH-20 south service road south to its intersection with Citation Drive. (Ord. of 06-12-90)
  
  - (3) Citation Drive from its intersection on the east with Air Park Drive west to its intersection with Primeter Road on the west. (Ord. Of 06-12-90)
  
  - (4) Primeter Road from its intersection on the northwest side of the Air Park with Citation Drive south to the Air Park boundary then east and thence north to its intersection with Wright Street on the east side of the Air Park. (Ord. of 06-12-90).
  
- (R) The prima facie maximum reasonable and prudent speed for the entire section of road dedicated as Edwards Circle shall be twenty (20) miles per hour. (Ord. of 6-23-98)
  
  
- (S) The prima facie maximum reasonable and prudent speed for the entire section of road dedicated s Goliad Street from a point 100' west of the right-of-way line of South Service Road FM700 to a point 30' east of the right-of-way line of Highland Drive. (Ord. of 7-13-99)
  
- (T) The prima facie maximum reasonable and prudent speed for the entire section of road dedicated as South Service Road FM 700 from a point 210' west of the right-of-way line of Coronado Avenue to a point 30' west of the right-of-way line of Hwy 87 shall be 40 miles per hour. (Ord. of 6-28-05)

### **Sec. 18-75. One-way Streets; Designation and Marking.**

The director of public works is hereby authorized to cause any street or section or portion thereof to be designated and maintained as a one-way street and to designate the direction in which vehicles shall lawfully travel thereon, as may be authorized by the city council by ordinance from time to time. Whenever any street is so designated, the director of public works shall cause the same to be identified as a one-way street by signs and markings painted on the surface of the street or by clearly visible and uniform signs erected adjacent thereto, or both, which signs or markings shall indicate the designation of such street as a one-way street and the direction in which vehicles

## BIG SPRING CITY CODE

shall lawfully travel by arrows pointing in that direction. Such signs or markings shall be erected or painted at each entrance to the one-way street and at each cross intersection and at such other points as may be deemed advisable by the director of public works. All existing one-way streets which are designated as one-way streets by signs or markings are hereby validated and approved by the city council.

- (A) The Farm Market 700 north service road from Goliad Street west to Johnson Street is hereby designated as one way west bound.
- (B) North Monticello Street from College Westbound to Birdwell is hereby designated as a one way street westbound between the hours of three (3) and five (5) P.M. on all school days. Further all westbound traffic between College and Birdwell on North Monticello during the one way hours will be required to right turn only onto Birdwell Lane.
- (C) The section of West Thirteenth (13<sup>th</sup>) Street from the intersection of Airbase Road to the intersection of County Fair Parking Area and in that said direction of travel is hereby designated as a One-Way street, effective between the hours of 7:30 o'clock a.m. and 9:30 o'clock a.m. and from 2:00 o'clock p.m. and 5:00 o'clock p.m. (Ord. of 8-12-58, §4(2D); Ord. of 8-23-94, Ord. of 07-08-97, Ord. of 10-28-97)
- (D) The section of Edwards Circle shall be designated as a one-way street and said streets that intersect Edwards Circle shall flow to the right as designated by traffic signs. (Ord. of 6-23-98)
- (E) North Scurry Street is hereby designated as "ONE WAY ONLY" Northbound from NW 9<sup>th</sup> Street to NW 10<sup>th</sup> Street between the hours of 7:30 a.m. to 9:00 a.m. and between the hours of 2:45 p.m. to 4:30 p.m. on all school days. (Ord. of 12-10-02)
- (F) At each entrance to the one-way alley and the direction in which vehicles shall lawfully travel by arrows indicating the direction and located at such points as may be deemed advisable by the director of public works. (Ord. of 5-27-03)
- (G) At each entrance to the one-way street and the direction in which vehicles shall lawfully travel by arrows indicating the direction and located at such points as may be deemed advisable by the director of public works. Eighteenth Street (18<sup>th</sup>) from Birdwell to Muleshoe Street, a direction east to west. (Ord. of 7-22-03)
- (H) The section of Merrily from Central to the city limits shall be designated as a one-way street in an eastbound direction. (Ord. of 2-24-09)

**Sec. 18-76. Driving in Wrong Direction.**

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Whenever any street has been designated as a one-way street as provided in section 18-75, it shall be unlawful for the operator of a vehicle to drive the same upon or over such street in a direction other than that determined and indicated by the appropriate signs and markings conforming to the provisions of section 18-75. (Ord. of 8-12-58, §8(18))

### **Sec. 18-77. Changing Lanes.**

On one-way streets which are marked into traffic lanes by solid lines and dash stripes, it shall be unlawful for the driver of a vehicle to pass from one traffic lane into another in any intersection or across any solid line. Crossing from any such lane to another shall be made only at dash stripes and only after a proper signal is given. (Ord. of 8-12-58, §8(18))

### **Sec. 18-78. Obstructing Intersection or Crosswalk.**

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (Ord. of 8-12-58, §8(2))

### **Sec. 18-79. Driving Between Vehicles of Authorized Procession.**

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. (Ord. of 8-12-58, S9(4))

### **Sec. 18-80. Primary Truck Routes Established.**

(A) "Truck" defined. For the purpose of this section, a truck shall be defined as every motor vehicle designed, maintained or used primarily for the transportation of

property, which has three or more axles and/or a gross vehicle weight of more than 10,000 pounds.

(B) No person shall operate a truck on any street or roadway within the city except on the following portions of the following streets, which are hereby designated as "Primary Truck Routes":

- (1) Interstate Highway 20 from the west city limits to the east city limits.
- (2) U.S. Highway 87 (Gregg Street) from the north city limits to the south city limits.
- (3) State Highway 350 from the north city limits to U.S. Highway Business Route East (Fourth Street).
- (4) U.S. Highway 80 Business Route West (Third Street) from its intersection with Interstate Highway 20 on the east to its intersection with Interstate Highway 20 on the west.

## **BIG SPRING CITY CODE**

- (5) U.S. Highway 80 Business Route East (Fourth Street) from its intersection with Interstate Highway 20 on the west to its intersection with Interstate Highway 20 on the east.
  - (6) Farm to Market Road 700 from its intersection with U.S. Highway 80 Business route to its intersection with Interstate Highway 20.
- (C) Trucks restricted to the streets designated as "primary truck routes" may depart from such route where it is necessary to load or unload merchandise at locations situated off of the designated routes; provided, however, such vehicles shall follow the most direct truck route to the point nearest their ultimate destination and provided further, that such vehicles shall not leave designated truck routes until they have reached a turning off point that can be described as the shortest distance practical to the ultimate destination of the vehicle, which is consistent with a reasonable operation of the vehicle; provided, further, said vehicle may depart from the designated truck terminal, which is defined as an area for trans-shipment of merchandise and service and maintenance of trucks; provided, that such vehicle proceeds by the most direct route that is practicable. Any such vehicles may be driven off the designated routes to a public garage or repair shop when reasonably necessary for the maintenance and repair of such vehicle; provided, however, that this provision shall never be construed as authorizing the repair of vehicles in areas otherwise prohibited by the provisions of this Code, or by state law. Any person operating any of the aforesaid vehicles upon any street or roadway which is not designated a truck route as provided for hereinabove shall have in his

possession for the inspection of police officers his log book or evidence of his destination and point of origin to justify the presence of said vehicle on a street or roadway other than a designated truck route.

- (D) The following vehicles shall be exempt from the provisions of this section:
- (1) Authorized emergency vehicles (as defined by Article 6701(d), Vernon's Texas Civil Statutes).
  - (2) Municipal and utility service vehicles.
  - (3) Vehicles transporting hazardous materials as regulated by Section 18-81.
  - (4) Appropriate signs and marking shall be erected and maintained advising the operators of trucks of the streets and highways which have been designated as "primary truck routes". (Ord. of 7-24-79, §1)

**Sec. 18-81. Truck Routes Established for Vehicles Transporting Hazardous Materials.**

## TRAFFIC

- (A) "Vehicle transporting hazardous material" defined. "Vehicles transporting hazardous materials" as such term is used in this section shall mean all vehicles and appurtenances thereto used for the transportation of radioactive, hazardous, explosive or inflammable materials and substances and regulated by the U.S. Department of Transportation and/or the Texas Department of Public Safety as vehicles used for the transportation of hazardous materials.
- (B) No person shall operate a vehicle transporting hazardous materials upon any street or roadway within the City of Big Spring except upon the following portions of the following streets, which are hereby designated as "Primary Routes for Vehicles Transporting Hazardous Materials".
- (1) Interstate Highway 20 from the west city limits to the east city limits.
  - (2) U.S. Highway 87 from the north city limits to its intersection with Interstate Highway 20.
  - (3) State Highway 350 from the north city limits to Interstate Highway 20.
  - (4) Farm to Market Road 700 from its intersection with U.S. Highway 80 Business route to its intersection with Interstate Highway 20.
  - (5) U.S. Highway 80 Business Route from its intersection with Interstate Highway 20 on the west to its intersection with Farm to Market Road 700 on the west.
  - (6) U.S. Highway 87 from Farm to Market Road 700 to the south city limits.
- (C) Vehicles transporting hazardous material may depart from the above numerated routes where it is necessary to load or unload materials at locations situated off designated routes; provided, however, such vehicles shall follow the most direct designated route to the point nearest their ultimate destination and provided further that such vehicles shall not leave the designated routes until they have reached a turning point that can be described as the shortest distance practical to the ultimate destination of the vehicle which is consistent with the reasonable operation of the vehicle; provided, further, said vehicles may depart from the designated routes for the purpose of traveling to and from a duly designated truck terminal, which is defined as an area for trans-shipment of merchandise and service and maintenance of trucks; provided, that such vehicle proceeds by the most direct route that is practicable.
- Any such vehicles may be driven off the designated routes to a public garage or repair shop when reasonably necessary for the maintenance and repair of such vehicles; provided, however, that this provision shall never be construed as

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authorizing the repair of vehicles in areas otherwise prohibited by the provisions of this code, or by state law.

Any person operating any of the aforesaid vehicles upon any street or roadway which is not a designated route as provided for hereinabove shall have in his possession for the inspection of police officers his log book or evidence of his destination and point of origin to justify the presence of said vehicle on a street or roadway other than a route designated above.

- (D) No liquefied petroleum products shall be transferred from one transporting vehicle to another transporting vehicle on any street, alley, public thoroughfare or at any other point in the city other than on the premises on which permanent commercial storage tanks are located, except that in case of emergency, such transfer may be made under the supervision of the chief of the fire department.
- (E) Appropriate signs and markings shall be erected and maintained advising the operators of vehicles transporting hazardous material of the highways which have been designated as "Routes for Vehicles Transporting Hazardous Materials". (Ord. of 7-24-79, §2)

### **Sec. 18-82. Interference with Traffic by Sale of Merchandise, Etc.**

It shall be unlawful for any person to distribute, deposit or place on any vehicle or to sell to the occupant or occupants of any vehicle, any handbill, poster, newspaper, food, beverage or other product or merchandise or solicit or collect from such occupant while such vehicle is in a moving lane of traffic upon a public street within the city, whether such vehicle is stopped or moving, unless such person has received written permission from the Chief of Police. (Ord. of 4-23-96)

### **Sec. 18-83. No Left Turns on Portions of 11<sup>th</sup> Place.**

- (1) "No Left Turn" shall be allowed westbound on 11<sup>th</sup> Place at the intersection of 11<sup>th</sup> Place and Benton Street;
- (2) "No Left Turn" shall be allowed westbound on 11<sup>th</sup> Place at the intersection of 11<sup>th</sup> Place and Austin Street;
- (3) "No Left Turn" shall be allowed northbound on Benton Street at the intersection of Benton Street and 11<sup>th</sup> Place;
- (4) "No Left Turn" shall be allowed northbound on Austin Street at the intersection of Austin Street and 11<sup>th</sup> Place. (Ord. of 7-12-05)

### **Sec. 18-84 to 18-108. Reserved.**

## TRAFFIC

### Article 4. Traffic Control Devices

**Sec. 18-109. Necessity of Signs.**

No provision of this chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not visible and sufficiently legible to be seen by an ordinarily observant person. (Ord. of 8-12-58, §(1))

**Sec. 18-110. Marking of Traffic Lanes.**

The city manager is hereby authorized to mark lines for traffic on street pavement at such places where necessary, when directed by the city council. (Ord. of 8-12-58, §4(2B))

**Sec. 18-111. Installation of Traffic Lights.**

The city manager, as authorized by the city council from time to time, shall designate intersections at which traffic shall be controlled by electric traffic control signals or lights and shall cause such signals or lights to be installed and maintained at such intersections.

**Sec. 18-112. Validation of Existing Traffic Control Devices.**

All existing traffic control devices in the city are hereby validated and approved by the city council. (Ord. of 3-22-83; Ord. of 8-13-85)

**Sec. 18-113. Unauthorized Signs, Signals, Etc.**

- (A) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic or the parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to the highways of signs giving useful directional information of a type that cannot be mistaken for official signs.
  
- (B) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the city manager, when authorized by the city council, is hereby empowered to remove the same or cause it to be removed without notice. (Ord. of 8-12-58, §6(5))

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### **Sec. 18-114. Injuring, Removing, Etc. Official Devices.**

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal, or any other part thereof.

### **Sec. 18-115. Prima Facie Evidence of Lawful Installation.**

Proof of the location of any traffic control device within the city shall constitute prima facie evidence of its lawful installation. (Ord. of 8-13-85)

### **Sec. 18-116 to 18-128. Reserved.**

## **Article 5. Stopping, Standing and Parking**

### **Division 1. Generally.**

### **Sec. 18-129. Unattended Vehicles.**

It shall be unlawful for any person to park or to allow a motor vehicle to stand on any highway unattended without first setting the brakes thereon, setting the gear, if it has manual gears, turning the motor off; when standing upon a slope or grade, turning the wheels of such vehicle to the curb or side of the highway. (Ord. of 8-12-58, §(5))

### **Sec. 18-130. Prohibited in Specified Places.**

No person shall stop, stand or park a vehicle, except in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk or walkway.
- (2) In front of a public or private driveway.
- (3) Within an intersection.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) On a crosswalk.
- (6) Within twenty (20) feet of a crosswalk or intersection.
- (7) Within twenty (20) feet of the driveway entrance to any fire station.

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- (8) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
- (9) On the roadway side of any vehicle stopped or parked at the edge of a curb or street.
- (10) Upon any bridge, viaduct or elevated structure upon a highway.
- (11) At any place where official signs or marking prohibit stopping, standing, parking.
- (12) In any alley, except for the purpose of and while actually engaged in loading or unloading.
- (13) In the area of the public parkway lying between the curb or grade line of any public street and the abutting sidewalk or private property line; provided however, parking shall be lawful in that portion of the public parkway used as part of a business parking lot approved and permitted by the director of public works after a determination that allowing parking in the portion of the parkway covered by said permit will not constitute a traffic hazard. (Ord. of 8-12-58, §7(1); Ord. of 1-10-84; Ord. of 7-10-84)

### **Sec. 18-131. Prohibited for Certain Purposes.**

No person shall stand or park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying it for sale.
- (2) Washing, greasing, filling with gas or oil or repairing such vehicle, except repairs necessitated by an emergency. (Ord. of 8-12-58, §7(11))

### **Sec. 18-132. Stopping on Roadway.**

No person shall stop, stand or park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten (10) feet of the width of either lane of a roadway for free movement of the vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals of a police officer. (Ord. of 8-12-58)

### **Sec. 18-133. Stop Intersections.**

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The city manager is hereby authorized to cause any street intersection to be designated and maintained as a stop intersection and to designate the streets upon which vehicles shall stop before entering such intersection, as directed by the city council from time to time. Whenever any intersection has been so designated, the city manager shall cause the same to be identified by the erection of signs indicating which vehicles approaching the intersection shall stop. When such signs are erected at the entrance to any intersection, every driver of a vehicle shall stop at every such sign or at a clearly marked stop line and ascertain that the way is clear before entering the intersection, except when directed to proceed by a police officer or traffic control signal. (Ord. of 8-12-58, §§4(31), 8(1))

### **Sec. 18-134. Marking Spaces Where Parking Prohibited.**

The city manager is hereby authorized to cause parking spaces to be designated, maintained and marked off in and on such streets and parts thereof as may be authorized by the city council from time to time and is also authorized to cause no-parking spaces to be designated, maintained and marked off in and on such streets and parts thereof as may be authorized by the city council from time to time. The city manager is further authorized to cause time limit parking areas to be designated, maintained and marked off in and on such part or parts of streets as may be authorized by the city council from time to time. All spaces for parking vehicles shall be laid out either parallel with the street or at an angle, and shall be designated by painted lines showing clearly the manner in which a vehicle is to be parked.

The fact that a parking space, a no-parking area or a time parking area is designated by lines or markings painted on the surface of the street or by clearly visible signs indicating the area affected respectively shall be prima facie evidence that the city manager was authorized by the city council to designate the same at the place it is located and that it was determined by the city council that the same should be designated according to the markings or signs, as the case may be, as they then exist.

In areas designated by the city manager as time limit parking areas, parking may be limited to any period prescribed by the city council, the same to be designated with clearly distinguishable markings or signs at both ends of the time limit area and at reasonable intervals between the beginning and ending of such time limit area, indicating the time allowed for parking in such areas.

Any time limit on parking established under this section shall apply on such days and between such hours as are designated by the city council.

### **Sec. 18-135. Parking in Prohibited Areas; Overtime Parking.**

It shall be unlawful for any person to cause, allow, let, permit or suffer any vehicle registered in his name or owned or operated by him or in his possession or under his control to be or remain in any no-parking area designated according to the provisions of section 18-134, or in a time limit parking area for a longer period of time than that designated by the markings on the street or by signs clearly visible.

### **Sec. 18-136. Parallel Parking.**

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No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic and with the curb-side wheels of the vehicle within eighteen (18) inches of the edge of the roadway, or curb where curb is provided, except upon those streets which have been marked or designated for angle parking to the curb, as indicated by such marks or signs, and except as otherwise specifically provided in this article. (Ord. of 8-12-B 57(9))

### **Sec. 18-137. Angle Parking.**

Upon those streets where parking spaces are marked at an angle to the curb, vehicles shall be parked entirely within the spaces so marked and with the front thereof headed toward the curb. No truck, excluding pickup trucks of less than one ton, or any vehicle with a trailer attached will be permitted to park on those streets which are marked for angle parking, except as otherwise provided in this article for the purposes of loading or unloading. (Ord. of 8-12-58, §7(g))

### **Sec. 18-138. Vehicles Left Unattended on Public Property over Forty-eight Hours.**

It shall be unlawful for any person to leave unattended on any street, alley, or other public property in the city a vehicle for over a period of forty-eight (48) hours. (Ord. of 11-12-74)

### **Sec. 18-139. Curb Loading Zones.**

The city manager, as authorized from time to time by the city council, may designate the location of freight curb loading zones and the hours during which such zones are to be used for such purpose. When such designations are made, the city manager shall place and maintain appropriate signs indicating such zones and the hours during which they are to be used for such purpose.

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes. (Ord. of 8-12-58 §4(2C))

### **Sec. 18-140. Bus Stops, Taxicab Stands, Etc.**

The city manager is hereby authorized to establish bus stops and taxicab stands and stands for other passenger, common carrier motor vehicles on such public streets, in such places and in such number as may be determined from time to time by the city council to be of the greatest benefit and convenience to the public. Every such bus stop, taxicab stand or other stand shall be designated by appropriate signs. The designation of taxicab stands shall be subject to the provisions of Chapter 19 of this Code.

No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. (Ord. of 8-12-58, §4(3F))

### **Sec. 18-141. Parking of Vehicles Used for Delivery of Animals.**

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No vehicle or truck used for the delivery of animals or livestock shall be parked in any residence or business district of the city, nor in any other district unless the vehicle or trailer is clean and free of waste materials from animals. (Ord. of 8-12-58, §7(8))

### **Sec. 18-142. Backing to Curb to Load or Unload.**

Vehicles used for the transportation of merchandise or materials may back to the curb to load or unload, if the vehicle is constructed so that it cannot be unloaded from the side from a position parallel with the curb. In no event shall such parking be allowed where it leaves less than ten (10) feet in either lane of a street. (Ord. of 8-12-58, §7(9))

### **Sec. 18-143. Parking along Parade Route.**

The police officer in charge of traffic, under the supervision of the chief of police, is hereby authorized, whenever in his judgement it is necessary to prohibit or restrict the parking of vehicles along a street or part thereof constituting a part of the route of a parade or procession, to erect temporary traffic signs to that effect. It shall be unlawful to park or leave unattended any vehicle in violation of such signs. (Ord. of 8-12-58, §9(2))

### **Sec. 18-144. Moving Vehicle of Another into Prohibited Area or Away from Curb.**

No person shall move a vehicle not owned by such person into any area where parking, stopping or standing is prohibited or away from a curb such distance as is unlawful. (Ord. of 8-12-58, §7(1))

### **Sec. 18-144a-1 Definitios:**

In this section, the terms described below shall be used and defined as follows:

1. "Motor Vehicle" means a vehicle that is self propelled.
2. "Operator" means a person in actual physical control of the vehicle.
3. "Owner" means a person who has: (A) legal title to a motor vehicle (B) or the right to possess or control the vehicle.
4. "Front Yard" means an open, unoccupied space on a lot facing a street extending across the lot between the side lot lines and from the front of the main building to the front lot or street line. In corner lots the front yard shall be that yard where the main entrance of the principal structure is located.
5. "Truck-tractor" means a motor vehicle designed or used primarily for pulling other vehicles and not constructed to carry a load other than a part of the weight of the vehicle being drawn.
6. "Semitrailer" means a vehicle without motive power that is designed, or used with a motor vehicle, so that some of its weight and the weight of its load rest on or is carried by the motor vehicle.

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7. “Trailer” means a vehicle without motive power that is: (A) designed or used to carry property or passengers on its own structure exclusively; and (B) drawn by a motor vehicle.
8. “Vehicle” means a mechanical device, other than a device moved by human power or used exclusively upon stationary rails or tracks, in, on, or by which a person or property can be transported. The term includes a motor vehicle, commercial motor vehicle, truck-tractor, trailer, or semitrailer but does not include manufactured housing as defined by the Texas Manufactured Housing Standards Act (Article 5221fRev.Civ.Stat., Vernon’s Texas Civil Statutes) or self propelled wheel chairs or mechanical devices while being used by handicapped individuals.
9. “Authorized Emergency Vehicle” means: a fire department or police vehicle, a public or private ambulance operated by a person who has been issued a license by the Texas Department of Health; a municipal department or public service corporation emergency vehicle that has been designated by the City Council; a private vehicle of a volunteer firefighter or certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency.
10. “Paved Surface” shall mean an area continuously surfaced with concrete, hot mix asphalt, brick or stone pavers or gravel.
11. “Park” or “Parking” means to stand an occupied or unoccupied vehicle, other than temporarily while loading or unloading property or passengers.
12. “Stand” or “Standing” means to halt an occupied or unoccupied vehicle, other than temporarily while receiving property or passengers.(Ord. of 3-11-03)

### **Sec. 18-144a-2 Prohibition.**

No owner or operator of a vehicle may park a vehicle on any portion of the front yard of any lot zoned for residential purposes within the city unless such vehicle is parked upon a paved surface or designated unpaved parking area as defined by Section 18-144a-3, except as follows:

1. a person operating authorized emergency vehicle; or
  2. a person properly displaying a valid Handicapped Parking Permit.
- (Ord. of 3-11-03)

### **Sec. 18-144a-3 Designated Parking Areas.**

Parking areas exist or may be designated in the front yard of a residential lot as follows:

- a. In areas of the city in which the streets have curbs and gutters the designated unpaved parking area in the front yard of each residential lot shall be the area perpendicular to

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the street between the curb cuts and extending to the garage or if there is no garage to the residence.

- b. If the curb cut is not twenty-two feet wide, then the area shall be the area eleven feet either side of a line extending from the center of the curb cut and perpendicular to the street and extending to the garage or if there is no garage to the residence.
- c. If the area does not front either a garage or residence, the area shall be as described, but in no event may it extend further than seventy feet (70') into the lot from the center of the right of way.
- d. In areas of the City in which there are no curbs or gutters, the Owner of the property, as shown by the records of the Howard County Appraisal District may designate an area twenty-two feet (22') wide perpendicular to the street extending from the public right of way to the garage or if there is no garage to the residence. If the area does not front either a garage or residence, the area may be designated as described but in no event may it extend further than seventy feet (70') into the lot from the center of the right of way. The designation shall be made in writing on forms supplied by the City and filed with the City Secretary. A designation once made may not be amended until the first anniversary of the date of designation.
- e. Lots with curb and gutter but no curb cuts may be designated in the same manner as those areas without curb and gutter. (Ord. of 3-11-03)

### **Sec. 18-144a-4 Presumption.**

In instances in which the actual operator of the vehicle cannot be readily determined, the registered owner of any vehicle parked in violation of this ordinance shall be deemed to be prima facie responsible for the violation so evidenced and subject to the penalty provided herein. (Ord. of 3-11-03)

### **Sec. 18-144a-5 Enforcement.**

In areas without curb and gutter, this ordinance shall only be enforced following ten (10) days notice to the owners or occupants of the residential lot. In the event the Code Enforcement Department becomes aware of a violation on a lot without a prior designation, they shall attach a notice to the offending vehicle and to the front door of the residence, if any, which shall state as follows:

**WARNING**

**TRAFFIC**

**VEHICLE LICENSE NO. \_\_\_\_\_ IS PARKED IN AN  
UNDESIGNATED PARKING AREA.**

Contact the City of Big Spring Code Enforcement Department, 501 Runnels Street, Big Spring, Texas 79720, within ten (10) calendar days to designate an unpaved parking area. Continued parking of vehicles in this area will subject you to prosecution for illegal parking.

\_\_\_\_\_ Dated: \_\_\_\_\_  
Code Officer

Continued parking in an undesignated area following ten (10) days notice shall subject the owner or operator of the vehicle to prosecution.  
(Ord. of 3-11-03)

**Sec. 18-144a-6 Penalty.**

No owner or operator of any vehicle shall cause or permit a vehicle to be parked in violation of any of the provisions of this ordinance. Any owner or operator of any vehicle violating the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction may be fined not less than \$1.00 or more than \$200.00. Each day the violation occurs or continues shall constitute a separate offense. (Ord. of 3-11-03)

**Sec. 18-145. Notice to Be Attached to Illegally Parked Vehicle.**

Whenever any motor vehicle without driver or operator is found parked or stopped in violation of any of the restrictions imposed by this article or other ordinance of the city, the officer finding such vehicle shall take its registration number, and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a notice in writing, on a form provided by the city, for the driver or operator to answer to the charge

against him, within ten (10) days after the issuance of the notice, at the corporation court of the city. All such notices shall be serially numbered. (Ord. of 8-12-58, §§3(3), (4))

**Sec. 18-146. Impoundment of Standing or Parked Vehicles.**

(A) Members of the police department are hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage or parking lot designated or maintained by the police department or otherwise maintained by the city, under the circumstances hereinafter enumerated:

- (1) When a vehicle upon a roadway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody or removal.

## **BIG SPRING CITY CODE**

- (2) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.
  - (3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite obstruction to employees of the city engaged in cleaning the street upon which the vehicle is illegally parked, or when any vehicle is illegally parked and constitutes an obstruction to the progress of construction or repair work on any of the city's water or sewer lines.
  - (4) When any vehicle is found parked in violation of section
  - (5) If a nonresident of the city has failed on more than one occasion to comply with notice attached to an illegally parked vehicle owned by him, and warrants have been issued for his arrest but not served because of his absence, the police are authorized to impound his vehicle as provided in this section, when such vehicle is next found left unattended upon a street and illegally parked.
- (B) Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.
- (C) Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of three (3) days, then and in that event the officer shall immediately send or cause to be sent a written report of such removal by mail to the state highway department. Such notice shall include a complete description of the vehicle, the date, time and place for which removed, the reason for such removal, and the name of the garage or place where the vehicle is stored.
- (D) In the event a vehicle is removed from a street under this section, the owner of same shall pay, in addition to the fine, if any, assessed against him, reasonable costs incurred in removing the vehicle from the street, and reasonable storage for the time the same is stored in a garage or parking lot. (Ord. of 8-12-58, §7(10))

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### **Sec. 18-147. Parking of Trucks, Vehicles Transporting Hazardous Materials and Buses.**

(A) Definitions for the purposes of this section:

- (1) Truck. Any motor vehicle designed, maintained or used primarily for the transportation of property which has three or more axles and/or a gross vehicle weight of more than ten thousand (10,000) pounds.
- (2) Vehicle transporting hazardous material. Any vehicle and appurtenances thereto used for the transportation of radioactive, hazardous, explosive or inflammable materials and substances and regulated by the U.S. Department of Transportation and/or the Texas Department of Public Safety as a vehicle used for the transportation of hazardous materials.
- (3) Bus. Any vehicle constructed, outfitted or intended for carrying or transporting ten or more passengers.

(B) Regulations as to parking:

- (1) No truck shall be parked on any street, alley, public thoroughfare; provided, however, that such vehicles may be parked at the point where pick-up or delivery of goods or property is made without undue delay. Further, no truck shall be parked in any area of the city zoned for residential habitations only.

(a) Parking of a Truck's Tractor in Backyards.

Only the truck's tractor may be parked in the backyard of the Tractor Operator in a residential zoned area only if the following requirements are satisfied:

- 1.) Adequate and safe ingress and egress are available and /or provided for from a city street to the backyard, as approved by the City Engineer.
  - 2.) Application is approved by and renewed annually through the Building Official. annual permit fee shall be \$30.00.
  - 3.) A tractor shall be parked, stored or screened in such a manner that it is not visible from any street, further more if a structure is required it meets all applicable codes.
- (2) No vehicle transporting hazardous materials shall be parked or stored on the streets, alleys, public thoroughfares or at any other point within the corporate limits of the city except upon premises owned or leased by the

## **BIG SPRING CITY CODE**

owner of such transporting vehicles; provided, however, that such vehicle may be parked at the point where the commodity is to be delivered and such delivery shall be made without undue delay. In no event shall such transporting vehicle be parked for the purpose of unloading or delivery for a longer period of time than one (1) hour, unless the express permission of the chief of the fire department is first obtained.

- (3) No bus shall be parked on any street, alley or other public way in any area of the city zoned for residential habitations only; provided, however, that such vehicles may park for the immediate purpose of loading or unloading passengers. (Ord. of 7-24-79, §3)

(D) Penalties:

Persons violating any provision or provision of this section, if convicted of such violation in the municipal court of the City of Big Spring, may be fined five dollars (\$5.00). Each violation shall be considered a separate offense. (Ord. of 4-23-74, Ord. of 9-24-96)

**Sec. 18-148. Handicapped Parking.**

The City Manager is hereby authorized to establish handicapped parking spaces within the public right-of-way when so directed by the City Council. (Ord. of 1-14-92)

**Sec. 18-148a.**

The City Manager is hereby directed to establish two (2) handicapped parallel parking spaces on the west side of Scurry Street between 5th and 6th Streets, more specifically in front of the Heritage Museum. (Ord. of 1-14-92)

**Sec. 18-149. Parking on Goliad Street.**

No parking shall be allowed on the east side of Goliad Street from the south end of the Goliad School as delineated by proper sign age between the hours of 7:30 o'clock a.m. to 9:00 o'clock a.m. and from 3:15 o'clock p.m. and 5:15 o'clock p.m. (Ord. of 10-13-92)

**Sec. 18-150. Benton Street Overpass Weight Limits.**

The vehicular weight limit for traversing the Benton Street Overpass is hereby set at 4,500 lbs. It shall be illegal for any owner-operator of a vehicle weighing more than 4,500 lbs to enter upon or traverse over the Benton Street Overpass. (Ord. of 2-8-94)

**Sec 18-150a. Right Turn Only.**

West 18th Street at its intersection with South Lancaster is hereby designated as a "Right turn Only" intersection. Further there shall be no parking allowed on the west side of South

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Lancaster, North from 18th to the 1st entrance drive to Canterbury South complex. (Ord. of 10-11-94)

### **Sec. 18-150b. Street Closing.**

Pursuant to the recommendation of the Airpark Advisory Board and the Traffic commission; First Street on the Big Spring McMahon/Wrinkle Airpark is permanently closed from Bell Street to Warehouse Drive. (Ord. of 10-11-94)

### **Sec. 18-150c. Birdwell Road Over Beal's Creek Weight Limits**

The vehicular weight limit for traversing the Birdwell road over Beal's Creek is hereby set at 21,000 lbs. It shall be illegal for any owner-operator of a vehicle weighing more than 21,000 lbs to enter upon or traverse over the Birdwell road over Beal's Creek. (Ord. of 1-13-98)

### **Sec. 18-151a. The following two (2) way stop intersections are established.**

- (1) Colgate stopping for traffic on Dartmouth.
  - (2) Colgate stopping for traffic on Kentucky Way.
- (Ord. of 4-25-95)

### **Sec. 18-151b.**

The intersection of Father Delaney and North Aylesford is hereby established as a four (4) way stop intersection. (Ord. of 4-25-95)

### **Sec. 18-152. No Parking in Front of High School between hours 7:30 a.m. to 4:00 p.m.**

- (1) "No Parking shall be allowed from 7:30 a.m. – 4:00 p.m." on the north side of 11<sup>th</sup> Place from Goliad Street to State Street.
- (2) "No Parking shall be allowed from 7:30 a.m. – 4:00 p.m." on the south side of 11<sup>th</sup> Place from Austin Street to Owens Street. (Ord. of 7-12-05)

### **Sec. 18-153 to 18-191. Reserved.**

## ARTICLE 6. PEDESTRIANS

### **Sec. 18-192. Crosswalks and Safety Zones.**

The city manager is hereby authorized to do the following acts, when directed so to do by the city council:

- (1) To place markers and lines upon the surface of the roadway, crosswalks, and at intersections where there is particular danger to pedestrians crossing the roadway.
- (2) To establish safety zones of such kind and character and at such places where the same are necessary for the protection of pedestrians. (Rod. of 8-12-58, §4 (3A,B))

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### **Sec. 18-193. Unlawful Assemblies.**

It shall be unlawful for any person in or upon any sidewalk or in or upon any premises abutting thereon, to make any speech or harangue, or to demonstrate, sell or offer for sale, goods, wares, or merchandise or to display any sign, device, information, or exhibition, in consequence of which there is caused or created such a gathering of persons on such sidewalk as to interfere with pedestrian traffic thereon.

It shall be unlawful for pedestrians to gather and remain in crowds or assemblies at or about any point or place, or to move in crowds or assemblies from place to place, upon the streets or sidewalks, in such numbers and in such manner as to interfere with vehicular or pedestrian traffic. (Ord. of 8-12-58, §9(6), (7)).

# TRANSPORTATION

## Chapter 19

Sec. 19-1 to 19-90. Reserved. (Ord. of 6-25-96)

### Article 5. Vehicles for Hire

#### Division 1. In General

Sec. 19-91 to 19-99. Reserved.

#### Division 2. Ambulances

#### Sec. 19-100. Definitions.

The following words and phrases are defined as follows for the purpose of this chapter:

- (A) Emergency ambulance service. The unscheduled transfer of persons who are injured or critically ill, and it is apparent that such persons will suffer serious harm unless medical attention is received at the earliest possible time.
- (B) Transfer ambulance service. The scheduled or routine transfer of sick persons which does not require the use of sirens, red lights or does not require the exceeding of the speed limit.
- (C) Ambulance operator. A person, partnership or corporation who is engaged in any form of transporting the injured or ill for hire on the streets of the City of Big Spring.
- (D) Ambulance transfer permit. A permit issued by the city limiting the transfer of persons for hire by ambulance on the public streets of the City of Big Spring.
- (E) Emergency ambulance service permit. A permit issued by the city authorizing an ambulance operator to transport for hire injured or ill persons on the streets of the city of Big Spring, under emergency conditions and including, but not limited to, the use of red lights, sirens and other emergency equipment, and in addition thereto to exceed the speed limits and proceed through stop intersections under conditions set out therein.
- (F) Public convenience and necessity. The term "public convenience and necessity" shall mean that the area from which the ambulance service is proposed to be operated will be located in such a manner and in an area that will benefit the citizens of Big Spring from the service and that existing ambulance service within the city will not be adversely affected so as to lower the standards of existing service in the city. (Ord. of 12-13-66, §1)

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### **Sec. 19-101. Permit required.**

No person, firm partnership, association or corporation shall operate or cause to be operated within the City of Big Spring, any ambulance, public or private, or other vehicle commonly used for the transportation or conveyance of the sick or injured without first having secured a permit therefor from the city council or their duly authorized agent, as hereinafter provided. Application for an ambulance operator's permit shall be filed with the city manager and such application shall be submitted upon a form or forms to be furnished by the city manager and the applicant shall furnish the following proof and information with the application:

- (A) That the applicant or applicants have not been convicted of a felony or of a misdemeanor involving moral turpitude within the last ten (10) years; that applicant or applicants will not employ any driver for an ambulance authorized under this chapter who has been convicted of a felony or a misdemeanor involving moral turpitude within the last ten (10) years; that failure to comply with the provisions of this sub-paragraph will be grounds for revocation or suspension of the ambulance operator's permit under the provisions for suspension and revocation below.
- (B) A statement that the applicant has obtained or will obtain liability insurance in accordance with the requirements hereinafter provided before commencing ambulance service in the event that the city council determines that an ambulance service operator's permit should be granted. No ambulance operator's permit will be issued until such insurance is in effect.
- (C) A statement that the applicant has been issued a permit by the State Board of Health pursuant to authorization of Article 459b of the Texas Civil Statutes. No ambulance permit will be issued unless the applicant has obtained such a permit.
- (D) The application shall set out the number of emergency ambulances which the applicant proposes to operate and the make, model, motor number and correct state license number of each vehicle shall be listed. If the application is made before one or more of such ambulances have been acquired by the applicant, then such information shall be furnished to the city manager before issuance of a permit for such vehicle. At each renewal date the operator shall furnish an amended list of vehicles showing the vehicle which has been removed from service and giving all the information required above on the new vehicle which has replaced the vehicle removed from service. Such application shall be subscribed and sworn to before a Notary Public. (Ord. of 12-13-66, §1; Ord. of 2-14-67, §1)

### **Sec. 19-102. Hearing.**

The city council shall hold a public hearing at the time and place specified in the published notice. The applicant shall not be granted an ambulance operator's permit unless the city council finds and determines that the public convenience and necessity will be served by the issuance of such permit. The council shall hear all of the relevant and material evidence presented by applicant and his witnesses, and by any persons who appear in opposition to the application. The council shall also have the right to

## TRANSPORTATION

call any other witnesses that it may deem necessary or appropriate. In all such hearings the burden of proof shall be upon the applicant to establish by clear and convincing evidence that the public convenience and necessity will be served by the granting of the ambulance operator's permit. (Ord. of 12-13-66, §1)

### **Sec. 19-103. Granting or denial of permit.**

The city council shall make a determination as to the existence or nonexistence of public convenience and necessity within fifteen (15) days from the date of the conclusion of such hearing, and it shall notify the applicant and the parties who appeared in opposition in writing within a thirty (30) day period that the application has been either granted or denied. (Ord. of 12-13-66, §1)

### **Sec. 19-104. Termination of permit.**

All ambulance permits shall terminate on December 31 of each year. Such permits may be renewed by paying a permit fee of twenty-four dollars (\$24.00) before termination date. When a new permit is issued after January 31, the fee shall be prorated at the rate of two dollars (\$2.00) per month. The city shall furnish appropriate identification ambulance permits and the same shall be prominently displayed on the vehicle. (Ord. of 12-13-66, §1)

### **Sec. 19-105. Changes in partnership or officers of corporation; city's right to inspect books.**

All changes in the partnership or in the officers of the corporation which hold an ambulance permit shall be reported to the city manager within ten (10) days after such change and the new partners or officers shall individually file applications certifying to their individual qualifications within such time. Failure to do so shall be cause for suspension of the operator's permit during that time such partners or officers fail to comply with the requirement.

The books and records of the holder of an operator's permit shall be open for inspection by the city manager at reasonable hours. (Ord. of 12-13-66, §1)

### **Sec. 19-106 to 19-111. Reserved.**

### **Sec. 19-112. Condition of ambulance and supplies required.**

No emergency ambulance shall be operated on the public streets of the City of Big Spring unless it complies with the following requirements and contains the below listed equipment:

- (A) Type 1 ambulance as described on page 34 of the Federal Specifications for Ambulances No. KKK-A-1822:
  - (1) The ambulance must be free of structural defects;
  - (2) No impairment of any safety feature resulting from an accident or other event;
  - (3) Red emergency warning lights clearly visible from a 360 degree coverage mounted on the vehicle;
  - (4) A siren of an approved type and signal;
  - (5) A fire extinguisher of an approved type and size;
- (B) Oxygen:

## **BIG SPRING CITY CODE**

- (1) Each ambulance shall have a hospital-type piped oxygen system, capable of storing and supplying a minimum of 3,000 liters of medical oxygen. (See KKK, sec. 3.12.2)
  - (2) Each ambulance shall have a portable oxygen unit of at least 300 liter capacity (size D cylinder) and shall have a yoke, pressure gauge, flow-meter (not gravity dependent), delivery tube and oxygen mask(s) and be located near a patient compartment door. (See KKK, sec. 3.12.2)
- (C) Suction:
- (1) An engine vacuum-operated or electrically powered suction aspirator system powerful enough to provide an air flow of at least 30 liters per minute at the end of the delivery tube, and a vacuum of at least 300 milligrams of mercury to be reached within four seconds after the tube is clamped.
  - (2) A portable self-contained battery or manual suction unit shall be provided, having at least 12 inches mercury negative pressure. (See KKK, sec. 3.12.3)
- (D) Patient area: The patient's compartment shall provide, but is not limited to, a minimum of 300 cubic feet of space, less ten percent (10%) deviation for cabinets, while complying with the following:
- (1) Length - measured from the partition to the inside edge of the rear-loading doors at the floors, shall be at least 116 inches in length.
  - (2) Width - the compartment after cabinet and cot installation shall provide at least 18 inches of clear walkway between cots, and at least 25 inches of kneeling space alongside the primary cot.
  - (3) Height - minimum 60 inches. The patient compartment shall provide at least 60 inches height over the patient area, measured from the floor to the ceiling exclusive of cabinets or equipment. (See KKK, sec. 3.10.4)
- (E) Stretchers:
- (1) Each emergency ambulance shall have at least one folding stretcher with a minimal length of 73-1/2 inches, a minimal width of 19 inches, and a maximum bed height of 8-1/4 inches. (See KKK, sec. 2.10)
  - (2) Must be maintained with clean linens, blankets and a sanitary mattress cover.
- (F) Environmental Systems: All emergency ambulances shall be equipped with a complete environmental system to supply and maintain clean air conditions and comfortable level of inside temperature in both driver and patient compartments. (See KKK, sec. 3.13.1)
- (G) Communications: Ambulances will be equipped with two-way radios, intercom, public address, and electric siren.

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- (H) 110 Volt AC electric power: An AC power source to provide the following: Continuous 1,000 watts, single phase, constant 60 cycle - 110 volt power output at all engine speeds to operate big-medical electronics and patient care equipment to be furnished.
- (I) All ambulances shall be equipped with the equipment required by Article 4447O section 2 of Vernon's Texas Civil Statutes. An itemized list of this equipment can be found in the State Permit Requirements for Ambulances as set forth by the Texas Department of Human Resources.
- (J) Every emergency ambulance will be staffed with a minimum of:
  - (1) One Certified Texas Emergency Medical Technician (Basic)
  - (2) One Emergency Care Attendant Driver.
- (K) Transfer ambulance service vehicles shall be equipped with:
  - (1) Ambulance stretcher with clean linens, two blankets and a sanitary mattress cover.
  - (2) One oxygen therapy unit with at least one thousand (1,000) pounds of oxygen in the tank. (Ord. of 12-14-66, 51; Ord. of 1-10-78)

### **Sec. 19-113. Inspection of ambulances.**

Every emergency ambulance may be inspected as frequently as once a month without notification of time and date of inspection. The inspection is to include:

- (A) Medical condition of the vehicle. Inspection will be done by a person appointed by the Emergency Medical Service Advisory Council and such a person may be a qualified mechanic.
- (B) There will be a maximum of ten (10) days for deficiencies to be corrected.
- (C) Driver and Attendant qualifications and driving records will be subject to inspection. Copies of these records will also be given to the Advisory Council. (Ord. of 1-10-78)

### **Sec. 19-114. Public liability insurance required.**

Before an emergency ambulance operator's permit is granted to an applicant, or before any renewal thereof, the applicant or the operator seeking renewal shall provide evidence to the city manager that he has in full force and effect a public liability insurance policy on each ambulance, such insurance policy to be issued by an insurance company licensed to do business in the State of Texas, or by an insurance company which is not legally prohibited from doing business in the State of Texas. Such insurance policy or policies shall provide liability insurance for an amount of not less than fifty thousand dollars (\$50,000) for any one accident and not less than twenty-five thousand dollars (\$25,000) for injury to any one person. (Ord. of 12-13-66, §1)

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### **Sec. 19-115. Suspension or revocation of permit.**

If any operator, his agent, servant or employee, violates any provision of this chapter, the city manager may suspend or revoke the ambulance operator's permit. The city manager shall notify the operator of the violation which has caused the revocation or suspension of such permit. Such revocation or suspension shall become final unless the operator files written notice of appeal to the city council within ten (10) days after the date of revocation or suspension. (Ord. of 12-13-66, §1)

### **Sec. 19-116. Continuous emergency service required.**

No emergency ambulance service operator's permit shall be issued unless the applicant states, in writing, that he is willing and able to provide emergency ambulance service on a continuous twenty-four (24) hour basis. In addition, the applicant for an emergency ambulance service permit shall furnish proof to the city council of his intent and ability to provide continuous twenty-four (24) hour emergency ambulance service. Failure to provide such continuous emergency service shall constitute grounds for denial, revocation or suspension of the emergency ambulance service operator's permit. (Ord. of 12-13-66, §1)

### **Sec. 19-117. Exceeding posted speed limit.**

The holder of an emergency ambulance service operator's permit shall be permitted to operate his ambulances under emergency conditions at a speed of ten (10) miles per hour in excess of the posted speed limit, so long as the operator does not endanger life or property. In addition such permit holder shall also be permitted, under emergency conditions, to proceed through red lights and stop intersections, after slowing down as necessary for safe operation, if in his opinion such action will aid in the preservation of human life. The foregoing exemptions shall apply only when the ambulance is making use of the audible and visual signals required by state law. (Ord. of 12-13-66, §1)

### **Sec. 19-118. Appeal to city council.**

Any ambulance operator aggrieved by the action of the city manager or his agent in revoking or suspending an ambulance permit shall have the right to appeal to the city council by filing written notice of such appeal with the city secretary within ten (10) days after such notice or revocation. After receipt of such notice of appeal, if timely filed, the city council within thirty (30) days shall hold a public hearing to determine whether or not the action of the city manager or his agent should be sustained. After hearing all evidence the city council shall then affirm or reverse the decision of the city manager or his agent concerning such revocation or appeal. Such appeal to the city council shall abate the action of the city manager until such time a final determination is made by the city council. (Ord. of 12-13-66, §1)

### **Sec. 19-119. Penalty.**

Any person, firm or corporation violating any of the provisions of this chapter, or causing the same to be violated shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not to exceed two hundred dollars (\$200.00) for such offense. Each day's violation shall constitute a separate offense. (Ord. of 12-13-66, §1)

### **Sec. 19-120 to 19-138. Reserved.**

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### Article 6. Wreckers.

#### Sec. 19-139. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings herein ascribed to them:

- (A) Class A Wrecker. One which is mounted on a one (1) ton capacity chassis and equipped with a power or hand operated winch with boom and line and a factory-rated capacity of not less than five thousand (5000) pounds single line capacity capable of removing or towing disabled or wrecked vehicles.
- (B) Class B Wrecker. One which is mounted on a two-and-one-half (2-1/2) ton or greater chassis and equipped with a power or hand operated winch with boom and line and a factory-rated capacity of not less than ten thousand (10,000) pounds single line capacity capable of removing or towing disabled or wrecked vehicles.
- (C) Motor Vehicle. The term "motor vehicle" includes every vehicle which is self-propelled.
- (D) Vehicle. The term "vehicle" includes every device in or by which any person or property is or may be transported or drawn upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or trucks, including trailers and semi-trailers.
- (E) Chief of Police. The chief of the Big Spring Police Department or his appointed representative.
- (F) Police Department. The police department of the City of Big Spring.
- (G) Wrecked. The status of any vehicle that has been damaged as a result of an accident so as to reasonably require that such vehicle be removed by a wrecker.
- (H) Police Pulls. A call by the police department to a wrecker company from the rotation list to remove a wrecked or disabled vehicle, or to remove a vehicle in a safe driving condition when the driver is absent, in custody or otherwise incapable of making authorization.
- (I) Wrecker Rotation List. The approved list maintained by the police department of wrecker companies authorized to receive calls from the police department for "police pulls".

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- (J) Wrecker Business. The business of towing or removing abandoned, disabled or wrecked motor vehicles from the public streets, regardless of whether the purpose of towing is to remove, repair, wreck, store, trade or purchase such disabled or wrecked vehicles.
- (K) Wrecker company. A company, firm or person engaged in the wrecker business. (Ord. of 9-12-61, §1; Ord. of 3-12-85)

### **Sec. 19-140. All wrecker companies shall be licensed hereunder.**

No wrecker company shall engage in the wrecker business in the City of Big Spring, Texas, without first making an application and securing a wrecker license under this section. The application shall be in writing and signed and sworn to by the owner, shall be filed with the Chief of Police, and shall state the company's qualifications, schedule of charges, and equipment for providing said service. After the application is made, the Chief of Police shall inspect applicant's equipment and yards and storage areas and shall classify the equipment according to the standards and specifications in this article. If applicant complies with the provisions of this article, the Chief of Police shall so notify applicant and issue a wrecker license authorizing applicant to engage in the wrecker business in the city. An applicant not complying with the provisions of this article shall be notified in writing stating the reasons for denial of the license. (Ord. of 3-12-85)

### **Sec. 19-141. Registration of drivers; license report.**

Each wrecker driver shall possess a valid Texas Drivers License for the proper classification of vehicle. (Ord. of 9-12-61, §6; Ord. of 3-12-85)

### **Sec. 19-142. Application for permit (rotation permit) to be included on approved rotation call list.**

Any wrecker licensed under section 19-140 desiring to be called for wrecker service by the police department shall make application for a permit authorizing its name to be included on the approved rotation list maintained by the department. The application shall be in writing and signed and sworn to by the owner, shall be filed with the Chief of Police, and shall state the company's qualifications, schedule of charges, and equipment for providing said service. The application shall include a photocopy of applicant's wrecker license issued under section 19-140. If applicant has a valid wrecker license issued under section 19-140 and complies with the provisions of this article, the Chief of Police shall so notify applicant and issue a permit authorizing applicant to be included on the approved rotation list maintained by the Police Department. An applicant not complying with the provisions of this article shall be notified in writing stating the reasons for the denial of the permit. (Ord. of 9-12-61, §3; Ord. of 3-12-85)

### **Sec. 19-143. Required equipment.**

All wreckers or towing equipment used in the City of Big Spring shall have the following minimum equipment:

- (A) A Class A wrecker shall be mounted on a minimum one (1) ton capacity chassis and shall be equipped with a power or hand operated winch, boom and line with a factory-rated capacity of not less than five thousand (5,000) pounds single line capacity.

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- (B) A Class B wrecker shall be mounted on a two-and-one-half (2-1/2) ton minimum chassis and shall be equipped with a power operated winch, boom and line with a factory-rated lift capacity of not less than ten thousand (10,000) pounds single line capacity.
- (C) All towing units or wreckers shall be equipped with a dolly, winch, line, booster brakes, axe, tow bar, spare chains, blinker lights, emergency lights, working light, broom, flares, wheel chocks, hydraulic jack and fire extinguishers, in addition to the other standard equipment on wreckers. Each wrecker company on the police rotation list shall have a two-way radio with emergency law enforcement frequency. (Ord. of 8-12-61, §4; Ord. of 3-12-85)

### **Sec. 19-144. Liability insurance.**

All wrecker companies shall carry standard liability insurance for each wrecker in limits of not less than the following sums:

- (A) For damages arising out of bodily injury to or death of one person in any accident, one hundred thousand dollars (\$100,000).
- (B) For damages arising out of bodily injury to or death of two (2) or more persons in any one accident, three hundred thousand dollars (\$300,000).
- (C) For injury to or destruction of property in any one accident, one hundred thousand dollars (\$100,000). (Ord. of 9-12-61, §5; Ord. of 3-12-85)

### **Sec 19-145. Theft and vandalism insurance.**

Each wrecker company on the police wrecker rotation list shall have a storage yard and shall carry a minimum of fifty thousand dollars (\$50,000) theft insurance and a minimum of fifty thousand dollars (\$50,000) vandalism coverage for said yard. (Ord. of 9-12-61, §5; Ord. of 3-12-85)

### **Sec. 19-146. Yards and storage areas to be fenced.**

All yards and storage areas for damaged or impounded vehicles which are towed by wrecker companies on the rotation list shall be fenced or enclosed in order to provide protection for the vehicles in their custody. All yards and storage areas of all wrecker companies shall be located within five (5) miles of the city limits of Big Spring, Texas. (Ord. of 9-12-61, §6; Ord. of 3-12-85)

### **Sec. 19-147. Wrecker selection process/rotation.**

- (A) When a police officer investigating an accident determines that any vehicle which has been involved in a collision or accident upon a public street is unable to proceed safely under its own power or that the owner thereof is physically unable to drive said vehicle and does not designate in writing another person to remove said vehicle, or the owner does not sign a release in the case of a vehicle which is legally parked, then the officer shall request the owner to designate in writing another person to remove said vehicle,

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or, if the vehicle is legally parked, the owner does not sign a release, then the officer shall request the owner to designate the wrecker company which the owner desires to remove the vehicle. Said wrecker company must have a valid wrecker license issued under section 19-140 and a valid rotation permit issued under section 19-142. If the company does not have said valid license and permit issued under this article, the owner shall be so informed and given an opportunity to designate another company from a list of licensed wrecker companies which have valid rotation permits. The officer in charge at the scene of any accident or arrest may authorize use of a company licensed under section 19-140 but which does not have a valid rotation permit issued under section 19-142 if requested by the owner of the vehicle and it will result in no unnecessary delay in clearing the scene of the accident or arrest and if the owner signs a written release which releases the Police Department and the City of Big Spring from all liability for use of a company which does not have a valid rotation permit issued under section 19-142. When the owner has designated the wrecker company desired, the police officer shall communicate that fact immediately to police department headquarters and it shall be the duty of the officer receiving the information at headquarters to call the designated company to send a wrecker to the scene of the accident or collision or arrest.

- (B) In the event the owner of a vehicle described in section 19-148(a) above is physically unable to designate the wrecker company desired or refuses to designate one, or in the case of an abandoned motor vehicle as defined in Section 5.01 of Article 4477-9a of the Texas Revised Civil Statutes (the procedure for handling abandoned motor vehicles shall be governed by said statute in addition to the provisions of this ordinance), the investigating officer shall communicate that fact immediately to police department headquarters. The police department shall maintain a wrecker rotation list in alphabetical order, which shall contain the name and address of each wrecker company that has been issued a permit under section 19-142 in order that said company may be called upon for wrecker service by the police department. The police officer receiving a call at police headquarters for wrecker service shall call the first wrecker company on the list to tow said vehicle or move the same from the public streets of the city. After the company at the top of the list has received calls for a period of two (2) weeks, then the company's name shall be placed at the bottom of the list and the next company shall be moved to the top of the list and it shall receive calls for two weeks. This process shall be repeated until each company providing wrecker service under the provisions of this article has received calls for two weeks and then this process shall be started over again. The police department shall notify each wrecker company in sufficient time before it renders wrecker service so the company can adequately provide the necessary personnel and equipment to answer said calls.

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- (C) In the event the wrecker company is requested by the police department to make a call and, the company agrees to make the call, then the company shall proceed immediately to the scene where it is directed and shall be given a period of fifteen (15) minutes in which to reach the location. If the wrecker company answering the call has not reached the location within fifteen (15) minutes, the officer at the scene may proceed to call the next wrecker company on the list and that company shall have priority over that particular call. In the event a wrecker company fails to comply with the provisions of this subsection by proceeding to the designated place within the time specified above, said company shall be removed from the top of the list and placed at the bottom of the list. This subsection shall not apply where the company's name at the top of the list is called and they advise the officer requesting the wrecker service that they will be unable to make the call, nor will it apply where there has been a delay caused by some act or omission of another person other than of the wrecker company or its employees or caused by an act of God. (Ord. of 9-12-61, §§7-9; Ord. of 3-12-85)

### **Sec. 19-148. Solicitation of wrecker business prohibited on public streets.**

No person shall solicit in any manner, directly or indirectly, on the public streets of Big Spring, wrecker business involving a vehicle wrecked on said streets. This prohibition applies regardless of whether the solicitation is for the business of towing, repairing, wrecking, storing, trading selling or purchasing said wrecked vehicle. The presence of a wrecker at the scene of a collision or arrest or abandoned vehicle, which wrecker was not called by the Big Spring Police

Department or a party to the collision or arrest, shall be prima facie proof of solicitation as is hereby prohibited. (Ord. of 9-12-61. §10: Ord. of 3-12-85)

### **Sec. 19-149. Recommendation of wrecker service.**

No employee of the City of Big Spring shall recommend to any person, in any manner, the name of any repair, wrecker or towing business nor shall any city employee influence or attempt to influence in any manner the decision of any person in choosing or selecting a repair, wrecker service or towing business. (Ord. of 3-12-85)

### **Sec. 19-150. Sub-contracting.**

No wrecker company may subcontract its two (2) week rotation to another wrecker service. (Ord. of 3-12-85)

### **Sec. 19-151. Discretion of police department.**

Due to the emergency nature of wrecker service, the following matters are determined to be necessarily within the discretion of the police department:

- (A) The police department shall have the responsibility for calling for the type (standard or heavy duty) wrecker deemed suitable for any particular situation necessitating wrecker service.

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- (B) The police department shall have the discretion to determine the need for any other specialized heavy duty wrecker as may be needed for a particular situation regardless of the rotation call list. (Ord. of 3-12-85)

### **Sec. 19-152. Cleanup responsibility.**

Each wrecker company called to the site of an accident shall completely remove all broken glass and debris from the public street before leaving the accident scene. Debris shall be disposed of in a manner which will keep it out of gutters, storm sewers, public right-of-way and property not belonging to the wrecker company unless done with the consent of the property owner. (Ord. of 3-12-85)

### **Sec. 19-153. Availability of service.**

Each wrecker company on the rotation call list shall be available to provide 24 hour service. Each wrecker company on the rotation list must have its office open for business during normal business hours. (Ord. of 3-12-85)

### **Sec. 19-154. Inspection of equipment.**

The chief of police shall have the right to inspect the equipment and facilities of companies approved to provide wrecker service under the provisions of this chapter. Inspection shall be made at any and all reasonable hours and places. (Ord. of 9-12-61, §3; Ord. of 3-12-85)

### **Sec. 19-155. Rates and fees; itemized receipt.**

The fees to be charged for towing, repair or storage by a wrecker company responding to calls for "police pulls" will be decided by an agreement of the majority of the companies on the police rotating call list and with the approval of the chief of police. This agreement will be in writing and signed by the owner or representative of the company. The above stated fee agreement will be required of all companies on the approval rotation call list. Each wrecker company on the wrecker rotation list which makes a "police pull" shall furnish an itemized receipt to the person who picks up the vehicle and pays said fees. (Ord. of 3-12-85)

### **Sec. 19-156. Grounds for suspension or removal.**

- (A) After an administrative hearing the chief of police may suspend or remove any wrecker company from the rotation list for any of the following grounds:
- (1) If the place on the wrecker rotation list was procured by fraudulent conduct, concealment of, or false statement of a material fact concerning applicant at the time of his making application.
  - (2) If the wrecker company violates any provisions of this article or any other ordinance or any state law regulating vehicular traffic.
  - (3) If the wrecker company fails to protect vehicles in its care as a result of a wrecker pull or fails to prevent parts, accessories and personal belongings from being removed from the vehicle except as may be necessary to protect said items from theft.

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- (4) If the wrecker company is repeatedly tardy in arriving after being called to the scene of an accident by the police department for a police pull.
  - (5) If the wrecker company charges fees in excess of limits set out in rate agreement.
  - (6) If at any time it is determined that the wrecker company fails to meet the minimum requirements for selection to the approval rotation list.
- (B) The chief of police shall give ten (10) days notice of the time and place for the administrative hearing concerning suspension, cancellation or removal as provided above and is hereby empowered to administer oaths to witnesses and to conduct the hearing as otherwise provided by law.
- (C) Findings of the chief of police and his written order of suspension or removal from the rotation list shall terminate all authority and permission theretofore granted. The period of removal or suspension from the rotation list shall not exceed one year.
- (D) Any order of the chief of police may be appealed to the city council within ten (10) days from the date of suspension or removal. The city council shall have authority to reverse, affirm, vacate or modify the order of the chief of police; provided, that in the event of affirmance of the order, the suspension shall commence upon the date of action by the city council. (Ord. of 9-12-61, §3; Ord. of 3-12-85)

### **Sec. 19-157. Penalties.**

Violations of any of the provisions of this article shall be subject to the administrative action set out herein and in addition shall be subject to a fine not to exceed two hundred dollars (\$200.00) upon conviction. (Ord. of 3-12-85)

### **Sec. 19-158. License and permit fees.**

To cover the cost of any expenses incurred by the City of Big Spring police department in the processing of applications and other administrative services under this article, each wrecker company shall pay a license fee of fifty dollars (\$50.00) per year and each wrecker company which applies for a rotation permit shall pay a permit fee of one hundred dollars (\$100.00) per year. All licenses and permits issued hereunder shall expire September 30 of each year and shall not be prorated. (Ord. of 3-12-85)

### **Sec. 19-159. Suspension, cancellation, or revocation of wrecker license.**

(A) After an administrative hearing the chief of police may suspend, cancel or revoke a wrecker license granted under section 19-140 for any of the following grounds:

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- (1) If the wrecker company violates any provision of this article or any other ordinance or any state law regulating vehicular traffic; provided, however, the provisions of this article regarding a wrecker company which has obtained a permit to be included on the approved rotation list shall not apply to a licensed wrecker company which does not also hold a permit to be included on the approved rotation call list as provided in section 19-142.
  - (2) If the wrecker company fails to protect vehicles in its care as a result of a wrecker pull or fails to prevent parts, accessories, and personal belongings from being removed from the vehicle except as may be necessary to protect said items from theft.
  - (3) If at any time it is determined that the wrecker company fails to meet the minimum requirements for a licensed wrecker under this article.
- (B) The chief of police shall give ten (10) days notice of the time and place for the administrative hearing concerning suspension, cancellation, or revocation of a wrecker license as provided above and is hereby empowered to administer oaths to witnesses and to conduct the hearing as otherwise provided by law.
- (C) Findings of the chief of police in his written order of suspension, cancellation, or revocation of wrecker license shall terminate all authority and permission theretofore granted. The period of suspension, revocation or cancellation of a wrecker license shall not exceed one year.
- (D) Any order of the chief of police may be appealed to the city council within ten (10) days from the date of suspension, cancellation, or revocation. The city council shall have authority to reverse, affirm, vacate or modify the order of the chief of police; provided, however, in the event of affirmance of the order, the suspension, revocation or cancellation shall commence on the date of action by the city council. (Ord. of 3-12-85)

**Sec. 19-160 to 19-170. Reserved.**

# BUILDING CODES AND BOARD OF ADJUSTMENTS AND APPEALS

## CHAPTER 20

### Article I      Adoption of Codes

The following codes, as published by the International Code Council, Inc. and the National Fire Protection Association, Inc., are hereby adopted as the ***Building Codes*** of the City of Big Spring by reference as though they were copied herein fully including all appendices, except where expressly excluded herein:

#### **Sec. 20-1. International Building Code.**

2006 Edition in its entirety, save and except Chapters 13, 27, and 34 and save and except Appendices A, B, D, E, H, I, and K and save and except Sections 101.4.5, 105.1.1, 105.1.2 Building subparts 1, 2, 4, 6, 8 and Mechanical subpart 7, and Sections 113 and 114 which shall be deleted in their entirety and with the following amendments:

#### **101.1 Title.**

These regulations shall be known as the Building Code of the City of Big Spring, hereinafter referred to as “this code”.

#### **108.2 Schedule of permit fees.**

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

Up to \$3,000.00	\$ 25.00
\$3,001.00 to \$49,999.00 (\$5.00 dollars per thousand)	\$ 5.00
\$50,000.00	\$ 260.00
\$50,001.00 to \$99,999.00 (\$4.00 per thousand)	\$ 4.00
\$100,000.00	\$ 460.00
\$100,001.00 to \$499,999.00 (\$3.00 per thousand)	\$ 3.00
\$500,000.00	\$ 1660.00
\$500,001.00 and above (\$2.00 per thousand)	\$ 2.00
Moving Fee	\$ 100.00
Demolition – One Story	\$ 50.00
Demolition – Additional Story	\$ 25.00

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Curb Cuts Commercial	\$ 25.00
ZBA Charge	\$ 50.00
Commercial Plan Review	\$ 50.00
Re-Inspect Fee	\$ 25.00

### **1612.3 Establishment of flood hazard areas.**

To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management agency in an engineering report entitled "The Flood Study for the City of Big Spring", dated 8<sup>th</sup> day of September, 1981, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Flood Insurance Rate Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be a part of this section.

### **3410.2 Applicability.**

Structures existing prior to 1986, in which there is work involving additions, alterations, or changes of occupancy shall be made to conform to the requirements of this section or the provisions of Sections 3403 through 3407. The provisions in Sections 3410.2.1 through 3410.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S, and U. These provisions shall not apply to buildings with occupancies in Group H or I.

### **Sec. 20-2. International Residential Building Code.**

2006 Edition in its entirety, save and except Chapter 24 and 33 thru 42, Sections R105.2 Buildings subparts 1, 2, 3, 5 and 9, Mechanical subpart 7, R311.4.3, R311.5.6, Appendices A, B, C, D, F, J, L, M, N, Q and Sections R112, R113 and R114 which shall be deleted in their entirety and with the following amendments:

#### **R101.1 Title.**

These provisions shall be known as the Residential Code for One & Two Family Dwellings of the City of Big Spring and shall be cited as such and will be referred to herein as "this code."

#### **R108.2 Fee Schedule.**

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the established by the applicable governing authority.

Up to \$3,000.00	\$ 25.00
\$3,001.00 to \$49,000.00 (\$5.00 per thousand)	\$ 5.00
\$50,000.00	\$ 260.00

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\$50,001.00 to \$99,000.00 (\$4.00 per thousand)	\$ 4.00
\$100,000.00	\$ 460.00
\$100,001.00 to \$499,999.00 (\$3.00 per thousand)	\$ 3.00
\$500,000.00	\$ 1,660.00
\$500,001.00 and above (\$2.00 per thousand)	\$ 2.00
Moving Fee	\$ 100.00
Demolition – One Story	\$ 50.00
Demolition – Additional Story (\$25.00 per story)	\$ 25.00
Curb Cuts Residential	\$ 25.00
ZBA Charge	\$ 50.00
Residential Plan Review (Min. \$140.00 up to 1600 square feet - .12 cents per square foot)	\$ 140.00
Re-Inspect Fee	\$ 25.00

### **R301.2 Climatic and geographic design criteria.**

Buildings shall be constructed in accordance with the provisions of this code as limited by the provisions of this section. Additional criteria shall be established by the local jurisdiction and set forth in Table R301.1.2(2).

#### **Table R301.2(1) Wind Limitations.**

Buildings and portions thereof shall be limited by wind speed, as defined in Table R301.2(1) and construction methods in accordance with this code. Basic wind speeds shall be determined from figure R301.2(4). Where different construction methods and structural materials are used for various portions of a building, the applicable requirements of this section for each portion shall apply. Where loads for wall coverings, curtain walls, roof coverings, exterior windows, skylights, garage doors and exterior doors are not otherwise specified, the loads listed in Table R301.2(2) adjusted for height and exposure using Table R301.2(3) shall be used to determine design load performance requirements for wall coverings, curtain walls, roof coverings, exterior windows, skylights, garage doors and exterior doors. Asphalt shingles shall be designed for wind speeds in accordance with Section R905.2.6.

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### **P2603.6 Sewer depth.**

Building sewer that connect to private sewage disposal systems shall be a minimum of 12” inches (305mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12” inches (305mm) below grade.

### **P3103.1 Roof extensions.**

Open vent pipes that extend through a roof shall be terminated at least 6 inches (152mm) above the roof or 6 inches (152mm) above the anticipated snow accumulation, whichever is greater, except that where a roof is to be used for any purpose other than weather protection, the vent extension shall be run at least 7 feet (2134mm) above the roof.

### **Sec. 20-3. International Existing Building Code.**

2006 Edition in its entirety save and except Sections 112, 113 and 114 which shall be deleted in their entirety and save and with the following amendments:

#### **101.1 Title.**

These provisions shall be known as the International Existing Building Code of the City of Big Spring and shall be cited as such and will be referred to herein as “this code.”

#### **1301.2 Applicability.**

Structures existing prior to 1986, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 4 through 12. The provisions of Sections 1301.2.1 through 1301.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Group H or Group I.

### **Sec. 20-4. National Electrical Code.**

2005 Edition in its entirety including Article 80 entitled “Administration and Enforcement”, save and except for Section 80.15, 80.19(3), 80.23, 80.25 and 80.27 which shall be deleted in their entirety and with the following amendments:

Minimum Permit Fee	\$ 25.00
Meter Loop	\$ 25.00
Temporary Meter Loop	\$ 25.00
Temporary Power Pole	\$ 25.00
Temporary Service on Structure	\$ 25.00
New Service (per meter)	\$ 25.00
Meter Loop (move, change, alter)	\$ 25.00

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Electrical Safety (commercial name change)	\$ 25.00
Rewire	
Per Sq. Ft. (Residential)	\$ 0.02
Per Sq. Ft. (Commercial)	\$ 0.04
Condenser Unit Disconnect	\$ 5.00
Electrical Sign Hookup	\$ 5.00
Ranges & Heaters (each)	\$ 1.00
Washers & Dryers (each)	\$ 1.00
Pumps	\$ 2.00
Dispenser	\$ 2.00
1 <sup>st</sup> Motor 01 to 5 HP or less	\$ 2.00
Additional Motors 01 HP or less	\$ 2.50
Motors 01 to 5 HP	\$ 5.00
Motors above 5 HP	\$ 2.50
Re-Inspect Fee	\$ 25.00
Commercial Plan Review	\$ 50.00

### **4-a Permit – Required; Exceptions to Licensing Requirement.**

Any homeowner personally installing electrical conductors or equipment within his own home; provided, that the owner shall file with the Electrical Inspector approved plans and specifications, shall satisfy the Electrical Inspector as to his ability to install electrical wiring, shall apply for and secure a permit, shall pay the required fees, shall do work in accordance with this chapter and shall request the required inspections and obtain a certificate of approval. Homeowner shall sign an Electrical Liability Waiver before obtaining a permit. Personal installation by an owner under this subsection shall be by himself, for himself, on his homestead premises.

### **4-b Sign Manufacturer's License.**

The first annual fee for an electrical sign manufacturer's license shall be One Hundred Dollars (\$100.00) for the first year, payable in full and in advance, and the annual renewal fee for such a license shall be Fifty Dollars (\$50.00), payable in full on the expiration date of the annual period for which license fee was paid theretofore; and shall in no way constitute ability to do

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electrical installations of their signs.

**4-c Electric fences prohibited.**

Electric fences, whether of the battery or the transformer type, shall not be installed or used in the city.

**Sec. 20-5. International Energy Conservation Code.**

2006 edition in its entirety and with the following amendments:

**101.1 Title.**

These regulations shall be known as the *International Energy Conservation Code* of the City of Big Spring herein after referred to as “this code.”

**107.2 Conflicting requirements.**

Where the provisions of this code and the referenced standards conflict, except those of the ICC, the provisions of this code shall take precedence.

**Sec. 20-6. International Fuel Gas Code.**

2006 Edition in its entirety, save and except Sections 108.1, 108.2, 108.3 108.4 and 109 which shall be deleted in their entirety and with the following amendments:

**101.1 Title.**

These regulations shall be known as the Fuel Gas Code of the City of Big Spring, hereinafter referred to as “this code.”

**106.5.2 Fee Schedule.**

The fees for work shall be as indicated in the following schedule:

Minimum Permit Fee	\$ 25.00
Re-Inspection Fee	\$ 25.00
Gas Service Line	\$ 7.00
Each Gas Opening	\$ 2.00

**106.5.3. Fee refunds.**

The Building Official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than fifty percent (50%) of the plan review fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than fifty percent (50%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review effort has been expended.

The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permit fee not later than 180 days after the date of fee payment.

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## **Sec. 20-7. International Mechanical Code.**

2006 Edition in its entirety save and except Appendix B, and save and except and except Sections 108.1, 108.2, 108.3, 108.4, 108.5 and 109 which shall be deleted in their entirety and with the following amendments:

### **101.1 Title.**

These provisions shall be known as the International Mechanical Code of the City of Big Spring and shall be cited as such and will be referred to herein as “this code.”

### **106.5.2 Fee schedule.**

The fees for mechanical work shall be as indicated in the following schedule:

Mechanical Permit	\$ 25.00
0-5 Tons HVAC Cooling	\$ 10.00
150,000 BTU Gas or 25 kw Electric Heat	\$ 10.00
Package Unit or Roof Top Unit (RTU) (with or without heat-includes duct openings)	\$ 20.00
5 ½ - 15 Tons HVAC Cooling	\$ 25.00
150,001 to 250,000 BTU Gas or 26-50 kw Electric Heat	\$ 25.00
Package Unit or Roof Top Unit (RTU) (with or without heat-includes duct openings)	\$ 45.00
15.1 + Tons Cooling	\$ 4.00 per ton
251,000 + BTU Gas or 51 + kw Electric Heat	\$ 50.00
Package Unit or Roof Top Unit (RTU) (with or without heat)	\$ 4.00 per ton
Commercial Vent-a-Hood	\$ 25.00
Re-Inspect Fee	\$ 25.00
Commercial Plan Review	\$ 50.00

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**106.5.3 Fee refunds.**

The Building Official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than fifty percent (50%) of the plan review fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than fifty percent (50%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review effort has been expended.

The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permit fee not later than 180 days after the date of fee payment.

**Sec. 20-8. International Plumbing Code.**

2006 Edition in its entirety save and except Appendices A, B, D, E and G and save and except Sections 108.1, 108.2, 108.3, 108.4, 108.5 and 109 which shall be deleted in their entirety and with the following amendments:

**101.1 Title.**

These provisions shall be known as the International Plumbing Code of the City of Big Spring and shall be cited as such and will be referred to herein as “this code.”

**106.6.2 Fee schedule.**

The fees for all plumbing work shall be as indicated in the following schedule:

Basic Fee	\$ 25.00
Each fixture or set of fixtures of 01 trap including water and drain piping	\$ 2.00
Install/replace/repair Sewer Line	\$ 7.00
Water Heater	\$ 5.00
Lawn Sprinkler System 1 <sup>st</sup> 5 heads	\$ 2.00
Additional heads over 5	\$ 0.25 ea.
Install/replace/repair Water Line	\$ 7.00
Re-Inspection (Red Tag)	\$ 25.00
Additional Water Heater	\$ 5.00
Fire suppression (sprinkler) .01/Sq.Ft. Sprinklered area	\$ 0.01

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### **106.6.3 Fee refunds.**

The code official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than fifty percent (50%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than fifty percent (50%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

### **305.6.1 Sewer depth.**

Building sewers that connect to private sewage disposal systems shall be a minimum of twelve (12) inches (305 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of twelve (12) inches (305 mm) below grade.

### **904.1 Roof Extension.**

All open vent pipes that extend through a roof shall be terminated at least six (6) inches (15mm) above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven (7) feet (2134mm) above the roof.

**Sec. 20-9 through 15**                      **Reserved for Expansion.**  
(Ord. of 7-13-99, 11-10-98, & 2-27-01, Ord. of 2-26-08)

## **Article II**            **Board of Adjustments and Appeals**

### **Sec. 20-16.**    **Appointments.**

There is hereby established a Board called the Board of Adjustments and Appeals, which shall consist of seven (7) members with two ex-officio members, appointed by a majority vote of the City Council. The Board of Adjustments and Appeals shall also include the duties of the Plumbing, Gas, Electrical & Mechanical Board of Adjustments and Appeals.

### **Sec. 20-17.**    **Membership and Terms.**

Members. The Board of Adjustments and Appeals shall consist of seven (7) members and two (2) ex-officio members.

Membership shall be composed of:

- One (1) Engineer or Architect
- One (1) Master Plumber
- One (1) Mechanical Contractor
- One (1) Master Electrician
- Three (3) Members at large from the construction industry

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Two (2) Ex-officio members:

One (1) Representative of Atmos

One (1) Representative of TXU Electric

Members must be qualified voters of the City unless other requirements cannot be met.

### **Sec. 20-18. Terms of Office.**

The terms of office for each member of the Board shall be three (3) years. The terms expire on September 30. Members can be removed at the discretion of the City Council by a majority vote of the City Council.

### **Sec. 20-19. Quorum.**

Four (4) members of the Board shall constitute quorum. Any action may be taken upon vote of the majority of members present, but not less than four (4) affirmative votes be required. A Board member shall not act in any case in which they have a personal interest.

## **Article III. Violations.**

### **Sec. 20-20. General.**

It shall be unlawful for any person, firm or corporation to be, or cause to be, in conflict with or in violation of any of the provisions of this chapter.

### **Sec. 20-21. Unlawful acts.**

It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this chapter, or cause or allow the same to be done, in conflict with or in violation of any of the provisions of this chapter.

### **Sec. 20-22. Notice of violation.**

The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this chapter, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this chapter. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

### **Sec. 20-23. Prosecution of violation.**

If the notice of violation is not complied with in the time prescribed by such notice, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this chapter or of the order or direction made pursuant thereto.

## **BUILDING CODES AND BOARD OF ADJUSTMENTS AND APPEALS**

### **Sec. 20-24. Stop Work Order.**

#### **a. Notice to owner.**

Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this chapter or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work and shall state the conditions under which work will be permitted to resume.

#### **b. Unlawful continuance.**

Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

### **Sec. 20-25. Penalty.**

Violation of any provision of this chapter or the adopted codes or violation of the approved directive of the Building Official or of a permit or certificate issued under the provisions of this chapter of the adopted codes shall be guilty of a misdemeanor, punishable by a fine of not less than Fifty (\$50.00) or more than Two-Thousand (\$2,000.00) dollars. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. of 2-26-08)

**APPENDIX A – BIG SPRING CITY CODE**

FEE SCHEDULE

**Sec. 1.100**      **Animal Registration/License Fees**

(a)	Animal License Fee	
	Altered	\$ 4.00
	Unaltered	\$ 15.00
(b)	Dangerous Dog License Fee	
	Altered	\$ 50.00
	Unaltered	\$ 150.00

**Sec. 1.200**      **Impoundment Fees**

(a)	Redemption Fee – Altered Animals	
	First Incident	\$ 15.00
	Second Incident	\$ 55.00
	Third Incident	\$ 105.00
(b)	Redemption Fee – Unaltered Animals	
	First Incident	\$ 30.00
	Second Incident	\$ 75.00
	Third Incident	\$ 200.00
(c)	Boarding Fee (Daily after 72 hours)	\$ 5.00
(d)	Quarantine Fee (Daily)	\$ 5.00
	Ship Head	\$ 20.00
(e)	Rabies Vaccination Fee	\$ 15.00
(f)	Adoption Fee	\$ 25.00
(g)	Microchipping Fee	\$ 20.00
	(required for any adoption or redemption of any animal not previously chipped or tattooed)	

**Sec. 1.300**      **Animal Permit Fees**

(a)	Livestock or Fowl Permit (annually)	\$ 75.00
(b)	Dangerous Animals Permit (annually)	\$ 500.00
(c)	Beekeeping Fee (annually)	\$ 250.00